

Prison Reform Trust response to Home Office PACE Code consultation – December 2017

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families.

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Introduction

Our response to this consultation has been informed by the thorough and detailed response made by the National Appropriate Adult Network (NAAN). We fully support what they have said, and have not, therefore, felt the need to repeat—other than to endorse the content of their response. We have, however, highlighted our main concerns, and provided some detailed feedback on paragraphs: 1.14; 1.7A; 1.13; 1F and 1G.

Our main concerns, which are covered in detail in the response by NAAN, are:

- The raising of the decision-making threshold for police officers as to whether an appropriate adult is required, from 'any suspicion' to 'reason to believe'.
- The practical implementation of a functional test, particularly given the proposed threshold and current tools available to police officers.
- The removal of 'any age' from the decision-making threshold.
- The label of 'vulnerable adult', which on reflection we feel is regressive, implies that the person is wholly responsible for the problem faced by the system, and may undermine accurate identification.
- The need to go further to ensure people make a fully informed decision to take on the role of appropriate adult, and are aware of their purpose, responsibilities and powers.
- A continued lack of clarity about what support should be provided to a person detained for assessment under the Mental Health Act 1983.
- Issues relating to voluntary interviews, including the lack of an easily accessible separate Annex; reliance on interviewers to apply safeguards; and lack of oversight.

- The lack of influence that suspects, appropriate adults and solicitors have over the use of live link technology for various procedures, especially interviews and reviews of detention.

Detailed feedback on specific paragraphs:

Paragraph 1.14: in making these changes, the ‘bar’ has effectively been raised. We strongly suggest a return to original text: ‘any suspicion or is told in good faith.’

Paragraph 1.7A, 4th bullet point: This needs qualifying; we suggest consideration is given to the following amendment: ‘assist with communication where they are able – having relevant experience, training or qualifications – and raising concerns when they are not or when it appears greater expertise, such as that provided by an intermediary, is necessary.’

Paragraph 1.13d:

- The text, ‘mental state or capacity’: we strongly suggest examples are given to explain the type of conditions this might include. For example, people with an intellectual disability and/or autism will always be vulnerable in this context. Including these conditions by way of example will help to remove doubt.
- The text, ‘for any other reason’: we strongly suggest examples are given to help police understand and apply the Code.

Paragraph 1.13d, ii, first bullet point: ‘providing unreliable, misleading or incriminating information without knowing or wishing to do so’ – this could imply that vulnerable adults are unreliable. We suggest a simple reordering, putting the first bullet point last, as bullet points two and three would help to explain the reason for the first bullet point.

Paragraph 1F: This paragraph emphasises mental health conditions at the expense of other reasons for a person being vulnerable. It would be helpful to note that mental health conditions can be mild, moderate or severe, and that a person with a severe mental health condition can experience good mental health if, for example, they are managing their condition well with medication and/or therapy. In contrast, a person can have no diagnosed condition but have poor mental health.

Paragraph 1G, text: ‘or some other reason’: we strongly suggest that examples are given, such as intellectual disability and autism; or because of the circumstances surrounding the alleged offence, such as the person having been trafficked or also the subject of abuse, such as controlling/coercive behaviour or physical abuse.