

## THE STATE HOSPITALS BOARD FOR SCOTLAND

### APPROPRIATE ADULT POLICY

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Advisory Group	Child and Adult Protection Forum
Approved by	Policy Approval Group (PAG)
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Accountable Executive Director	Director of Nursing and Operations

The date for review detailed on the front of all State Hospital policies/procedures/guidance does not mean that the document becomes invalid from this date. The review date is advisory and the organisation reserves the right to review a policy/procedure/guidance at any time due to organisational or legal changes.

Staff are advised to always check that they are using the correct version of any policy, procedure or guidance rather than referring to locally held copies.

The most up to date version of all State Hospital policies, procedures and guidance can be found on the Hospital's Intranet policies page.

## REVIEW SUMMARY SHEET

Changes required to policy (evidence base checked)

Yes ☒

No ☐

### 2024 Review - summary of changes within policy:

- Update to language throughout.
- Section 1 - update to terms and purpose of Appropriate Adults from COSLA guidance.
- Section 1 - reference to Appendix 1 added.
- Section 2 - update with 2019 Regulations and background information.
- Section 4 - updated title to interview arrangements and alterations made to location used following consultation with security and highlighting that staff would be classed as witnesses to the interview. Following Serious Case Reviews, additional paragraph added to highlight if allegations are made regarding TSH staff, they should not be party to the interview.
- New appendix added - Appendix 1: Form A - request for Appropriate Adult.

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## 1 INTRODUCTION

Appropriate Adults play a vital role in supporting equity of access to the justice system and the upholding of human rights. During police investigations, they support people to understand what is happening, and to be understood. Appropriate Adults understand the importance of fairness in the justice system. They come from a variety of backgrounds, are trained to a national standard and have practical experience of working with people with communication difficulties.

Appropriate Adults can be provided to people aged 16 and over with communication support needs due to mental health challenges, intellectual disability, personality disorder and/or other factors including brain injury, cognitive impairment and neurodiversity such as autistic spectrum disorder and ADHD. The presence of an Appropriate Adult is about trying to ensure equality for the person being interviewed. It is not about advocacy or speaking on behalf of a person, rather it is about an independent third party checking that effective communication is taking place and that the person being interviewed is not disadvantaged as a result of their communication support needs.

An Appropriate Adult should be used during any police interview or procedure with a person whether they are the victim, witness, suspect or accused. It is the responsibility of the interviewing police officer to determine whether an Appropriate Adult is required.

The Appropriate Adult Scheme for patients within The State Hospital is provided by South Lanarkshire Council.

A copy of the South Lanarkshire Council Appropriate Adult Scheme Procedures is available on the South Lanarkshire Council website: [www.southlanarkshire.gov.uk](http://www.southlanarkshire.gov.uk)

The Scheme provides 24-hour cover including weekends and public holidays and can be contacted as follows:

- Monday to Thursday 8.45am to 4.45pm
- Friday 8.45am to 4.15pm
- Excluding public holidays Telephone: 01555 840293 ext 2146
- Outwith office hours and during public holidays the Emergency Social Work Services can be contacted on Telephone: 0300 123 1008

Reference should also be made to the [Protocol for Patients Requesting Police Involvement](#).

The responsibility for requesting an Appropriate Adult rests with Police Scotland or identified agencies. When a request for an Appropriate Adult is made, Form A in Appendix 1 should be used. During office hours, any member of staff liaising with identified agencies should use Form A in Appendix 1 to request an Appropriate Adult and return this to [TSH.social-work@nhs.scot](mailto:TSH.social-work@nhs.scot).

The Social Work Service at The State Hospital has Social Workers trained as Appropriate Adults who are members of the South Lanarkshire Council Appropriate Adult Scheme. These staff will undertake the Appropriate Adult role for State Hospital patients as appropriate. State Hospital employees are not Appropriate Adults unless they are part of the South Lanarkshire Council Appropriate Adult Scheme.

The Social Work Mental Health Manager will liaise with South Lanarkshire Council regarding any issues arising for The State Hospital (TSH) in relation to the Appropriate Adult Scheme including procedural reviews and uptake of the Appropriate Adult Scheme. The Appropriate Adult will not be the patient's allocated social worker except in exceptional circumstances.

## **2 BACKGROUND INFORMATION**

The first Appropriate Adult service in Scotland was established in 1991 following a Scottish Home and Health Department Circular, which gave guidance to Chief Constables regarding the procedures to be adopted. In 1998 the Scottish Office issued “Guidance on Appropriate Adult Services”, which encouraged the establishment of such services across Scotland. Appropriate Adult services thereafter operated on a non-statutory basis across Scotland until the functions set out above were conferred by the 2019 Regulations. The Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019 were introduced on 10 January 2020 and sought to formalise the arrangements for Appropriate Adult Services. The Regulations conferred on Local Authorities the duties to deliver Appropriate Adult services. There are 21 Appropriate Adult services within Scotland representing all 32 Local Authorities. The services were placed on a statutory footing in January 2020. Although not a statutory responsibility, a small number of services provide Appropriate Adult support to people during Court processes.

