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UNDERSTANDING UNLOCKED



# ADHD IN CUSTODY

A guide to  
police custody  
for ADHDers

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# GLOSSARY

**ADHD:** Attention Deficit Hyperactivity Disorder.

**An ADHDer:** a person who has ADHD.

**Criminal Justice System:** a collection of groups which deal with crime e.g. Police, courts, prisons.

**Custody:** when you have been arrested and are being held by the police.

**Custody record:** a record of: the reasons for your arrest and detention; police actions taken; any checkups.

**Detention:** the act of lawfully holding you and preventing your freedom.

**Masking:** behaviour which hides or lessens the impact or visibility of ADHD features.

**Neurodivergent:** having different brain 'wiring' compared to most people e.g. ADHD, Autism, Dyscalculia, Dysgraphia, Dyslexia, Dyspraxia/DCD.

**Procedural safeguards:** rules which protect you and your rights.

**Reasonable adjustments:** changes which can be made to help you.

# ABOUT ADHD

## What is it?

You might want to tell the police about your ADHD, but find it difficult to explain.

ADHD is present **from birth**, throughout childhood and adulthood, in both **males** and **females**.

ADHD is **neurodevelopmental**. This means it affects how the brain is 'wired' (developed and structured).

ADHD is not always obvious. This can be because some people are very good at **masking** (especially females).



ADHD brain 'wiring' falls into 3 types:

- Mainly **inattentive**
- Mainly **hyperactive-impulsive**
- **Combined** inattentive and hyperactive-impulsive



Different brain 'wiring' means ADHDers' brains also **work differently**.

How ADHD presents depends on the **type**, and if you are **male** or **female**.

ADHD is different for every person. We will list **some** of the **many possibilities**.



# Common Challenges

Common challenges for 'inattentive' ADHDers include:

- **Attention** and managing **distractions**
- **Focus**
- **Concentration**



Common challenges for 'hyperactive-impulsive' ADHDers include:

- **Impulse control**
- Managing **hyperactivity**



Common challenges for 'combined' ADHDers include a **mix** of the above.



There can be small overlaps between 'inattentive' and 'hyperactive-impulsive' without being 'combined'.

**Inattentive** challenges commonly look like:

- Being easily distracted and inattentive
- Difficulty focusing and concentrating
- Forgetfulness
- Disorganisation
- Appearing to not be listening
- Difficulty following instructions
- Losing things
- Difficulty with attention to detail
- Boredom



In **females**, inattentive challenges may also look like: <sup>1 2</sup>

- Being very chatty, enthusiastic or engaged
- Daydreaming and distractibility
- Impulsiveness
- Fidgeting



**Hyperactive-impulsive** challenges commonly look like:

- Interrupting others
- Taking risks
- Difficulty waiting and taking turns
- Fidgeting, restlessness, repetitive movements
- Difficulty staying quiet and still
- Being on the go all the time
- Being talkative
- Rushing
- Blurting things out



**Combined** challenges look like a mix of inattentive and hyperactive-impulsive.

ADHDers may also face challenges managing: emotions; rejection; criticism; relationships; memory; procrastination; time; and hyperfocus.

## Why does ADHD matter in police custody?

**1 in 4** people in the Criminal Justice System are **ADHDers**.<sup>3 4</sup>

The CJS **fails** to **spot** ADHD most of the time. This is a huge **barrier** to accessing **support**.<sup>5</sup>

It is **important** that the police know about your ADHD to:

- meet your **needs**;
- **understand** you better, including the ways you **think**, **feel**, and **do** things due to ADHD;
- **protect** your interests, rights, entitlements, and welfare;
- make sure the custody process is **fair** and does what it should do.



