

To cite this article: Macdonald, S.J., Peacock, D., Cosgrove, F. & Podd, W. (2020). 'The Silence': Examining the missing voices of disabled people within Police Custody Services. *DISABILITY AND SOCIETY*. DOI: 10.1080/09687599.2020.1712190

'The Silence': Examining the missing voices of disabled people in police custody

Stephen J. Macdonald, Donna Peacock, Faye Cosgrove, and Wendy Podd

Abstract: The role of the Appropriate Adult was established to protect the rights of suspects considered 'vulnerable' due to a number of miscarriages of justice during the 1970s. Appropriate Adult services are now a legal requirement in England and Wales for detained adults with mental health issues, learning disabilities or difficulties who have been detained in police custody. The aim of this project was to evaluate the extent and involvement of disabled adults who are or have been in police custody. The study concludes by suggesting the application of a social model approach within police custody, to meet the needs of service users and to avoid any miscarriages of justice.

- Appropriate Adult services are now a legal requirement in England and Wales for adults detained in police custody who have mental health issues, learning disabilities or difficulties
- The research explores the role of Appropriate Adult schemes across England and Wales in protecting the rights of disabled people in custody.
- This study examines whether disabled people's voices are embraced in Appropriate Adult Schemes to improve services and to remove disabling barriers.
- This study discovered that service user voices were missing from every aspect of Appropriate Adult service provision.

- The findings suggest that in order to develop an effective criminal justice service for disabled people in custody, service user voices must be incorporated to develop a service which protects the rights of disabled people.

Introduction

The role of the Appropriate Adult in custody is to protect the rights and welfare of disabled adults with mental health conditions, learning disabilities and learning difficulties. The Appropriate Adult should ensure that information and questions asked by police to suspects are fully understood by the disabled adult being questioned. A significant function of the Appropriate Adult is to inform the police, or custody sergeant, about the welfare needs of a suspect whilst in police custody. The study will commence by examining the role of the Appropriate Adult in custody with reference to disabled adults. The research examines the importance of including disabled people as active partners within service design and provision, which is standard practice across services outside of the criminal justice system.

This study gathered information from 43 schemes across England and Wales and discovered that service user voices were absent from every aspect of service provision; disabled people were not consulted or included. The findings recommend that in order to develop a service intended to protect the rights of disabled people, service users must be involved at every level of service design and provision. The authors conclude by proposing that the Appropriate Adult schemes within the National Appropriate Adult Network (NAAN) should adopt a social model approach within their adult services to successfully utilise a barrier-based approach within

custody. By doing this, the NAAN members would integrate the voices of disabled people to further protect the rights of this situationally vulnerable group.

Disabled People in Custody and the Use of 'Appropriate' Adults

Public concerns about the treatment of disabled people in custody by police officers were first acknowledged in the Fisher Inquiry (1977). The Fisher Inquiry was conducted due to a miscarriage of justice concerning the Maxwell Confait Case (1972). In this case three individuals, two under the age of 16 (Leighton and Salih) and one with a learning disability (Lattimore), were wrongfully convicted of murder and arson [R v. Lattimore, Salih and Leighton, 1975]. A crucial piece of evidence which secured their conviction was that the suspects had made a full confession to police officers whilst in custody (McBarnet 1978). The three suspects were convicted of murder but these convictions were quashed due to a successful appeal by the three detainees (Cummins 2011). During the appeal it was recognised that a number of inaccuracies were presented by detainees within their initial confessions, alongside forensic evidence which illustrated that the suspects could not have been in the vicinity of the offence when the crimes took place. As McBarnet (1978) queried at the time:

How was it possible for the confessions to be elicited in the privacy of the police station, with no solicitor consulted or parents present (since young and indeed 'mentally retarded' people were involved), in a system which is allegedly geared, some would say too much, to safeguards for the accused

(McBarnet 1978: 458)

McBarnet (1978) suggests that the Fisher Report raised four significant issues relating to police custody and the judicial system: the collection and presentation of evidence; the function of public enquiries; issues concerning civil rights within police custody; and the importance of legal reform. The Fisher Inquiry subsequently led to a Royal Commission on Criminal Procedures (the Philips Commission 1981) and its recommendations were incorporated within the Police and Criminal Evidence Act (PACE 1984). This framework transformed how police interviews were conducted in custody. Because of PACE (1984). Interviews must now be tape-recorded and suspects that are considered to be vulnerable must have access to appropriate support within custody. Under PACE (1984) three groups were identified as vulnerable: 'juveniles, adults with learning disabilities and adults with mental health problems' (Cummins 2011: 307). PACE and its associated codes of practice aimed to achieve 'fairness, openness and workability' and illustrated the need for increased protection for disabled people considered 'vulnerable' in custody (Dehaghani 2016: 396).

The PACE guidelines led to the introduction of safeguarding recommendations in the form of introducing the Appropriate Adult role into custody (Codes of Practice for PACE 1984, Code C, as referred to in PACE 1984 VI (66)). The role of an Appropriate Adult was initially undertaken by a social worker assigned to a young person/service user. Family members were/are also given the option to act as an Appropriate Adult for their child or for a disabled relative in custody (Codes of Practice for PACE 1984, Code C, as referred to in PACE 1984 VI (66)). However, since the 2000s there has been a growing trend of community volunteers operating as Appropriate Adults. In 2007 the Labour government commissioned the Bradley Report (2009) aimed at preventing the 'revolving door' for offenders with mental health or learning disabilities that were being administered through the criminal justice system. A key

recommendation of the Bradley Report (2009) was to increase support for disabled offenders who come in contact with the police.

