



## **Independent Custody Visitor Procedure**

### **Introduction**

The Police and Crime Commissioner (the “Commissioner”) is responsible for co-ordinating and overseeing the Cambridgeshire Independent Custody Visitors’ Scheme. The Commissioner has a statutory duty under Section 51(1) of the Police Reform Act 2002 and Schedule 16, Part 3, Paragraph 299 of the Police Reform & Social Responsibility Act 2011, for the Independent Custody Visitors’ (ICV) Scheme.

Independent Custody Visiting is the well-established system whereby volunteers attend Police Stations to check on the treatment of detainees and the conditions in which they are held and that their rights and entitlements are being observed. It offers protections and confidentiality to detainees and the police and reassurance to the community at large.

Recording the outcomes of a visit is one of the most important aspects of the scheme and systems must be in place to ensure that the reports are responded to quickly and positively by those receiving them. ICVs must feedback to the Commissioner to enable them to draw together issues and identify trends emerging from the visits and address them with Cambridgeshire Constabulary (the “Constabulary”).

### **Organisation and Infrastructure**

The Commissioner is responsible for co-ordinating and overseeing the Independent Custody Visitors’ Scheme. This includes:

- Developing policy to maintain and enhance the effectiveness of the scheme.
- Overseeing the recruitment, approval, and training of ICVs.
- Ensuring the maintenance of appropriate organisational arrangements and visiting patterns.

- Establishing and maintaining effective systems for feeding back to the police on a regular basis the outcomes from visits and putting in place the necessary action to respond to issues as they arise.
- Facilitating meetings of the ICVs to discuss their role and issues arising from it.
- Monitoring performance against the agreed frequency of visits; and
- Publishing the work of the scheme.

The Commissioner has nominated the Partnerships Policy Officer to manage the Independent Custody Visitors' Scheme, supported as necessary by other staff and resources. The Partnerships Policy Officer's role is to ensure that the scheme is running effectively and to act as a source of advice and support for ICVs.

The Commissioner has established two groups of volunteers to visit the police detention facilities in prescribed areas. The North Group will visit custody provisions at Huntingdon, March, and Thorpe Wood Police Stations. The South Group will visit custody provisions at Parkside (Cambridge) and St Neots Police Stations. To ensure an effective and efficient scheme the Commissioner will recruit and maintain at least 12 ICVs for each group.

Each group should have its own co-ordinator responsible for organising the work of its members. Group members will elect a co-ordinator each year. Key elements of the Group Co-ordinator's duties will be ensuring a suitable pattern of visiting is established and applied, acting as a conduit for feedback to the Commissioner, chairing group meetings and discussions between the group members and forming the interface between individual ICVs and the Commissioner.

The OPCC Volunteer Procedure will apply to all ICVs. In addition, the following is specific to the role of ICV.

### **Recruitment and Conditions of Service**

The Commissioner is responsible for recruiting, selecting, and appointing ICVs. The Commissioner will ensure adequate numbers of suitably accredited and trained ICVs are available to carry out the required programme of visits, the Commissioner will ensure that visitors are representative of the local community and provide a suitable balance in terms of factors such as age, gender, and ethnicity. The inclusive approach must extend to those with disabilities and those who do not have English as their first language.

ICVs must be independent persons of good character who are able to make informed judgements in which the community can have confidence and which the police will accept as fair. Care must be taken to avoid any potential conflict of interest; serving police officers and other members of police or OPCC staff will not be eligible for the role. In addition, Special Constables, Justice of the Peace or members of the Police and Crime Panel will also not be appointed to the role.

Past offending is not an automatic barrier to becoming an ICV. Where applicant have convictions (Whether spent or unspent) for criminal offences, the Commissioner will consider what bearing that has on their suitability to become an ICV. Relevant factors will include the nature and number of any offences and how long ago they were committed, however each case will be considered individually. Any failure to disclose convictions will be taken seriously and generally lead to exclusion unless there are exceptional circumstances.

There is no longer any barrier to ICVs acting as Appropriate Adults. However, the two roles are very different. For that reason, there should always be a clear separation between instances of acting as an ICV and as an Appropriate Adult<sup>1</sup> and it will not be appropriate to switch between the two roles during the same visit to a Police Station.

The Commissioner will form a small representative group to advise on and help oversee the recruitment and selection process. In addition, the Scheme Manager, members could include ICVs, Group Co-ordinators and community representatives.

There will be a rolling programme of recruitment. Selection will be based on a submitted application form. Suitable applicants will attend an interview to assess their suitability against the person specification. The selection panel will record the reasons for decisions about appointment and non-appointment which helps to demonstrate fairness and provides any necessary feedback to those who have been unsuccessful.

It is vital that those recruited as ICVs have a clear understanding of the expectations of them and of the support that the Commissioner will provide. Each ICV must be provided with a written memorandum of understanding, which summarises their agreed responsibilities and legitimate expectations. The content will reflect this guidance.

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<sup>1</sup> Appropriate Adults are called to the Police Station as an important safeguard, providing independent support to detainees who are children or vulnerable adults. You can find out more at [www.appropriateadult.org.uk](http://www.appropriateadult.org.uk).

The Commissioner will provide each ICV with an identity pass showing the holder's photograph which functions as their approval to visit any Police Station in Cambridgeshire where detainees are being held on a regular or temporary basis.

Appointments will initially be for three years and will not be confirmed until a probationary period of six months has been satisfactorily completed. Full reviews will take place annually. The review will take place with the OPCC (usually with the Scheme Manager) who will gather feedback from the Group Co-ordinator and others as appropriate. At the end of the 3 years the appointment will finish. Individuals may, if they wish and vacancies are available, apply for another 3-year term.

