

Justice Committee

Criminal Justice (Scotland) Bill

Written submission from Aberdeen City Council Appropriate Adult Service

Introduction

1. Aberdeen City Council operates and supports the “Appropriate Adult” service within the Aberdeen City geographical boundary. Appropriate Adults presently facilitate communication between the police and adults (persons aged 16 or over) who have a mental disorder. This is defined as “any mental illness, personality disorder, learning disability however caused or manifested”. In practice this includes people with acquired brain injury, autistic spectrum disorder and dementia.
2. Aberdeen City Council presently has no legislative requirement to support or coordinate an Appropriate Adult service. The service is currently provided by the Council on a voluntary basis using its existing resources and there is no dedicated funding to support the running and development of the Appropriate Adult scheme.
3. This submission will primarily confine itself to the specific sections of the Bill that relate to “Vulnerable Persons” [s.33 and s.34] – as these have significant relevance to Appropriate Adult services. Reference will also be made to the Bill’s policy memorandum and explanatory notes, where they refer to and/or elucidate those sections of the Bill.

General

4. Overall, Aberdeen City Council welcomes the recognition in the Bill of the need for support to those considered vulnerable whilst in police custody. Although Appropriate Adult services have been in place in Scotland (in one form or another) since 1990, this is the first legislative recognition for the service. However various agencies have made specific reference to Appropriate Adult services previously (for example Guidance on Appropriate Adult Schemes (Scottish Office Circular No: SWSG8/98), and the Lord Advocate’s instruction to Chief Constables in relation to Appropriate Adults and the waiving of legal advice – dated 27 September 2012).
5. However, Aberdeen City Council has concerns in relation to ‘age range’, ‘responsibility’ and ‘funding’ as we feel these issues will become increasingly significant if/when the Bill becomes law.

Age range of provision of appropriate adult services

6. It is recognised that the Bill extends provision for a ‘responsible person’ to 16 and 17 year olds. However, there are some concerns that this will mean that 16 and 17 year olds with a mental disorder, who presently get the specialist support of an Appropriate Adult under the informal system, will no longer automatically get the same access to this support. The ‘responsible person’ would not be required to have the same abilities/training in supporting communication and understanding as the

Appropriate Adult. There is therefore a real risk of disadvantaging 16 and 17 year olds who have a mental disorder whilst in police custody.

7. It is recognised that nothing in the Bill prevents the informal use of Appropriate Adults to support 16 and 17 year olds in police custody. However we do feel that there is potentially a missed opportunity here to ensure that 16 and 17 year olds with mental disorder get access to an Appropriate Adult in the same way as those aged 18 and above.

8. It is therefore Aberdeen City Council's suggestion that the definition contained in s.33(1) be expanded to include 16 and 17 year olds.

Responsibility for provision of appropriate adult services and associated funding

9. It is noted that s.34 allows Scottish Ministers to make further provisions as to who may be considered suitable to provide "Appropriate Adult" type support. However, we are unclear if this provision will allow for the stipulation of who will be responsible for ensuring the provision of Appropriate Adults as a service. From our reading of the Bill it does not appear to do so.

10. We note that paragraph 128 of the policy memorandum for the Bill states that "The Scottish Government does not intend at present to make any particular body statutorily responsible for the delivery of Appropriate Adult services...with the expectation that the non-statutory service will continue to run alongside these statutory provisions".

11. In addition, we also note the statement in paragraph 236 of the Bill's explanatory notes that "The provisions in the Bill in relation to vulnerable adult suspects will be of interest to local authorities but will not entail additional costs as Appropriate Adult Services are provided at present on a non-statutory basis".

12. Aberdeen City Council has grave concerns in regards to the assumptions underpinning the two statements quoted above. It is our view that not making a particular body responsible for the provision of Appropriate Adult services could prove highly problematic. It is also our view that the belief that there will be no additional costs as a result of the vulnerable adult suspect provisions in the Bill is wildly optimistic.

13. It is our view that the formalising of the duties on the Police to contact a suitable person (i.e. an Appropriate Adult) via s.33(2) is very likely to result in an increase in requests for Appropriate Adults. Aberdeen City Appropriate Adult service has already experienced an increase in requests following the circulation of the Lord Advocate's instruction in 2012. We anticipate further increases if the Bill's 'vulnerable person' provisions go live. This would be expected as a consequence of the increased visibility of the requirement, alongside a focus on compliance with the Bills' provisions.

14. At present, some Appropriate Adult services in Scotland receive funding from various bodies (local health boards, Police Scotland, Local Authorities etc) to employ

Appropriate Adults and pay for the administration of their schemes. Other Appropriate Adult services, however, do not receive any funding from any agency at all – except, perhaps, ‘in-kind’ support in relation to training, infrastructure and some staff member time.

15. At present, ‘Appropriate Adult’ services which do not have dedicated funding from public agencies struggle at times to meet current requests from the Police – particularly at weekends and outside of working hours.

16. We may therefore have, with the Bill’s provisions, the difficult situation where there is an increase in demand for Appropriate Adult services due to the requirement for the police to seek those services, but no clear responsibility for meeting that subsequent demand.

17. There therefore may be the real risk that agencies which are providing Appropriate Adult services ‘informally’ - with no dedicated funding, and no legal requirement to do so, may withdraw from providing this service. This would be due to the significant pressures on their existing resources to meet an increasing demand when they have no statutory obligation to do so.

18. As a result, there may be the difficult situation where the police have a legal responsibility to seek the services of an Appropriate Adult but are unable to meet this responsibility if there is either no Appropriate Adult service to call upon or the existing Appropriate Adult service lacks sufficient resources to respond.

19. It is Aberdeen City Council’s view that the issue of responsibility and funding for Appropriate Adult services must be addressed if a statutory duty to seek Appropriate Adults is being given to the police. To do otherwise may (at a minimum) lead to inequalities in Appropriate Adult service/access throughout Scotland, and may (in a worst case scenario) lead to the withdrawal of existing Appropriate Adult services where responsibility and funding to meet increased demand cannot be agreed. This would be to the significant disadvantage of adults with mental disorders who have contact with the police.

Summary

20. Aberdeen City Council is delighted to see Appropriate Adult services recognised in statute (albeit tangentially).

21. There are some concerns about the potential disadvantage to 16 and 17 years from not being included in the standard ‘requirement’ for the police to notify in s.33(2).

22. More fundamentally, there are very significant concerns that the lack of clarity in relation to who is responsible for providing and funding Appropriate Adult services may lead to significant service delivery problems if/when the ‘vulnerable person’ provisions go ‘live’.

Aberdeen City Council Appropriate Adult Service
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