The Bradley Report recognised that the system of support in custody required enhancements, which included improved support through Appropriate Adult Schemes, but these recommendations were never truly acted upon. Since 2010, due to austerity measures, social services rarely act as Appropriate Adults in custody. In contemporary practice these gaps in services have been filled predominantly by volunteers and, more recently, services commissioned from the private sector (Peacock and Cosgrove 2018). With the reduction of statutory Appropriate Adult services, NAAN, which is a registered charity, now plays a significant role in the setting up, training and provision of Appropriate Adult Schemes. This consists of a 'patchwork' of volunteers, professional services, friends and family, and profit-making provision across England and Wales (Peacock and Cosgrove 2018).

The definition of what constitutes a 'vulnerable adult' has been amended. The updated PACE guidelines (2018) broadened the definition to refer to 'vulnerability', rather than specifically referring to 'mental vulnerability' (Codes of Practice for PACE 1984 as amended July 2018. See Sections 10(d) and 11(c)). This expanded definition includes any disability that may make a detainee vulnerable in custody based on the custody officers' concerns regarding a person's capacity. There is also a growing recognition of the intersectional relationships of suspects who arrive in custody, where individuals can have a range of impairments and substance addictions that can impact on evidence gathering in custody by the police (Peacock and Cosgrove 2018). Due to the growing complexities in police custody the role of the Appropriate Adult has become a significant part of police custody alongside the suspect's solicitor.

As Farrugia and Gabbert (2019) suggest, the key tasks of an Appropriate Adult in custody are to help facilitate communication between the suspect and the police, to give advice on appropriate support, and to remove any barriers within the custody suite to ensure that interviews are conducted impartially and evidence recorded objectively. Guidance from the Home Office suggests that the key responsibilities undertaken by an Appropriate Adult are to:

Support, advise and assist the detained person, particularly while they are being questioned; to observe whether the police are acting properly, fairly and with respect for the rights of the detained person and to tell them if you think they are not; to assist with communication between the detained person and the police; to ensure that the detained person understands their rights and that you have a role in protecting their rights.

(The Home Office 2003: Annex A)

As Peacock and Cosgrove (2018: 242) suggest, there are 'incoherent and inconsistent systems of national provision which cannot be relied upon to fully meet the needs of service users'. Although the NAAN offers training, support and assistance in setting up Appropriate Adult schemes across England and Wales, the quality of the schemes depend on access to suitable Appropriate Adults within particular geographical regions. For example, certain schemes, due to lack of resource, are only able to offer support from 9 am until 5 pm, whereas others offer 24-hour cover (Peacock and Cosgrove 2018). Some schemes are only able to offer support to young people and others only to adults. Within certain geographical areas no Appropriate Adult Scheme exists. Hence, some schemes are very proactive in training volunteers and ongoing development of staff, whereas other schemes lack the resources to engage fully with

NAAN training. Furthermore, as some schemes have been underfunded, particularly because of austerity measures, this has created a 'postcode lottery' where Appropriate Adults in one geographical area have access to greater support and training compared to a neighbouring region (Peacock and Cosgrove 2018).

Disabling Barriers within Police Custody

Explaining the social problems of disabled people through the notion of a dysfunctional pathology which renders individuals inherently vulnerable is not a new concept and has been well documented within Disability Studies (Oliver 2009; Thomas 2011; Macdonald 2012; Roulstone and Mason-Bish 2013). When examining disabling barriers and the experiences of disablism within the criminal justice system, it could be argued that a significant amount of research conducted in Disability Studies is produced on the experiences of victims (Quarmby 2008; Sherry 2011; Thomas 2011; Roulstone and Mason-Bish 2013; Edwards 2014; Macdonald et al. 2017; McCarthy 2017; Mathews 2018). Thus, there has been limited attention in Disability Studies given to the experiences of suspects or perpetrators (Barnett 1986; Browning and Caulfield 2011; Macdonald 2012; Parsons and Sherwood 2016; Hollomotz and Schmitz 2018; Rogers 2019). Studies that have collected data on disability perpetrators, particularly individuals with learning disabilities, specific learning difficulties or mental health conditions, suggest that these groups are over represented and face significant barriers within the criminal justice system (Talbot 2008; Browning and Caulfield 2011; Macdonald 2012).

As Cummins (2011) and Farrugia and Gabbert (2019) report, these over-represented disabled groups in prison significantly outnumber the cases where Appropriate Adults were used

during custody, therefore these studies seem to indicate that many disabled people's legal and civil rights are not currently being met. In a study by Parsons and Sherwood (2016), who analyse the experiences for adults with learning disabilities, they reported on significant disabling barriers relating to the accessibility of information and communication in custody. The research focused on the provision of the rights and entitlements of an individual whilst being interviewed by police. Their study reports on how the right and entitlement notice was presented, which was first given verbally in an inaccessible manner and then presented through paper-based communications. Parsons and Sherwood (2016) suggest that the manner in which that information was presented by police officers significantly restricted the understanding of the notice for suspects with learning disabilities. Alongside this they noted that during these interviews the police were constantly aware of time during these interrogations, as the custody clock is ticking in order to make a charge. For police officers a quick charge or release is central to police interview procedures (Skinns 2010). Parsons and Sherwood (2016) suggest that time limitations significantly restrict and often prevent accessible information from being presented to individuals with learning disabilities during these interactions.