Understanding you is especially important because ADHDers may be **more likely** to:

- confess to things they did not do; <sup>6</sup>
- go along with what others say or do; <sup>7</sup>
- reply “don’t know” in police interviews; <sup>7</sup>
- have other neurodevelopmental differences; <sup>4</sup>
- struggle to get used to being in custody and react disruptively; <sup>4</sup>
- find police interviews difficult practically and emotionally; <sup>8</sup>
- cope with stress in unhelpful ways; <sup>7</sup>
- give vague answers in police interviews, which could be misunderstood as being dishonest, avoidant, or uncooperative. <sup>7</sup>



## MY LEGAL RIGHTS

### What are they?

If you are arrested and taken into custody the **law** gives you the **right** to:

- free independent **legal advice**;
- **have someone informed** of your arrest and detention;
- **see the rules** that police must follow;
- **medical help** (including taking your own medication). People with vulnerabilities should get more frequent check-ups;
- **see your custody record.**



# APPROPRIATE ADULTS

## What are they?

Appropriate Adults are adults who **support**, and **protect** the **interests**, **rights**, **welfare**, and **entitlements** of a child or vulnerable person who has been **arrested** and **detained**, or is being **questioned** by police.



## Do I need one?

**Under 18s** are **required** to have an Appropriate Adult by law.



**Adults (18+)** are **only required** by law to have an Appropriate Adult if the police have a **reason to suspect** they are **vulnerable**.



## What do they do?

**Support**, **advise** and **assist** you if you are under 18 or a vulnerable adult;



**Observe** whether the police are:



- acting **appropriately** and **fairly**;
- **respecting** your **rights** and **entitlements**; and **inform** an Inspector (or more senior officer) if the police are **not** doing so.

Help with **communication** between you and the police;



Help you to **understand** your **rights** and **entitlements**, and ensure they are **protected** and **respected**; and



**Seek legal advice** on your behalf.



## Who can be my appropriate adult?

For under 18s: a **parent, guardian, caretaker** or **social worker**.

For adults: a **relative, guardian**, or person **responsible** for your **care** or **custody**.

A **vulnerability experienced** adult, but **not**:

- a **police officer**;
- a person **employed** by the police; or
- a person **controlled** by the police.

Another **responsible adult**.

A **solicitor can** be an Appropriate Adult if:

- the police **cannot** get another Appropriate Adult to attend; and
- they are **not acting** as a **solicitor** when **attending**.



## Who cannot be my appropriate adult?

Any person (including **parents** and **guardians**) who:

- is **suspected** of being involved in the offence;
- is the **victim**;
- is a **witness**;
- is involved in **investigating** the offence;
- has **received** an **admission** or **denial** of guilt **before** they attended as the Appropriate Adult;
- you are **estranged** from (no longer have a relationship with);
- is **under 18** years old.





# Who is a 'vulnerable person'?

The law says 'vulnerable people' are **adults** who may be **more likely** to:

- **be convinced, confused, or go along** with what **others** do or say;
- give **unreliable, misleading or incriminating** information **without knowing or meaning** to;
- have **difficulty understanding and communicating** about the implications of police procedures and processes;
- **not understand** the **importance** of what they are told, questions they are asked, and their replies;
- **not understand** or be able to **exercise** their **rights and entitlements**.



There are a wide range of reasons an adult may be considered 'vulnerable' - it depends on the **individual**. Examples include:

- Age
- Hearing differences
- Sight differences
- Speech and language differences
- Learning disabilities
- Drug/alcohol dependence
- Mental health conditions
- Menopause
- Being neurodivergent (including learning difficulties, ADHD, Autism).



# I'm over 18. How do I get an Appropriate Adult?

## If you think you are vulnerable:

You **arrive** at the Custody Suite.

You **immediately tell** the **Police** or **Custody Officer** about what makes you **vulnerable**. (A diagnosis is not required).

The Custody Officer **decides if** you are **vulnerable** and **tells you why**.

If you are vulnerable, the Custody Officer will **arrange** an Appropriate Adult.

The **Custody Officer** will:

- **Identify** a suitable person;
- **Inform** them; and
- **Ask** them to **come** to the **Police Station**.



## If the Police think you are vulnerable:

You **arrive** at the Custody Suite.

The police **immediately tell** (or have already told) the **Custody Officer** that they think you are **vulnerable**. (A diagnosis is not required).

The Custody Officer **decides if** you are **vulnerable** and **tells you why**.

If you are vulnerable, the Custody Officer will **arrange** an Appropriate Adult.

The **Custody Officer** will:

- **Identify** a suitable person;
- **Inform** them; and
- **Ask** them to **come** to the **Police Station**.



