



# ADHD IN CUSTODY

A guide to  
custody for  
ADHDers

**This booklet is not legal advice.**



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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>[d] [g]</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; procrastination; time; and hyperfocus.



# Why does ADHD matter in custody?

1 in 4 people in the Criminal Justice System are **ADHDers**.<sup>[f] [h]</sup>



The CJS **fails** to spot ADHD most of the time. This is a huge barrier to accessing support.<sup>[e]</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>[c]</sup>
- go along with what others say or do;<sup>[a]</sup>
- reply "don't know" in police interviews;<sup>[a]</sup>
- have other neurodevelopmental differences;<sup>[h]</sup>
- struggle to get used to being in custody and react disruptively;<sup>[h]</sup>
- find police interviews difficult practically and emotionally;<sup>[b]</sup>
- cope with stress in unhelpful ways;<sup>[a]</sup>
- give vague answers in police interviews, which could be misunderstood as being dishonest, avoidant, or uncooperative.<sup>[a]</sup>





# MY LEGAL RIGHTS

## What are they?

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

- **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;
- let you 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** 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?

- Under 18s: a **parent, guardian, caretaker** or **social worker**;
- 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 difficulties
- Sight difficulties
- Speech and language difficulties
- Learning disabilities
- Drug/alcohol dependence
- Mental health conditions
- Menopause
- Being neurodivergent (including learning difficulties, ADHD, Autism).





# I'm over 18. How do I get

**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.



# an Appropriate Adult?

**If the police think you are vulnerable:**

You arrive at the Custody Suite.



The police 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**.



They **must** then **tell you**, **contact** an **appropriate adult** as soon as possible, and **ask** them to **attend** 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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