In Browning and Caulfield's (2011) study on autism, they also illustrate a lack of knowledge and training amongst personnel in the custody suite concerning this condition which, they suggest, could lead to significant barriers for the person who has been detained in custody. They imply that police officers can make misinformed assumptions about links between inappropriate behaviour in custody and the innocence or guilt of a suspect with this condition. Research by Macdonald (2012) also demonstrated disabling barriers within custody with reference to police officers' expectations of suspects' literacy abilities. A number of

participants in this study were so reluctant to admit their inability to read and write that they would pretend to read written artefacts or statements during evidence-gathering procedures. They also reported that they were willing to sign any documents presented to them by police officers or court officials, even though they were unable to read those papers.

Within these studies Appropriate Adults were either not referred to (Macdonald 2012) or lacked appropriate knowledge (Browning and Caulfield 2011). These findings coincide with Farrugia and Gabbert's (2019) study analysing police interviews of suspects with mental health conditions when Appropriate Adults were present. They suggested that during these interviews there were numerous occasions when Appropriate Adults should have intervened in line with the PACE guidelines but did not. Their findings suggested that Appropriate Adults were often passive within the police interviews and very rarely intervened on behalf of the service users. Farrugia and Gabbert (2019) conclude by suggesting that as Appropriate Adults are there to protect the civil rights of disabled individuals or young people, their lack of intervention during police interviews could result in a miscarriage of justice.

'Nothing About Us Without Us'

As has been discussed in substantial detail by Oliver (2009), scholars in Disability Studies have continuously illustrated the importance of the inclusion of disabled people's voices within the production of theoretical knowledge, improving professional services, and influencing policy and political decision-making regarding disabled people's lives. As Oliver (2009) has conversed, the inclusion of disabled people's voices has been the cornerstone of Disability Studies as an academic discipline. Since the 1990s Disability Studies, with its links to

grassroots politics, has transformed the political and policy landscape, not just within the UK but also internationally (Watson et al. 2012; Swain et al. 2014; Shakespeare 2015).

In a recent article entitled 'Nothing About Us Without Us', Callus and Zahra (2017) detail how the rise of the UK Disability Movement not only transformed social policy within the UK but also shaped disabled people's human rights globally through the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). They argue that the UK Disability Movement and the social model have resulted in a global rights-based movement where disabled people's voices play an active role in shaping policy, services and professional practice. The UNCRPD not only cultivates a barrier-based approach ensuring equal access to 'education, employment, community life, information, communication, and goods, services and facilities', but also warrants that disabled people are active in decision-making and can make informed choices over every aspect of their own lives (Callus and Zahra 2017: 10).

Within the UK professional practices, such as social work, health services, housing and education, now attempt at some level to include disabled people's voices within service provision (Riddington et al. 2008; Rickard and Purtell 2011; Boxall and Beresford 2012; Oliver et al. 2012; Beresford 2012; Macdonald and Taylor-Gooby 2014). Although some social service and health providers have been criticised as tokenistic when including disabled people's voices (Macdonald and Taylor-Gooby 2014), it should be acknowledged that there has been some attempt to include disabled people's insights within the decision-making processes of these organisations (Riddington et al. 2008; Oliver et al. 2012). Yet within the criminal justice system there has been very little attempt to incorporate the experiences of service users within service provision in line with the UNCRPD (Hyun et al. 2013).

Although Brandon and Keyes (2013) have provided examples of disabled people's involvement with services when working with disabled victims, there is little evidence that disabled perpetrators have been involved in a similar way in criminal justice services. This is illustrated in research by Jessiman and Cameron (2017) comparing the experiences of Appropriate Adults' and disabled service users' experiences of custody. They report that the custody manager's key concern was about the availability of Appropriate Adults, whereas Appropriate Adults' apprehensions related to the custody process and issues of welfare. Some of these concerns were discussed by service users, particularly with reference to Appropriate Adult availability, as numerous participants reported that they did not have access to an Appropriate Adult whilst in custody. Yet the most significant issue illustrated by service users was the need for emotional support. Service users reported 'custody was overwhelmingly negative ... recall[ing] feeling intimidated, frightened, dehumanised, bullied and isolated' (Jessiman and Cameron 2017: 5). Jessiman and Cameron (2017) suggest that service user concerns do not match many of the concerns by custody managers or Appropriate Adults. Their study illustrates the importance of incorporating the voices and experiences of disabled service users into developing support and training for Appropriate Adult professionals.

Although previous research suggests that disabled people's voices are absent from Appropriate Adult Schemes (Jessiman and Cameron 2017), the National Appropriate Adult Network standards advocate the inclusion of service user voices in the design and development of service delivery (NAAN National Standards 1.9: 24). Expanding on Jessiman and Cameron's (2017) research, the aim of this study is to examine whether the Appropriate Adult Schemes successfully incorporate the voices of service users when developing services

for suspects in custody. As Appropriate Adult Schemes are independent organisations from the police, who aim to ensure suspects' rights are upheld within custody, it was hoped that these organisations embedded a rights-based barrier approach within service design and delivery. This is not only to conform to the PACE guidelines to protect the rights of disabled people in custody and improve services, but also to prevent any miscarriages of justice for this minority population.

Methodology

The aim of this project was to explore the extent of service user participation within the National Appropriate Adult Network (NAAN) membership (n=93) and other Appropriate Adult Schemes across England and Wales. NAAN is a national charity which has been established to safeguard the rights of children and vulnerable adults that had been detained in custody because they are suspected of committing a crime. The aim of this organisation is to prevent any miscarriages of justice occurring within the criminal justice system by ensuring children and vulnerable adults have access to an Appropriate Adult practitioner/volunteer. This is to support the welfare of these individuals during their time in custody. The organisation does not provide Appropriate Adult practitioners/volunteers but establishes a network of support and training to any voluntary, statutory or private organisation which offers this service to police forces within the UK. A key role of NAAN is to ensure that every police force has access to an Appropriate Adult service within their region. This research was initially funded by the Police Crime Commissioner for the North-east of England evaluating the effectiveness of local Appropriate Adult Scheme services. From this regional project the study expanded the initial reach of the research from a local to a national project with the consent of NAAN. Thus the data was collected by means of an online survey that was e-mailed to the director of each

Appropriate Adult Scheme. Schemes that are not members of NAAN were also contacted directly via their publicly available contact information in order to enable them to participate.

