



Establishing a statutory Appropriate Adult service in Scotland

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Mental Welfare Commission for Scotland

Phone number

0131 313 8760

Address

Thistle House, 91 Haymarket Terrace, Edinburgh

Postcode

EH12 5HE

Email

enquiries@mwscot.org.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

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Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

1. We propose to use the definition of vulnerable person as set out at section 42 of the Criminal Justice (Scotland) Act 2016, but extended to cover victims and witnesses. Do you agree?

Yes

No

If no, please tell us how you would define vulnerability for this purpose.

Yes. This is a pragmatic way forward at this stage, but it is important to be aware that the definition of 'mental disorder' in the Mental Health (Care and Treatment) (Scotland) Act 2003 is currently under review, and there is a wider debate about whether it is compatible with the UN Convention on the Rights of Persons with Disabilities for specific rights or duties to be framed around a diagnostic label, rather than the need for support. The recent debate on the right to advocacy in the Social Security Bill highlights the issues that arise. A right which Government originally sought to confine to people with a mental disorder was ultimately extended to all disabled people.

2. We propose to use the definition of the type of support to be made available as set out at section 42 of the Criminal Justice (Scotland) Act 2016, Do you agree?

Yes

No

If no, please tell us how you would define the type of support to be made available.

Yes. Again, we recognise this as a pragmatic way to meet the requirements of the legislation, although in the medium term we believe that it is necessary to consider how to develop a wider range of supports to vulnerable people in the criminal justice system. See our response to Q10.

3. We propose to place the duty on local authorities for ensuring that people are available to provide Appropriate Adult support, do you agree?

Yes

No

If no, who do you think this duty should be placed on?

Yes. Funding for this must not be at the expense of other local authority mental health services. Planning should assume a significant increase in demand for Appropriate Adults once the service becomes statutory.

4. We propose to keep details of the statutory duty at a high level but develop more detailed guidance to sit below this and to which those responsible for delivery must have regard, do you agree with this approach?

Yes

No

If no (i) why do you disagree?

(ii) are there any specific details you think should be in legislation?

Yes

5. We propose to place a duty on local authorities to deliver training to Appropriate Adults. Do you agree with this?

Yes

No

If no, who do you think this duty should be placed on?

Yes. We note the consultation also suggests that there should be a national training framework. We agree, but consideration needs to be given as to who will develop and oversee this framework. The consultation mentions a 'training oversight group', but this needs to be organised and resourced. We believe this could fit with the wider 'oversight' role discussed below, rather than be a freestanding function with no clear ownership and accountability.

6. We propose to place a duty on the Care Inspectorate to carry out a quality assessment role in relation to the provision of Appropriate Adult services, do you agree?

Yes

No

If not, who do you think should be responsible?

Yes, although we note that the Care Inspectorate role is likely to be very high level, and it is not clear how any self-evaluation framework would be used by local appropriate adult services. The model cited – the self-evaluation framework developed by the Care Inspectorate for Community Justice, is part of a wider system including a national statutory body, Community Justice Scotland.

7. How might we best engage with service users to understand their experience?

It's not clear who 'we' is in this question, and whether it refers to the Scottish Government in developing the service, or the ongoing process of quality assessment and improvement. In relation to learning disability, we believe the SOLD Network would be well placed to undertake this work. We would also wish to see similar engagement with people with mental illnesses and personality disorders. The Commission has previously engaged with people with lived experience on a range of issues, including the use by the police of Place of Safety legislative powers, and would be happy to explore whether we could assist.

- 8. We propose to place a duty on the Mental Welfare Commission to have oversight of how Appropriate Adults services are provided across Scotland, do you agree?**

Yes

No

If no, who do you think should be responsible?

Yes, in that we are willing to consider if we are best placed to undertake this role, subject to agreement on the functions and resourcing. As we discuss in response to question 9, we believe more work is necessary to develop the role. This may change the calculation of who is best placed to carry it out.

Much of this work is already done by the Scottish Appropriate Adult network (SAAN). We agree that it should not continue to be undertaken by an informal network with no legal status, but it is possible that other agencies, such as Community Justice Scotland, could also provide a statutory home.

- 9. Do you agree with the proposed functions of oversight role?**

Yes

If yes, are there any other functions you think this role should incorporate?

No

If no, what functions do you think this role should incorporate?

Yes. We are not sure what is meant by 'providing a system wide overview' but we believe there are a number of important functions which this role should incorporate.

In earlier discussions, we proposed that the Commission could oversee the production of good practice guidance, and undertake monitoring of the operation of appropriate adult schemes, based on agreed and consistent data sets and a questionnaire periodically sent out to local

authorities. On further reflection, we feel that the oversight role needs to be broader and different in approach, building on the work of the SAAN.

In essence, what is needed is something closer to a managed clinical network, as it operates in healthcare. An example is the Forensic Network, which takes an oversight role in relation to forensic mental health services. It has an advisory board to provide national oversight, structures to support collaborative development of regional services, delivers training, has working groups to take forward policy and practice development, supports research and data gathering and analysis, and maintains a quality improvement framework.

All of these roles would be relevant here. The model should not be entirely dominated by those who provide Appropriate Adult services, but needs a robust governance framework which involves them as well as user interests, and adequate resourcing over a sustained period.

10. Please use this space to provide any additional comments you may have.

We note that in-court support and intermediaries are not included in this consultation. We understand the imperative to get a statutory Appropriate Adult scheme up and running. However, we believe that a support which begins and ends with the police interview is not ultimately the best solution, whether for victims, witnesses or suspects, and further policy development should not be put on hold until the new system has bedded in. Instead, the system devised to support the statutory role of Appropriate Adults needs to inform the process of policy development and be capable of being adapted to operate a more holistic and comprehensive support system for vulnerable adults.

This would include considering how to provide end-to-end support throughout the criminal justice pathway, and also how to ensure that a vulnerable person in the criminal justice system is being appropriately linked to other support, such as social work assistance or mental health assessments. We understand that these are not currently within the scope of the Appropriate Adult role, and many Appropriate Adults would not be able to deliver these.

We appreciate that the Scottish Government does not intend to specify exactly how local schemes should operate. However, it should not be assumed that existing models can quickly be scaled up to deliver the new statutory service. Schemes where social workers provide this service as a part of their wider duties may well be unsustainable, so requiring the development of new schemes to recruit and train volunteers.