

ANGUS COUNCIL

11 FEBRUARY 2021

SUPPORT TO VULNERABLE PERSONS IN CONNECTION WITH CRIMINAL INVESTIGATIONS/PROCEEDINGS

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to advise the Council of the legal duties on it in respect of providing support to vulnerable persons in connection with criminal investigations/proceedings and to seek authority to delegate the discharge of these functions to an officer of the Council.

1. RECOMMENDATIONS

It is recommended that the Council:-

- (i) notes the legal duties on it in respect of providing support to vulnerable persons in connection with criminal investigations/proceedings; and
- (ii) agree to delegate authority to the Chief Integration Officer to discharge the functions of the Council in terms of the Criminal Justice (Scotland) Act 2016 and the Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019.

2. REPORT

- 2.1 Since the 1990s, a non-statutory service has been in place across Scotland to ensure that Appropriate Adults are available to provide communication support to vulnerable victims, witnesses, suspects and accused persons, aged 16 and over, during police investigations. This service has been provided in Angus by Social Work Services.
- 2.2 The Criminal Justice (Scotland) Act 2016 ("the Act") placed the provision of appropriate adult support on a statutory legal basis. The development of a sustainable Appropriate Adult service with national oversight to promote consistency is seen as necessary in supporting the commencement of a new duty in Section 42 of the Act which requires the police to request support for vulnerable individuals in their custody.
- 2.3 The Act defines Appropriate Adult support as support to help a person in custody to understand what is happening and to facilitate effective communication between the person and the police and such other support for vulnerable persons in connection with a criminal investigation or criminal proceedings as the Scottish Ministers specify by regulations. Such 'regulations may, in particular, specify support by reference to the purpose it is to serve, the description of vulnerable persons to whom it is to be available and the circumstances in which it is available. "Vulnerable person" is defined as meaning a person who, owing to a mental disorder, is unable to understand sufficiently what is happening or communicate effectively in the context of a criminal investigation or criminal proceedings. The Act also contains provisions in relation to the assessment of the quality of appropriate adult support and training for appropriate adults.
- 2.4 The Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019 ("the Regulations") provides that each local authority has the function of ensuring that people are available to provide appropriate adult support when it is required within that local authority area and that, in discharging these functions, a local authority may enter into a contract with another person. In addition, the Regulations provide that:-
 - (a) the duty to provide appropriate adult support extends to vulnerable persons where the vulnerable person:-
 - (i) is or appears to be the victim of an offence or alleged offence,
 - (ii) is a witness or potential witness in relation to an offence or alleged offence,

- (iii) is suspected of committing an offence or alleged offence or,
 - (iv) is officially accused of committing an offence or alleged offence,
- (b) Social Care and Social Work Improvement Scotland (known as The Care Inspectorate) has the functions of assessing the quality of whatever arrangements may be in place to ensure that people are available to provide appropriate adult support and assessing the quality of any appropriate adult support that is provided.
- (c) each local authority has the function of ensuring that people are available to provide appropriate adult support when it is required within that local authority area and in discharging this function a local authority may enter into a contract with another person..
- 2.5 The Appropriate Adult Service in Tayside was introduced in 1999 following an instruction from the then Scottish Office to introduce formal procedures for interviewing vulnerable adults.

The Service was developed with the assistance and financial support from the three Councils in Tayside and NHS Tayside. Tayside Police were appointed lead agency and were responsible for the co-ordination and administration of the service. The team of Appropriate Adults were provided by a number of self-employed individuals working on a rota basis to cover the 24/7 period.

Due to changes in legislation in 2019, Police Scotland could no longer provide lead agency status for this service. It was agreed in June 2020 by the HSCP leads to jointly commission and procure one Tayside-wide service. Perth and Kinross agreed to progress this on behalf of the partners. There has been delays in progressing this due to other commissioning priorities but discussions have recommenced to move this forward as a matter of urgency.

- 2.6 Given the above and the statutory duties incumbent upon the Council in terms of the Act and the Regulations, it is submitted that it is necessary to delegate authority to an officer to discharge the functions of the Council in terms of the Act and the Regulations. It is considered that the most appropriate officer to be delegated this authority is the Chief Integration Officer.

3. FINANCIAL IMPLICATIONS

In 2019, the Scottish Government indicated that central funding would be now be provided to local councils to provide this service. The Angus allocation is approximately £22,000 per annum. This will fund payments to Appropriate Adults, training, expenses and funding a co-ordinator. Therefore, it is expected that Councils or HSCPs will require to fund additional resources to cover the true cost of providing this service. It is anticipated that the cost of providing the service will not exceed £38,000 per annum and it is expected that this cost will be met from the Scottish Government funding and existing budgets. Therefore, there are no additional financial implications arising from this report.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.

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