The study employed a mixed methods approach as the online survey collected both quantitative and qualitative information. The survey was designed by members of the criminology team at the University of Sunderland independently of any police service, commissioner of services or NAAN. It should be noted that the research was entirely voluntary and schemes were not obliged or coerced by NAAN to participate in the survey. The study took place in 2018 and initially produced a sample size of 43 schemes. The questionnaire design predominantly collected quantitative information, however services were given space to qualitatively explain their answers. The aim of the survey was to examine the level of service user participation.

It should be noted that not all Appropriate Adult Schemes offered services for disabled adults. As discussed previously, under PACE (1984), a suspect should have access to an Appropriate Adult if they are under the age of 18, or if they are an adult who has a condition which renders them 'vulnerable' within custody, i.e. an individual with a learning disability, mental health condition, a specific learning difficulty, or are otherwise deemed to lack capacity. As illustrated in Table 1, 48.8% (n = 21) of schemes only offered services for young people and not adults, whereas 51.2% (n = 22) offered a service for adults with a perceived vulnerability. Interestingly the data revealed that all the Appropriate Adult Schemes that aimed to protect the rights of younger people in custody have been in operation for over 10 years. Yet of the schemes that specialise in adult support, 36.4% had been operational for less than 10 years.

For the purpose of this paper the data presented in the findings is only based on the 22 Appropriate Adult Schemes which offer adult services to disabled people.

Table 1 Appropriate Adult Schemes Information

| Variable Categories | Variable Values | Percentage | n |
|---|--------------------|------------|----|
| Service user group | Young people | 48.8% | 21 |
| | Vulnerable adults | 51.2% | 22 |
| | Total | 100% | 43 |
| Age of Appropriate Adult (Adults') service | 1–3 years | 9.1 | 2 |
| | 3–5 years | 9.1 | 2 |
| | 5–10 years | 18.2 | 4 |
| | more than 10 years | 63.6 | 14 |
| | Total | 100% | 22 |
| Age of Appropriate Adult (Children's) service | 1–10 years | 0% | 0 |
| Adult (Children's) service | more than 10 years | 100% | 21 |
| | Total | 100% | 21 |

Note: missing service response data n = 0

The data in the findings was analysed using descriptive statistics in the form of frequency tables using SPSS. This was to examine the frequency distribution of cases exploring whether Appropriate Adult Schemes included disabled people's voices within their services. It should be observed that, because the article utilises data from a relatively small sample (n = 22) from a quantitative perspective, the findings in this paper employ a univariate analysis throughout. In order to give depth to the univariate analysis a thematic analysis was undertaken and qualitative data was linked to the relevant quantitative analysis (Creswell, et al. 2019). Thus,

both quantitative and qualitative data will be presented in the findings section. The authors apply the social model definition, which classifies 'disability' as disabling structural barriers and 'impairment' as a biological/neurological variation. By applying this theoretical lens three themes emerged from the univariate data analysis: disabled people's participation in service delivery; disabled people's participation in education and training; and 'Appropriate Adult Schemes' service user feedback procedures.

Findings: Appropriate Adult Scheme Delivery

Over the past decade service user participation has become standard practice for many statutory and voluntary services for disabled people (Rickard and Purtell 2011; Boxall and Beresford 2012; Macdonald and Taylor-Gooby 2014). The concept of disabled people as active partners in services which affect their quality-of-life has not only been championed by disability politics and enshrined in social policy, nationally and globally, but has also been accepted as a crucial component in improving service delivery (Platt and Staniszewska 2011; Macdonald and Taylor-Gooby 2014; Callus and Zahra 2017). It is important that services develop a true partnership with disabled service users, rather than just a tokenistic relationship in order to meet policy or funding expectations (Arnstein 1969; Forbat et al. 2009; Greener 2009; Vincent-Jones 2011). For disabled people to be included within services this is not just a matter of collecting feedback on a particular provision, but rather a process of including service users in every stage of service delivery (Macdonald and Taylor-Gooby 2014). Thus these findings investigate the extent to which disabled service users were invited to or involved in service steering groups and Appropriate Adult Scheme management committees.

Table 2 Disabled People’s Involvement in Services

| Variable Categories | Variable Values | Percentage | n |
|--|----------------------------|------------|----|
| Involvement in steering groups | Not at all | 72.7% | 16 |
| | They are consulted | 22.7% | 5 |
| | They are actively involved | 4.5% | 1 |
| | Total | 100% | 22 |
| Involvement in service management committees | Not at all | 72.7% | 16 |
| | They are consulted | 13.6% | 3 |
| | They are actively involved | 13.6% | 3 |
| | Total | 100.0% | 22 |

Note: missing service response data n = 0

As indicated in Table 2, 22.7% and 13.6% of schemes reported some form of consultation with service users through steering groups and management committees respectively. Only 13.6% of these schemes reported actively involving service users in their management committees which decreased to just 4.5% that described actively involving disabled people within their steering groups. Thus, the data analysis illustrates that 72.7% of Appropriate Adult schemes did not involve disabled service users in any capacity within any of their steering groups or within their management committees. When organisations attempted to explain the lack of service user voices within their services they seemed to conceptualise partnership through the notion of volunteer ‘feedback’. As one organisation states:

We rely very heavily on individual feedback from young people and vulnerable adults we support in custody via the volunteers to the organisation. This is often

picked up through the regular 6 monthly supervisions we hold with our AA volunteers.