## I'm under 18. How do I get an Appropriate Adult?

All under 18s **must** have an Appropriate Adult.

The Custody Officer **identifies** anyone who **appears** to be **under 18**.

The Custody Officer **must** then:

- **tell you** you need an Appropriate Adult;
- **contact** an Appropriate Adult as **soon as possible**;
- **ask** them to **come** to the **police station**.

## I don't want an Appropriate Adult.

Under 18s and **vulnerable** adults **must** have an Appropriate Adult and **cannot refuse**.



## I'm waiting for an Appropriate Adult

You (or your legal representative) can **ask** the Custody Officer if an Appropriate Adult has been **contacted**.

Usually, **without** an Appropriate Adult **present**, the police **must not**:

- **interview** you;
- **ask** you to give or sign a **written statement under caution**;
- **ask** you to sign a **record of interview**;

**Without** an Appropriate Adult **present**, the police can **only** do those things in order to **avoid** the **likely risk** of:

- **interference** with or **harm** to a person or to evidence;
- **serious loss** of or **damage** to property;
- **alerting suspects** who have not been arrested yet;
- making it **harder** to **recover** property.



# MY NEEDS

## What might be difficult for me?

Being in custody can be stressful for anyone. Some ADHDers find certain parts harder e.g.:

- Not knowing what is going to happen;
- Keeping track of time;
- Absorbing and remembering important information;
- Making important decisions;
- Concentration, focus, attention, distractibility;
- Managing boredom or hyperactivity;
- Waiting around;
- Not having your usual coping mechanisms;
- Sitting still and not fidgeting;

- Managing how you feel e.g. stressed, overwhelmed, anxious, frustrated;
- Being away from your support network e.g. family and friends;
- Making sure you can get and take your medication (if you take medication usually);
- Change in routine;
- Following instructions and processes;
- Not being able to 'switch off' or relax;
- Sound, smell, sight, touch, taste;
- e.g. it is too noisy, lights are too bright, it is too cold, overwhelming smells, clothing feels scratchy etc.
- Being in a busy and unpredictable place;
- Ignoring other people's behaviour;
- Managing impulsiveness;
- Stress making ADHD challenges more pronounced and harder to manage.

# What help can I get?

You have a **right** to **reasonable adjustments** if you have a **mental** or **physical disability** or an **impairment**. What is 'reasonable' depends on the individual circumstances.

Some examples which may be useful include:

- Regular breaks;
- Reminding the police how ADHD affects you (e.g. communication, memory, focus);
- Communicating to you clearly, concisely, and slowly;
- Giving information verbally and in writing;
- Accommodating taking medication;
- Prioritising giving/requesting information at times of day when concentration, memory, hyperactivity etc is better;

- Step-by-step explanation of what will happen in custody, and reminding you throughout;
  - e.g. you will be booked in by the Custody Sergeant who will ask you questions and do a risk assessment, you will be taken to a cell, you will be interviewed.
- Checking your understanding of information before giving you new information;
- Providing accessible/alternative formats e.g. large print, pictures/diagrams;
- Quiet cells/custody areas;
- Sensory stimulation e.g. fidget spinner, stress ball, tangle;
- Distractions e.g. books, puzzles, games;
- Avoid long waits;
- Consistency - same point of contact throughout, regular updates, routines;
- Respecting personal space.

# THE LAW

A list of some of the most relevant guidance.

## The Police and Criminal Evidence Act 1984 (PACE) Code C

- **1.0** (reference to the Equality Act 2010)
- **1.4** (treating as vulnerable)
- **1.5** (appearing under 18)
- **1.7** (defines the role of Appropriate Adults)
- **1.13(d)** (defines vulnerable)
- **3.1** and **3.2** (rights in custody)
- **3.5** and **3.15** (police obligations regarding Appropriate Adults)
- **11.1** (exceptions to not interviewing without Appropriate Adult)
- **11.15** (restrictions without Appropriate Adult)

## Crime and Disorder Act 1998 section 38(4) (Appropriate Adult for under 18s)

## The Equality Act 2010 section 149 (public sector duty not to discriminate)

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UNDERSTANDING UNLOCKED

**V2.0 October 2024**

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