

# Children and Young People in Custody – The Law

Bitesize training for schemes



# Before you start....

We hope you enjoy learning about 'Children and Young People – The Law' from this ICVA Bitesize training course.

Please make sure as you work through the slide pack that you check the notes under each slide, there are some weblinks etc. for additional resources, details on what documents from the pack accompany the slides and some information on what will come next in terms of training on the theme. You will need some of the information from the notes to complete the Quiz!

# Objectives

1. To introduce the topic of children and young people in custody as the theme for ICVA 2020/21 resources.
2. To examine the PACE Codes and the APP for children and young people.
3. To consider the relevance of the United Nations Convention on the Rights of the Child, (UNCRC) and custody.

# What are PACE Codes C and H?

## What is PACE?

- The Police and Criminal Evidence Act 1984 (PACE) and the accompanying PACE codes of practice establish the powers of the police to combat crimes while protecting the rights of the public.

## What is PACE Code C?

- PACE Code C details the requirements of the police for the detention, treatment and questioning of suspects not related to terrorism in police custody.

## What is PACE Code H?

- PACE Code H is the revised code of practice for the police in connection with detention, treatment and questioning by police officers under the Terrorism Act 2000.

# How do PACE Codes C and H define a child?

*1.5 Anyone who appears to be under 18, shall, in the absence of clear evidence that they are older, be treated as a juvenile for the purposes of this Code and any other Code.*

## A note on terminology...

Although the Police and Criminal Evidence Act, PACE Codes and often the Police use the term juvenile/s, this training will use the term of children and young people, as does the APP.

For the purposes of clarity, where the term children and young people is used within the training or associated resources, ICVA refers to those who are 17 or under in accordance with PACE.

# What does the Law say children and young people MUST have in police custody?

1. Solicitors
2. Medical care
3. Appropriate Adult
4. Not to be held incommunicado

# What does the Law say children and young people MUST have in police custody?

3.20A The Children and Young Persons Act 1933, section 31, states that arrangements must be made for preventing any person under 18, while being detained in a police station, from associating with an adult charged with any offence, unless that adult is a relative or the adult is jointly charged with the same offence as the person under 18.



# What does the Law say girls and young women specifically MUST have in police custody?

PACE Codes C and H states that:

3.20A The Children and Young Persons Act 1933, section 31, requires that arrangements must be made for ensuring that a girl under the age of 18, while detained in a police station, is under the care of a woman. The custody officer must ensure that the woman under whose care the girl is, makes the enquiries and provides the information concerning personal needs relating to their health, hygiene and welfare described in *paragraph 9.3A* and menstrual products described in *paragraph 9.3B*.

# A note on AAs – PACE Codes C and H

The police are **required** to contact an AA whenever they detain in custody or interview voluntarily under caution:

- a child or young person under the age of 18
- a vulnerable adult

A wide variety of people undertake the AA role including:

- Parents and family members
- Social and youth offending team workers
- Paid sessional staff
- Volunteers

# A note on AAs – PACE Codes C and H

The PACE Codes state that:

- *1.1A A custody officer must perform the functions in this Code as soon as practicable. A custody officer will not be in breach of this Code if delay is justifiable and reasonable steps are taken to prevent unnecessary delay. The custody record shall show when a delay has occurred and the reason.*

Therefore, once an AA has been established as being required by deem of age or vulnerability they should be called for as soon as is practicable.

# A note on the College of Policing Authorised Professional Practice, (APP).

## What is the APP?

- The APP is the Authorised Professional Practice online guidance for policing. It is produced, maintained and updated by the College of Policing. Police forces are not compelled by law to follow the APP and its contents, although they are expected to have regard to the APP in discharging their duties. The inspectorates examine and note compliance with the APP in their reports.

**The APP contains a large section on specific arrangements for Children and Young People in custody.**

## A note on the APP in brief:

Above and beyond that which is held in PACE on rights and entitlements, the APP contains details on, (not an exhaustive list):

- Staff training in dealing with children and young people.
- Additional risk factors for children and young people and their wellbeing (detailed section).
- Strip searching children and young people.
- Custody design to include separate areas for children and young people.

# What is the United Nations Convention on the Rights of the Child, (UNCRC)?

- The United Nations Convention on the Rights of the Child (UNCRC) is an international human rights treaty that grants all children and young people (aged 17 and under) a comprehensive set of rights.
- The UK signed the Convention on 19 April 1990, ratified it on 16 December 1991 and it came into force on 15 January 1992.

# Overarching Articles - 1 and 2

## **Article 1 (definition of the child)**

- Everyone under the age of 18 has all the rights in the Convention.

## **Article 2 (non-discrimination)**

- The Convention applies to every child without discrimination, whatever their ethnicity, sex, religion, language, abilities or any other status, whatever they think or say, whatever their family background.

# Articles 3 and 12

## **Article 3 (best interests of the child)**

- The best interests of the child must be a top priority in all decisions and actions that affect children.

## **Article 12 (respect for the views of the child)**

- Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.



# Article 19

## (protection from violence, abuse and neglect)

- Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.

# Article 37 (inhumane treatment and detention)

- Children must not be tortured, sentenced to the death penalty or suffer other cruel or degrading treatment or punishment.
- Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible.
- They must be treated with respect and care and be able to keep in contact with their family. Children must not be put in prison with adults.

# Article 40 (juvenile justice)

- A child accused or guilty of breaking the law must be treated with **dignity and respect**. They have the right to legal assistance and a fair trial that takes account of their age.
- Governments must set a minimum age for children to be tried in a criminal court and manage a justice system that enables children who have been in conflict with the law to reintegrate into society.

# ICVs - What to look for – Rights and Entitlements

- Check on all rights and entitlements as you usually would, (contact someone, access to healthcare, solicitor etc.)
- Does the child or young person understand why they are being detained and had a copy of the correct rights and entitlements leaflet?
- Does the child or young person have an appropriate adult?
- Was the appropriate adult called as soon as practicable?
- Is the child being held away from adults where possible?
- If the child is a girl or young woman, is she in the care of a female member of staff?

# ICVs - What to report on – A Checklist

- Treat children as vulnerable – note number in custody
- Consider prioritising visits to them
- Check rights & entitlements as normal
- Check girls and young women have a female officer assigned
- Check on Appropriate Adult provision
- Check custody record, with permission

## **Remember:**

- If something feels wrong – report it!
- If something feels good – report it!

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Any questions?