As illustrated in the above narrative the inclusion of service user voices in committees/steering groups, which would often feed into the management process, were collected from the experiences of Appropriate Adult volunteers/professionals. Therefore, for some of the organisations that reported including service users' voices within their service delivery, this was only through a process of official or unofficial feedback by practitioners. This data seems to reveal that for many Appropriate Adult Schemes, disabled service users/ex-service users are not seen as an accessible source of knowledge for improving services, or are overlooked as an important source. Furthermore, the data seems to reveal that when service user voices are included this is on the periphery of the services, and disabled people do not seem to be considered as active partners within the organisation based on their personal experiences of the services (Arnstein 1969; Forbat et al. 2009; Greener 2009; Vincent-Jones 2011).

Appropriate Adult Education and Training

Fundamental to the formation of Disability Studies as an academic discipline is the presence of disabled people's lived experiences and voices in shaping knowledge, theory and practice which affect disabled people's lives (Barnes 2012). As Callus and Zahra (2017) illustrate, the political slogan '*nothing about us without us*' has become a global phenomenon which has shaped political movements and disability social policy internationally. From a Disability Studies perspective, disabled people should be educators concerning disability rights, or at the very least active partners within education and professional training (Gillespie-Sells and

Campbell 1991; Barnes 2014; Richards et al. 2018). As far back as the 1990s Gillespie-Sells and Campbell (1991) were advocating the importance of disabled people leading equality training within the social services. Over recent years there has been an acceptance within services of the importance of including disabled people in the process of educating and training professionals in supporting this service user group. Thus, these findings explore the level of participation of disabled service users within the training design, delivery and ongoing professional development of Appropriate Adult practitioners across England and Wales.

Table 3 Disabled People’s Involvement in Training

| Variable Categories | Variable Values | Percentage | n |
|---------------------|----------------------------|------------|----|
| Training Design | Not at all | 68.2% | 15 |
| | They are consulted | 22.7% | 5 |
| | They are actively involved | 4.5% | 1 |
| | They take a leading role | 4.5% | 1 |
| | Total | 100.0% | 22 |
| Training Delivery | Not at all | 68.2% | 15 |
| | They are consulted | 9.1% | 2 |
| | They are actively involved | 18.2% | 4 |
| | They take a leading role | 4.5% | 1 |
| | Total | 100% | 22 |

Note: missing service response data n = 0

As can be observed in Table 3, only 9% of Appropriate Adult Schemes reported actively involving disabled service users within the design and development of training for

Appropriate Adult practitioners. In addition to this, 22.7% of services consulted service users when designing their initial staff training. Therefore, 68.2% of Appropriate Adult Schemes/services across England and Wales reported not consulting disabled people when designing training for their volunteers or professional staff. Similar trends can be viewed with reference to education and training delivery for volunteers and professional staff. As Table 3 shows, 68.2% of Appropriate Adult schemes do not deliver training in partnership with disabled service users or ex-service users. Only 9.1% reported that they always consulted service users in their training delivery. Within the qualitative data, organisations again interpreted the concept of disabled people becoming active trainers of volunteers and practitioners through the concept of information gathering and research. As one scheme suggests:

Service users are detained at the point of contact and so there are issues around consent for research. Service user groups are difficult to access/ include because of the nature of their vulnerability

This data seems to reveal that disabled people or ex-service users do not become active educators and trainers for Appropriate Adult Schemes due to their pathological 'vulnerabilities'. These schemes described including voices of disabled people by means of research data. From within Disability Studies the lived experiences of disabled people, of their services, are vital to improving professional practice. From a Disability Studies perspective disabled people should be active researchers, educators and trainers. Therefore disabled people's voices in education should not just appear through findings from research. It is the lived experiences of service users which should be a crucial aspect of disability training and

the on-going development of professional practice. The qualitative data also highlights key perceptions within Appropriate Adult Schemes concerning the notion of 'vulnerability'. It is this notion of service user 'vulnerabilities' which seems to be used to justify the exclusion of disabled people as active educators, trainers and partners within this service.

Appropriate Adult Scheme User Feedback

It is a general expectation that all services, both voluntary and statutory, will collect feedback on the experiences of their clients, service users and patients that use their services. Service user feedback is seen as the most basic level of service user involvement an organisation can offer. For services which only collect service user information through the process of feedback this is the most basic level of partnership (Forbat et al. 2009; Greener 2009; Vincent-Jones 2011). Although service user feedback is still vital in improving services, if this is the only mechanism for representing the voices of service users then an organisation cannot be considered as working in partnership with their service user groups (Arnstein 1969; Macdonald and Taylor-Gooby 2014).

