

ABERDEEN CITY COUNCIL

COMMITTEE: Corporate Policy and Performance

DATE: 26 June 2012

DIRECTOR: Fred McBride

TITLE OF REPORT: Appropriate Adult Scheme

REPORT NUMBER: SCW/12/005

1. PURPOSE OF REPORT

This report has been prepared at the request of the Committee at its meeting of 8 March 2012 in response to a referral from the Disability Advisory Group of 7 December 2011. The report informs the Committee about the operation of the Appropriate Adult Scheme locally. Committee requested that consideration be given to the Appropriate Adult Scheme in Fife as a model of good practice.

2. RECOMMENDATION(S)

Members of the Committee are asked to note the contents of the Report, which is provided for information only.

3. FINANCIAL IMPLICATIONS

The Appropriate Adult Scheme in Aberdeen City is co-ordinated by Social Care and Wellbeing staff and is operated on an 'in house' / 'in kind' basis. There is no dedicated funding to support the scheme.

4. OTHER IMPLICATIONS

There are no other implications.

5. BACKGROUND

5.1 Appropriate Adults facilitate communication between the police and adults (people aged 16 or over) who have a mental disorder. This is defined in the Mental Health Care and Treatment (Scotland) Act 2003 as: 'any mental illness, personality disorder, learning disability however caused or manifested'. In practice this includes people with acquired brain injury, autistic spectrum disorder or dementia.

5.2 Assistance from the Scheme is available to victims, witnesses, suspects and accused persons. Appropriate Adults are independent of the police and are not usually known to the person being interviewed.

Their role is to assist the police and the interviewee to communicate. An Appropriate Adult can be present at every stage of the investigation, including searches, interviews, medical examinations, the taking of forensic samples, fingerprinting, photographing and identity parades.

- 5.3 The first Appropriate Adult Service was developed in Fife in 1990, operating as a partnership between Fife Council, NHS Fife and Fife Constabulary. This predated the 1998 Guidance on Appropriate Adult Schemes (Scottish Office Circular No: SWSG8/98), issued jointly by the Health, Police and Social Work Divisions of the Scottish Office of the time. The Guidance encouraged the establishment of Appropriate Adult Schemes throughout Scotland, provided model guidance for doing so and procedures to be adopted by the police when interviewing adults with a mental disorder. In 2006 the Fife scheme was relaunched, with the service provided on a 24 hour seven days a week 52 weeks a year basis by five self-employed people, who are paid an annual retainer and an hourly call out fee.
- 5.4 There are nineteen Appropriate Adult Services across Scotland serving eight police forces, covering all 32 local authority areas. Each service has a named co-ordinator and police contact. There are three models for the provision of Appropriate Adult Services:
 - 5.4.1 Use of volunteer Appropriate Adults who receive expenses only. This is operation only in Orkney.
 - 5.4.2 Four Services, Fife, Tayside, West of Scotland and Central, receive dedicated local authority funding, three of which receive additional funding from NHS and Police. Three of the services contract self employed Appropriate Adults, who are paid an annual retainer and an hourly rate for call-outs. Tayside also employs a police manager and co-ordinator. Approximate costing is £60-80 per callout, which does not take account 'in kind' support such as police assistance with training or free use of premises etc.
 - 5.4.3 14 Services, including Aberdeen City, operate on an 'in-house/ in kind' basis, whereby the local authority provides Appropriate Adults from existing social work resources. There is no separate budget or dedicated local authority funding to support these schemes. Appropriate Adults are abstracted from their substantive posts to respond to call-outs as and when required. All fourteen services receive training input from the police and some from Health.
- 5.5 The Service in Aberdeen operates during office hours and also supports the police by providing cover during the evening and at weekends. In the period 1 April 2011 – 31 March 2012 there were 136 call outs. In 2 cases it was not possible to identify a volunteer who was available to act as an Appropriate Adult. In the period 2010-2011 there were 125 call outs.

- 5.6 Committee may wish to note that, in partnership with colleagues in Aberdeenshire and Moray Councils, Aberdeen City Council is reviewing the current provision of Appropriate Adult services.
- 5.7 In respect of consideration of the model operating in Fife, there is currently no funding to support such a model locally. In light of the potential changes at national level to the operation of Appropriate Adult Schemes, it may be viewed as desirable to await the outcome of national discussions before making substantive changes.

6. IMPACT

- 6.1 In response to the United Kingdom Supreme Court ruling in *Cadder v HM Advocate* the Cabinet Secretary for Justice, Kenny MacAskill MSP, requested an independent review of key elements of Scottish law and practice. The Carloway review was published in November 2011. The Review considered issues relating to the right of access to legal advice, police questioning of suspects, the operation of the current system of detention, evidence (including corroboration and adverse inference) and issues arising from the Criminal Procedure (Legal Assistance, Detention and Appeals)(Scotland) Act 2010.
- 6.2 The findings of the Review in respect of 'vulnerable adult suspects' were:
- 6.2.1 There should be a statutory definition of a 'vulnerable suspect'.
- 6.2.2 The role of an appropriate adult should be defined in statute.
- 6.2.3 A 'vulnerable suspect' must, by statute, be provided with the services of an appropriate adult as soon as practicable after detention and before any questioning. The appropriate adult must agree if the 'vulnerable adult' wishes to waive his/ her right to legal representation.
- 6.2.4 The qualifications, professional or otherwise, necessary for a person to be an appropriate adult should be defined by statute. Scottish Government was asked to carry out further research in this respect.
- 6.3 The Review is still under consideration by Scottish Government. There had been no decision as yet in respect of the recommendations affecting 'vulnerable adult suspects'. However it is possible that legislation may be introduced in response to the findings of the Carloway Review.

7. BACKGROUND PAPERS

The following papers were consulted during the preparation of this report:

Scottish Appropriate Adult Services: Report of National Project Officer, Rona Smith, June 2011

Appropriate Adults: Standard Operating Procedures, PC E O'Brien, Fife Constabulary, 2 July 2009

The Carloway Review, 17 November 2011:
<http://www.scotland.gov.uk/Resource/Doc/925/0123001.pdf>

9. REPORT AUTHOR DETAILS

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