

Case 5 | Issue 35 – Custody

Published July 2019

For archived issues, learning reports and related background documents visit www.policeconduct.gov.uk/learning-the-lessons

LEARNING THE LESSONS

✉ learning@policeconduct.gov.uk

🌐 www.policeconduct.gov.uk/learning-the-lessons

Access to an appropriate adult

Detention of a woman in custody, raising issues about:

- *Access to an appropriate adult*

This case is relevant if you work in:

Custody and detention



Overview of incident

Ms A was brought into custody around 8.40pm.

At the time Ms A had markers for “self-harm” and “conceals”. The ‘conceals’ marker was in relation to a previous occasion where she had said that she had taken a quantity of drugs she had hidden on her. The warning marker did not include information about where those drugs had been concealed. Miss A also had markers for drugs and adult protection. The justification given for the adult protection marker was “referral to MH team – psychosis, mental health issues.”

Ms A was strip searched. The reason recorded for the search was that Ms A had some blue tablets in her property which could not be easily identified, and that Ms A was “clearly intoxicated”. The search was recorded as negative.

It was recorded on the risk assessment part of her custody record:

- Detained person (DP) is intoxicated but can ‘walk and talk’
- DP has various warning signs (WS) including drugs and self-harm (DSH)
- DP has risks of DSH/suicide
- DP also had WS for conceals
- DP has been strip searched – nothing found
- DP has some mental and health problems
- Previous risk assessments have been reviewed and there is nothing further of note
- DP will need to see the forensic nurse practitioner (FNP) and clinical nurse practitioner

Ms A responded “No” when asked if she had any mental health problems, nervous disorder or depression, had ever tried to harm or kill herself, or had any dependency on drugs or alcohol.

PS B, the custody sergeant, placed Ms A on level two observations, directed she was roused every visit, and that she be assessed by a custody nurse and referred to the community psychiatric nurse the next morning.

When asked by the IOPC about any consideration given to calling an appropriate adult, PS B said “Whilst [Ms A] was intoxicated she understood the allegation against her and why she had been arrested. [Ms A] was oriented to time, date, place and person. [Ms A] had been in custody many times previously and was familiar with the processes . . . I was satisfied that there was nothing to suggest that [Ms A] did not understand the significance of what was said to her or the situation in general. This was reinforced by [Ms A’s] request for a solicitor of her choice. Nevertheless, the reason I referred [Ms A] to the community psychiatric nurse to have her mental health assessed. If there was any concern over [Ms A’s] mental health or a requirement for an appropriate adult, the community psychiatric nurse would identify it”.

Police and Criminal Evidence Act (1984): Code C – Annex E

The role of the appropriate adult is to safeguard the rights, entitlements and welfare of juveniles and vulnerable persons to whom the provisions of this and any other Code of Practice apply. For this reason, the appropriate adult is expected, amongst other things, to:

- support, advise and assist them when, in accordance with this Code or any other Code of Practice, they are given or asked to provide information or participate in any procedure;
- observe whether the police are acting properly and fairly to respect their rights and entitlements, and inform an officer of the rank of inspector or above if they consider that they are not;
- assist them to communicate with the police whilst respecting their right to say nothing unless they want to as set out in the terms of the caution and;
- help them to understand their rights and ensure that those rights are protected and respected.

Find out more online:

<https://www.gov.uk/government/publications/pace-code-c-2018>

He added “As [Ms A] was not going to be interviewed until the next day even if I had deemed [Ms A] vulnerable there was no purpose in requesting an appropriate adult at that time. My view was likely that [Ms A] was likely to go to sleep”.

Police and Criminal Evidence Act (1984): Code C – Annex E

If the custody officer authorises the detention of a vulnerable person, the custody officer must as soon as practicable inform the appropriate adult of the grounds for detention and the person’s whereabouts, and secure the attendance of the appropriate adult at the police station to see the detainee.

Find out more online:

<https://www.gov.uk/government/publications/pace-code-c-2018>

Around 9.35pm Ms A was taken to her cell. Soon after Ms A requested a hot meal, a drink, a blanket and tissue paper. These were provided.

Ms A was checked in her cell around 10.05pm and was “sat up and eating”.

Around 10.30pm Ms A was given a hot drink before being taken out of her cell in order to complete a livescan. This is a way of taking fingerprints. She was returned to her cell around 10.45pm.

DDO C visited Ms A around 11pm and recorded that she was sitting up and awake.

Around 11.20pm Ms D the FNP saw Ms A. Ms D recorded that Ms A:

- had anxiety/depression treated by GP
- had attempted suicide previously . . . tied cord around neck . . . no suicidal thoughts at this time
- denied drug use . . . denied alcohol

Ms D also documented that “DP denies any drug use or alcohol today but presents as intoxicated, I would suggested she has taken normal medication plus extra, she is on roused visits and will remain so for a few hours . . . not fit for interview.”

Ms D told the IOPC that Ms A was drowsy but responded to being spoken to. She also said that her speech was slurred but that she responded “freely and in an appropriate manner”. Ms D said that she agreed with PS B’s care regime of 30 minute rousing visits.

Ms A was checked around 11.35pm and was asleep on her left side and breathing.

DDO E visited Ms A around midnight to rouse her and was unable to get a response, although Ms A was breathing. DDO E called for the FNP but she was also unable to rouse Ms A.

An ambulance was called and Ms A was taken to hospital. It was later discovered that Ms A had concealed a wrap of what was believed to be heroin in her vagina.

Type of investigation

IOPC independent investigation

Findings and recommendations

Local recommendations

Finding 1

1. The force policy on appropriate adults states that, “if a detainee appears to be suffering from a mental disorder, [a force] forensic nurse practitioner or a police surgeon must be called and their advice sought regarding the need for an appropriate adult” and that “only in exceptional circumstances must the services of the [appropriate adult service] be utilised between the hours of 2200hrs and 0700hrs. In such circumstances the inspector responsible for the relevant custody suite must authorise the attendance of the

appropriate adult] and their details must be provided when the request is made". This position is contradictory to the guidance given in PACE about when an appropriate adult should be called.

Local recommendation 1

2. The IOPC recommends that the force should consider whether its policy should be brought in-line with PACE.

Response to the recommendations

Local recommendations

Local recommendation 1

1. Force policy will be amended to bring it in-line with PACE.

Outcomes for officers and staff

1. There were no criminal, disciplinary or misconduct outcomes for any of the police officers or police staff involved in the handling of this incident.

Questions to consider

Questions for policy makers and managers

1. Is your force's policy on appropriate adults consistent with PACE?
2. What advice does your force give to officers on making contact with appropriate adults out of hours, or recording where they have tried to do this, but been unsuccessful?