COSLA has hosted the National Appropriate Adult Co-ordinator since September 2020 and the Policy and Participation Officer (Appropriate Adults) since April 2022. This was a result of an agreement to work with the Scottish Government to implement the new statutory Appropriate Adult services.

The majority of referrals for an Appropriate Adult are received from Police Scotland. However, the Criminal Justice (Scotland) Act 2016 widened access to Border Force, British Transport Police, Police Investigations and Review Commissioner, Civic Nuclear Constabulary, Her Majesty’s Revenues and Customs, Ministry of Defence and National Crime Agency. As the majority of referrals will be made by Police Scotland, this will be the identified agency used in this document.

The purpose of these arrangements are to ensure that when a person is interviewed by Police Scotland and there are concerns that they do not sufficiently understand what is happening or they cannot communicate effectively as a result of mental health challenges, an appropriately trained individual is present to ensure equity. Such a person is known as an “Appropriate Adult”. The purpose of an Appropriate Adult assisted interview is to facilitate communication and ensure that the interview process is fair, that the person being interviewed understands what is happening and is understood by those undertaking the interview.

The Appropriate Adult Scheme should cater for all adults with a mental disorder, whether they are being interviewed as a witness or victim, suspect or accused. Mental disorder is defined in section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003. This is further addressed by the ‘disability’ criteria of the Equality Act 2010 and Appropriate Adult services are deemed to constitute a ‘reasonable adjustment’ to promote equality in the context of a police interview.

The responsibility for the decision to request the presence of an Appropriate Adult belongs to Police Scotland. A medical assessment is not required before a police officer decides whether an Appropriate Adult is requested.

However, if following an assessment, a medical practitioner decides that a mentally disordered person is not fit to be interviewed at that point in time the medical practitioner should advise the police officer accordingly.

## **3 STATE HOSPITAL PATIENTS**

All patients at The State Hospital are subject to detention under mental health legislation. They are assessed by a psychiatrist as suffering from a mental disorder or as appearing to suffer from a mental disorder in the case of those patients referred for assessment by the Courts.

Police officers from any division in Scotland, or in exceptional circumstances from outwith Scotland, may be required to interview State Hospital patients in relation to various matters.

These might be associated with the patient being a possible suspect, victim or witness. Patients may also be required to be interviewed in a local police station. When being interviewed under caution particular attention also requires to be paid to the provision of legal representation during interview. The Criminal Justice (Scotland) Act 2016 indicates that persons being interviewed under caution, who require the services of an Appropriate Adult may not waive their right to a solicitor.

#### **4 STATE HOSPITAL INTERVIEW ARRANGEMENTS**

In all instances when police officers wish to interview a State Hospital patient, staff should remind the police officer that patients who require to be interviewed by Police Scotland have access to an Appropriate Adult. If the purpose of the police officer seeing the patient is to serve papers only there will not, usually, be a requirement for an Appropriate Adult to be present.

This responsibility particularly applies to all ward staff, clinical team staff and the Patients Advocacy Service that may become aware, or be directly involved in, the matter of police officers attending the hospital to carry out interviews.

The Responsible Medical Officer (RMO) may wish to advise the police officer on the patient's mental state when an interview is being considered. This may assist the police officer in their decision to request an Appropriate Adult and/or progress with interview at that point in time.

All Appropriate Adult interviews, except where there are concerns regarding the patient's presentation, should take place within the Family Centre as a safe and neutral environment that offers privacy for the patient being interviewed. The Family Centre is the preferred venue for police interviews and takes account of minimising disruption to the patient and ward routine whilst also addressing issues of potential risk inherent in patient outings including victim sensitivities. In instances where the Family Centre is not available, the Tribunal Suite will be used as a second alternative venue. If both venues are unavailable, or if there are concerns regarding the patient's presentation, the case conference room will be used in the patient's Hub. In these circumstances, it is recognised that due care and attention should be taken to ensuring privacy for the interview and the room dividers will be used to separate the room. The interview should take place in the right side of the room where there are less windows looking into the Hub Activity area. Whilst these procedures are in place within TSH, it is recognised that ultimately, Police Scotland will determine the interview venue.