Table 4 Service User Feedback

| Variable Categories | Variable Values | Percentage | n |
|--|-----------------|------------|------|
| Opportunities for service users to provide feedback | Yes | 66.7% | 14 |
| | No | 33.3% | 7 |
| | Total | 100.0% | 21* |
| Feedback from service users acted upon | Always | 19.0% | 4 |
| | Usually | 28.6% | 6 |
| | Sometimes | 14.3% | 3 |
| | Not applicable | 38.1% | 8 |
| | Total | 100% | 21* |
| Plans to further develop the level of service user participation | Yes | 68.4% | 13 |
| | No | 31.6% | 6 |
| | Total | 100.0% | 19** |

*Note: missing service response data n = 1

**Note: missing service response data n = 3

When exploring whether the Appropriate Adult Schemes/services have developed effective mechanisms for service users to give feedback on their experiences in custody, it was discovered that 33% of schemes did not collect feedback from individuals engaging in their services (see Table 4). Yet 66.6% of Appropriate Adult Schemes did gather feedback on the success or failure of their schemes from their disabled service users' perspectives. For the schemes that did attempt to collect feedback from their service users, 19% reported always acting on the feedback. 28.6% stated that they usually act on this feedback, and 14.3% reported that they sometimes act on feedback. 38.1% suggested this was not applicable to

their Appropriate Adult service delivery. Interestingly, the qualitative data reveals that, for the schemes that reported feeding back changes to service users, this often referred to issues concerning complaints. As one scheme states:

AAs are expected to inform service user[s] to contact the organisation or the commissioner if a complaint is to be made. AA service would respond accordingly.

Again, this statement may illustrate that many of the Appropriate Adult Schemes do not consider disabled service users as active partners, where feedback relates to a system of quality control. The above data may indicate that it is only serious incidents resulting in a 'complaint' where schemes seem compelled to report back to service users.

The study also explored whether services were planning on improving their relationships with service users in order to increase participation. The data in Table 4 reveals that the majority of schemes do recognise the lack of service user involvement, as 68.4% of schemes are planning to improve and develop service user involvement and participation. However the remaining 31.6% are making no plans to improve their services with reference to service user involvement. This data may emphasise that a third of schemes do not perceive the need for or the importance of actively involving disabled service users within the delivery of their services. This finding appears to demonstrate that many schemes do not incorporate service users' voices within their services, even to collect feedback on service user experiences. Yet, there was some evidence that schemes were willing and open to change. As one scheme states:

I would like to follow up with service users to see how they feel the provision met their needs.

Although disabled service user voices seem to be absent across services in the criminal justice system, it appears from the qualitative data that, in some cases, the Appropriate Adult Schemes may be willing and open to change. If the Appropriate Adult Schemes can actively engage with and include disabled people in the provision of these services, this could be a watershed for criminal justice agencies to follow this example to improve anti-discriminatory practices in line with other services for disabled people.

Discussion and Conclusions

Within Disability Studies there has been a move to listen to, and to theorise about, the voices and experiences of disabled adults who have been victimised (Thomas 2011; Roulstone and Mason-Bish 2013; Edwards 2014), yet surprisingly, very little research has been conducted into listening to the voices of perpetrators, particularly in custody (Morgan 1997; Macdonald 2012; Jessiman and Cameron 2017). Furthermore, the role of the Appropriate Adult has also been under-researched within criminal justice and criminological literature. This illustrates a wider trend within criminology, where the recognition of the structural impact of disability on victimisation and criminality has been absent from the discipline (Edwards 2014; Macdonald 2012; 2015). In studies that have examined the role and effectiveness of the Appropriate Adult within custody, there have been a number of criticisms aimed at these services. Farrugia and Gabbert (2019) suggest that, within their study of police interviews, Appropriate Adults were often reluctant to intervene during police interrogations, even when this would have been appropriate in line with the PACE (1984) guidelines. Consistent with

Disability Studies, Jessiman and Cameron (2017) illustrate that disabled service user voices are very rarely listened to by Appropriate Adult Schemes. Within their research they illustrated that service provider, police and service user concerns are significantly dissimilar. Custody managers were concerned about quick access to Appropriate Adults so that police interviews could commence, whereas Appropriate Adults were more concerned about welfare needs such as access to food or legal support. From the service user perspective custody was a dehumanising, stressful and alienating experience, and adults in custody were looking for emotional support from their Appropriate Adult during this very stressful time (Jessiman and Cameron 2017).

In confirmation of Jessiman and Cameron's (2017) qualitative research, this study discovered that very few organisations made any attempt at developing partnerships with their service users, or including their voices or perceptions within their service design, delivery or development. As revealed, just under half of all Appropriate Adult Schemes, at 48%, do not offer services for disabled adults, which results in significant pressure on existing adult schemes. Furthermore, this study shows evidence that disabled people were not considered as partners, as most schemes did not include service users within the management of their schemes or invite disabled people to their steering groups or committees (Forbat et al. 2009; Greener 2009; Vincent-Jones 2011; Macdonald and Taylor-Gooby 2014).

Although disabled people should be fundamental to education and training about disability and equality, there was no evidence that the majority of schemes incorporated disabled people into their education or training provisions. Although feedback on services is viewed as the lowest form of participation (Forbat et al. 2009; Greener 2009; Vincent-Jones 2011), very

few Appropriate Adult Schemes had developed suitable systems for feedback to be collected for service improvement. As can be viewed in the findings, a third of schemes reported they did not collect feedback from service users to improve their services. For the remainder of the schemes that collected feedback, very few schemes reported continuously acting on these responses. The data findings seem to illustrate that although there have been a number of problems identified within previous research concerning the effectiveness of Appropriate Adults in custody (Jessiman and Cameron 2017; Peacock and Cosgrove 2018; Farrugia and Gabbert 2019), based on our findings service providers do not appear to acknowledge the necessity of incorporating disabled people as active partners to ensure that their needs are met and their voices are heard.

This study has identified a lack of knowledge and understanding concerning the development, and inclusion, of disabled people in Appropriate Adult services within custody at any level other than gathering basic feedback. This article argues that disabled people must be part of the provision of the schemes to protect the rights of disabled people in custody. Therefore, organisations that support disabled people in the criminal justice system must actively engage with disabled communities and see them as important partners in order to facilitate the effective implementation, training and development of services across England and Wales. The lack of disabled people's voices within criminal justice agencies is not just a concern for Appropriate Adult Schemes, but rather this issue affects many criminal justice organisations, particularly those that support perpetrators (Hyun et al. 2013). To support Jessiman and Cameron's (2017) findings, in order to develop effective Appropriate Adult Schemes disabled service users must be active partners at all levels of these organisations. The importance of Appropriate Adult Schemes is not only to prevent any further miscarriages of justice, but to

protect the rights of disabled people in custody. Therefore it is essential that the voices of disabled people are heard.

References

- Arnstein, S. (1969) A Ladder of Citizen Participation. *Journal of the American Institute of Planners*, 35(4), 216–224.
- Barnes, C. (2012). Social Model, Past, Present and Future. In N. Watson, A. Roulstone and C. Thomas (Eds), *Routledge Handbook of Disability Studies*. London: Routledge.
- Barnes, C. (2014) Disability, Disability Studies and the Academy. In J. Swain, S. French, C. Barnes and C. Thomas, *Disabling Barriers – Enabling Environments*. London: Sage.
- Barnett, S. W. (1986) The Transition from Public Residential Schools for Retarded People to Custodial Facilities: An Economic Explanation, *Disability, Handicap & Society*, 1:1, 53-71.
- Beresford, P. (2012) Psychiatric System Survivors, In Watson, N, Roulstone, A. & Thomas, C. *Routledge Handbook of Disability Studies*. London: Routledge.
- Bradley, Lord K. (2009) The Bradley Report: Lord Bradley’s Review of People with Mental Health Problems or Learning Disabilities in the Criminal Justice System, DH Publications, London.
- Brandon, T. and Keyes, S. (2013) Civil Courage, Civil Societies and Good Samaritans: a response to Disablist Hate Crime. In Roulstone, A., and H. Mason-Bish. 2013. *Disability, Hate Crime and Violence*. London: Routledge.
- Browning, A. and Caulfield, L. (2011) The Prevalence and Treatment of People with Asperger’s Syndrome in the Criminal Justice System. *Criminology and Criminal Justice: An International Journal*, 11(2), 165–180.

- Callus and Zahra (2017) 'Nothing About Us Without Us': Disabled People Determining their Human Rights Through the UNCRPD. *Mediterranean Review of Human Rights*, 1, 1–26.
- Creswell, J.W. and Plano Clark, V.L. (2018) *Designing and Conducting Mixed Methods Research* (3rd edn). London: Sage.
- Cummins, I. (2011) 'The Other Side of Silence': The Role of the Appropriate Adult Post-Bradley. *Ethics and Social Welfare*, 5(3), 306–312.
- Dehaghani, R. (2016) 'He's Just Not That Vulnerable': Exploring the Implementation of the Appropriate Adult Safeguard in Police Custody. *The Howard Journal*, 55(4), 396–413.
- Dehaghani, R. and Newman, D. (2017) 'We're Vulnerable Too': An (Alternative) Analysis of Vulnerability Within English Criminal Legal Aid and Police Custody. *Oñati Socio-legal Series* [online], 7(6), 1–30.
- Dunn, M.C., Clare, I. and Holland, A.J. (2008) To empower or to protect? Constructing the 'Vulnerable Adult' in English Law and Public Policy. *Legal Studies*, 28(2), June, 234–253.
- Edwards, C. (2014) Pathologising the Victim: Law and the Construction of People with Disabilities as Victims of Crime in Ireland. *Disability and Society*, 29(5), 685–698.
- Farrugia, L. and Gabbert, F. (2019) The 'Appropriate Adult': What they Do and What they Should Do in Police Interviews with Mentally Disordered Suspects. *Criminal Behaviour and Mental Health*, doi: 10.1002/cbm.2111 [Epub ahead of print].
- Fisher Inquiry. (1977) Report of an Inquiry by the Hon. Sir Henry Fisher into the circumstances leading to the trial of three persons on charges arising out of the death of Maxwell Confait and the fire at 27 Doggett Road, London SE6. London: Her Majesty's Stationary Office
- Forbat, L., Hubbard, G. and Kearney, N. (2009) Patient and Public Involvement: Models and Muddles. *Journal of Clinical Nursing*, 18, 2547–2554.

- Gillespie-Sells, K. and Campbell, J. (1991) *Disability Equality Training Trainers Guide*. London: Central Council for Education and Training in Social Work.
- Greener, I. (2009) Towards a History of Choice in UK Health Policy. *Sociology of Health and Illness*, 31(3), 309–324.
- Hollomotz A, Schmitz SC. 2018. Forio: a Swiss treatment program for young sex offenders with intellectual disabilities. *Journal of Intellectual Disabilities and Offending Behaviour*. 9(3), pp. 117-127
- Home Office (2003) Guidance for Appropriate Adults [Online] Available at <https://www.gov.uk/government/publications/guidance-for-appropriate-adults> (accessed 7 Oct 19)
- Hyun, E., Hahn, L., & McConnell, D. (2014) 'Experiences of People with Learning Disabilities in the Criminal Justice System' *British Journal of Learning Disabilities*, 42(4), 308-314
- Jessiman, T. and Cameron, A. (2017) The Role of the Appropriate Adult in Supporting Vulnerable Adults in Custody: Comparing the Perspectives of Service Users and Service Providers. *British Journal of Learning Disabilities*, 45(4), 246–252.
- McBarnet, D. (1978) The Fisher Report On The Confait Case: Four Issues. *The Modern Law Review*. 41 pp. 455-463
- Macdonald, S.J. (2012) Biographical Pathways into Criminality: Understanding the Relationship between Dyslexia and Educational Disengagement. *Disability and Society*, 27(3), 427–440.
- Macdonald, S.J. (2013) The Right to be Labelled: From Risk to Rights for Pupils with Dyslexia in 'Special Needs' Education. In C. Donovan and J. Kearney (Eds), *Constructing Risky Identities: Consequences For Policy And Practice*. London: Palgrave.