Should the police officer decide to progress with the patient interview without the presence of an Appropriate Adult, the RMO, or duty RMO, should be contacted for a view on whether the interview should progress or otherwise. Regardless of the availability or otherwise of an Appropriate Adult, TSH staff must not prevent or obstruct a police interview from taking place.

In those instances where a patient is interviewed without the presence of an Appropriate Adult, a record must be entered in Rio, a DATIX should be submitted and, thereafter, the Chief Executive of the hospital and the Police Chief Constable should be notified.

In those instances where there are concerns regarding a patient's presentation and potential risks to those interviewing the patient, following consultation between the police officer, security and the clinical team, consideration should be given as to whether level two trained staff are present during the interview. Any level two trained staff present during the interview, should be cognisant that they would be classed as a witness to the interview.

In those instances where Police Scotland are interviewing a patient who may be a victim or witness, following consultation between the police and an Appropriate Adult, consideration may be given to a key worker or another member of the multi-disciplinary clinical team whom the patient knows and trusts to provide additional support and reassurance. If another party is present during the interview, they should be cognisant that they would then be classed as a witness to the interview.

In those instances where the interview is in relation to allegations that a patient may have made against TSH staff and there are concerns regarding the patient's presentation that would necessitate the presence of level two trained staff, arrangements should be made to ensure that those staff members in question are not party to the interview.

## **5 COMMUNICATION, IMPLEMENTATION, MONITORING AND REVIEW OF POLICY**

This policy will be communicated to all stakeholders within the State Hospital via the intranet and through the staff bulletin and electronic mailing distribution systems.

The Person Centred Improvement Team will facilitate communication with Patients, Carers and Volunteers.

The Child and Adult Protection Forum will be responsible for the implementation and monitoring of this policy.

Any deviation from policy should be notified directly to the policy Lead Author. The Lead Author will be responsible for notifying the Advisory Group of the occurrence.

This policy will be reviewed in **three** years or sooner if required.

## **6 EQUALITY AND DIVERSITY**

The State Hospitals Board (the Board) is committed to valuing and supporting equality and diversity, ensuring patients, carers, volunteers and staff are treated with dignity and respect. Policy development incorporates consideration of the needs of all Protected Characteristic groups in relation to inclusivity, accessibility, equity of impact and attention to practice which may unintentionally cause prejudice and/or discrimination.

The Board recognises the need to ensure all stakeholders are supported to understand information about how services are delivered. Based on what is proportionate and reasonable, we can provide information/documents in alternative formats and are happy to discuss individual needs in this respect. If information is required in an alternative format, please contact the Person-Centred Improvement Lead.

Line Managers are responsible for ensuring that staff can undertake their role, adhering to policies and procedures. Specialist advice is available to managers to ensure that reasonable adjustments are in place to enable staff to understand and comply with policies and procedures. The Equality and Impact Assessment (EQIA) considers the Protected Characteristic groups and highlights any potential inequalities in relation to the content of this policy.

Patient pre-admission assessment processes and ongoing review of individual care and treatment plans support a tailored approach to meeting the needs of patients who experience barriers to communication (e.g. dementia, autistic spectrum disorder, intellectual disability, sensory impairment). Rapid access to interpretation/translation services enables an inclusive approach to engage patients for whom English is not their first language. Admission processes include assessment of physical disability with access to local services to support implementation of reasonable adjustments. Patients are encouraged to disclose their faith/religion/beliefs, highlighting any adapted practice required to support individual need in this respect. The EQIA considers the Protected Characteristic groups and highlights any potential inequalities in relation to the content of this policy.

Carers / Named Persons are encouraged to highlight any barriers to communication, physical disability or anything else which would prevent them from being meaningfully involved in the patient's care (where the patient has consented) and/or other aspects of the work of the Hospital relevant to their role. The EQIA considers the Protected Characteristic groups and highlights any potential inequalities in relation to the content of this policy".

## 7 STAKEHOLDER ENGAGEMENT

Key Stakeholders	Consulted (Y/N)
Patients	Y
Staff	Y
Carers	N
Volunteers	N



**APPENDIX 1: FORM A - REQUEST FOR APPROPRIATE ADULT****THE STATE HOSPITAL APPROPRIATE ADULT REQUEST FORM**

Name of patient being interviewed

**Date, time and location of interview**

Date	Time	Location

**Agency requesting interview**

Police Scotland	COPFS/Scottish Courts Service	Other Statutory Body (specify)

**Contact details of interviewer(s)**

Name & Shoulder No. (Police)	Telephone Number	Email Address

**Nature of interview**

Victim	Witness	Not Officially Accused	Officially Accused	Not Known

Person completing request	Signature	Date

Please note that this form should be sent to [TSH.social-work@nhs.scot](mailto:TSH.social-work@nhs.scot) during office hours.