- Macdonald, S.J. (2015) 'Community Fear and Harassment': Learning Difficulties and Hate Crime Incidents in the North-east of England. *Disability and Society*. 30(3), 353–367.
- Macdonald, S.J. and Taylor-Gooby, D. (2014) 'Patient Zero': A Critical Investigation into the Concept of Public and Patient 'Involvement' in the NHS? *Social Work And Social Sciences Review*, 17(1), 88–104.
- Macdonald, S.J. Donovan, C. and Clayton, J. (2017). *The Disability Bias: Understanding the Context of 'Hate' in Comparison with other Minority Populations*. *Disability and Society*, 32(4), doi: 10.1080/09687599.2017.1304206.
- Mathews, I. (2018): Representations of Vulnerability, Innocence and Evil in the Murder of a Disabled Person. *Disability and Society*, doi: 10.1080/09687599.2018.1504745.
- McCarthy, M. (2017) 'What kind of abuse is him spitting in my food?': reflections on the similarities between disability hate crime, so-called 'mate' crime and domestic violence against women with intellectual disabilities, *Disability & Society*, 32:4, 595-600, DOI: 10.1080/09687599.2017.1301854
- Morgan, W (1997) Dyslexia and Crime. *Dyslexia*, 3, 247–248.
- Oliver, M. (2009) *Understanding Disability from Theory to Practice* (2nd edn). Basingstoke: Palgrave.
- Oliver, M. Sapey, B. J. & Thomas, P. (2012) *Social work with disabled people* (4th Ed.). Basingstoke: Palgrave Macmillan.
- Quarmby, K. 2008. *Getting Away with Murder*. London: Scope.
- Oxburgh, L., Gabbert, F., Milne, R. and Cherryman, J. (2016) Police Officers' Perceptions and Experiences with Mentally Disordered Suspects. *International Journal of Law and Psychiatry*, 49, 138–146.

Parsons, S. and Sherwood, G. (2016) Vulnerability in Custody: Perceptions and Practices of Police Officers and Criminal Justice Professionals in Meeting the Communication Needs of Offenders with Learning Disabilities and Learning Difficulties. *Disability and Society*, 31(4), 553–572.

Peacock, D. and Cosgrove, F. (2018) The 'New Normal': Framing Vulnerability, Entitlement and Responsibility in Police Custody in Austere Times. In P. Rushton and C. Donovan (Eds), *Austerity Policies – Bad Ideas in Practice*. London: Palgrave Macmillan.

Police and Criminal Evidence Act 1984. (Updated 2018) Available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592547/pace-code-c-2017.pdf (Accessed: 7 Oct 19).

Police and Criminal Evidence Act 1984. (As Enacted) Available at <http://www.legislation.gov.uk/ukpga/1984/60/contents/enacted> (Accessed 7 Oct 19)

Richards, B.W., Przybylak, P. and Flynn, S. (2018) The Experiences of People with Learning Disabilities in Co-produced Challenging Behaviour Training. *Learning Disability Practice*, doi: 10.7748/ldp.2018.e1909.

Riddington, C., Mansell, J. and Beadle-Brown, J. (2008) Are Partnership Boards Really Valuing People? *Disability and Society*, 23(6), 649–665.

Rogers, C. (2019) Just mothers: criminal justice, care ethics and 'disabled' offenders, *Disability & Society*, DOI: 10.1080/09687599.2019.1655711

Roulstone, A. and Mason-Bish, H. (2013) *Disability, Hate Crime and Violence*. London: Routledge.

Roulstone, A. & Sadique, K. (2013) Vulnerable to Misinterpretation. In Roulstone, A. and Mason-Bish, H. (2013) *Disability, Hate Crime and Violence*. London: Routledge.

R v Lattimore, Salih and Leighton (1975) 62 CR App R 53

- Sherry, M. 2011. *Disability Hate Crimes: Does Anyone Really Hate Disabled People?* Farnham: Ashgate.
- Shakespeare, T. (2013) *Disability Rights and Wrongs* (2nd edn). London: Routledge.
- Shakespeare, T. (Ed.) (2015) *Disability Research Today: International Perspectives*. London: Routledge.
- Skinns, L. (2010) Stop the Clock? Predictors of Detention without Charge in Police Custody Areas. *Criminology and Criminal Justice*, 10(3), 303–320.
- Swain, J., French, S., Barnes, C. and Thomas, C. (2014) *Disabling Barriers – Enabling Environments*. London: Sage.
- Talbot, J. (2008) Experiences of the criminal justice system by prisoners with learning disabilities and difficulties. London: Prison Reform Trust.
- Thomas, P. (2011) ‘Mate Crime’: Ridicule, Hostility and Targeted Attacks against Disabled People. *Disability and Society*, 26(1), 107–111.
- Watson, N., Roulstone, A. and Thomas, C. (Eds) (2012) *Routledge Handbook of Disability Studies*. London: Routledge.
- Vincent-Jones, P. (2011) Embedding Economic Relationships through Social Learning? The Limits of Patient and Public Involvement in Healthcare Governance in England. *Journal of Law and Society*, 38(2), 215–244.