The College of Policing Code of Ethics<sup>2</sup> sets and defines behaviour for everyone who works and volunteers in policing. The PCC can remove an ICV's accreditation because of misconduct or poor performance. The Volunteer Solving Procedure will be followed.

## **Training**

All ICVs will be expected to attend an initial training session. This should cover the basic knowledge and skills required to carry out independent custody visits effectively. It is likely to require a minimum of one whole day, supported by appropriate pre-reading. Key contents should include: -

- The purpose of and background to the Independent Custody Visitors Scheme.
- The relevant aspects of the Police and Criminal Evidence Act 1984 (PACE) and other legislation which detainees may be held under for example Immigration Act 1971, Mental Health Act 1983, and Children's Act 1989.
- Codes of Practice.
- Local guidance, conditions of service and working practices.
- The basic practicalities of conducting independent custody visits.
- Communication skills to assist effective contact with detainees and Custody Staff
- Equal opportunities and diversity.
- Health and Safety issues.
- Data Protection considerations.
- The Police Complaints System.

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<sup>2</sup> <http://www.college.police.uk/What-we-do/Ethics/Pages/Code-of-Ethics.aspx>

ICVs will also have the opportunity to visit the Custody Suite to familiarise themselves with the environment and shadow Custody Staff to gain a greater understanding of their role and processes followed.

The probationary period should consist of induction training based around carrying out visits in tandem with experienced colleagues. This will involve developing and consolidating skills at the Police Station, as well as discussing practical issues and difficulties after visits have been completed.

There is always scope to refresh and enhance training and there may be specific issues to address in relation to changing legal, procedural and Health and Safety requirements, developing best practice or practical issues emerging from the visiting process. ICVs have the opportunity to meet quarterly to share information and experience. Each meeting will also have a 30-minute training slot. The Commissioner will establish a structured plan with clear objectives for the training session in consultation with the Constabulary and ICVs.

The Commissioner will arrange an annual refresher training session for all ICVs even those with several years' experience. In addition, training sessions may be organised for individuals for all ICVs as identified in annual reviews. This could be to address a training need or for personal development.

The Commissioner will evaluate the effectiveness of training and to the extent to which it is achieving its objectives.

### **Frequency and Arrangements of Visits**

The Commissioner will liaise with the Chief Constable about the frequency of the visits and inform ICVs.

There may be occasions when a special visit in agreement with the Constabulary is justified. For example, when there is particular tension within the local community about the treatment or well-being of someone in detention. In this case the Constabulary should contact the Commissioner who will liaise with the Group Co-ordinator to consider and respond to the request.

Establishing and maintaining a programme of frequent visits is fundamental to the effectiveness of the Scheme. Each quarter, Group Co-ordinators should roster pairs of ICVs to make a visit to an allocated station within a fixed time period. The rota will be

shared with all ICVs in the group and the Commissioner. An ICV should not conduct a visit with the same partner on two successive periods of rotated responsibility.

ICVs will be responsible for arranging their own visit. Visits should be unannounced to the Constabulary and should not develop a regular pattern.

### **Visiting Procedures at Stations**

ICVs must be admitted to the Custody Suite immediately. If access is delayed this will affect the credibility of the Independent Custody Visitors' Scheme. Access should be delayed only when the visitors may be placed in danger, for example if there is a disturbance in progress in the Custody Suite. A full explanation should be given to the visitors as to why access is being delayed, which must be recorded by the ICVs in their report. It is inappropriate for access to be delayed because the Custody Officer is busy. In such circumstances the ICVs should be admitted to the Custody Suite but invited to wait until the Custody Officer or another Officer is available to escort them on the visit.

In the interests of security and safety of ICVs, the Custody Officer or a member of the Custody Staff must accompany them during visits. However, the escorting officer should normally remain out of hearing during discussions between ICVs and detainees.

- ICVs must have access to all parts of the Custody Suite including cells, detention rooms, charging areas, washing facilities, kitchen or food preparation areas and medical room (but not the drugs cabinet). ICVs will wish to satisfy themselves that these areas are clean, tidy and in a reasonable state of repair and decoration, and that the bedding in cells is clean and adequate.
- Relevant storage areas may also be seen and ICVs should check that there are adequate stocks of bedding and other necessary items. They should also verify that arrangements are established for the cleaning of blankets etc and for any necessary replacements of furnishings and equipment.
- ICVs should check that the CCTV system installed to observe the Custody Suite or individual cells is operating properly.
- ICVs should inspect empty cells and detention rooms to check they are clean, heating/ventilation systems work and that cell bells and toilet flushing mechanisms are working properly. They may visit interview rooms in the Custody Suite if unoccupied, but it is not part of their role to attend police interviews with detainees.
- ICVs may not visit CID rooms or other operational parts of the Station.

In addition to the risk of violence from detainees, Custody Staff must also be alert to any specific health or safety risks ICVs might face and should advise them as appropriate. For example, ICVs must always be told if there is a possibility of them coming into contact with detainees or cells exposed to PAVA, an incapacitant spray.

### **Access to Detainees**

Subject to the exceptions referred to below, ICVs must be allowed access to and should offer a visit to any person detained at a Police Station. On arrival at Custody, ICVs should find out the number of detainees, the type of detainees (e.g., PACE, immigration) and if there is anything that might affect the visit.

Detainees can only be visited with their consent and the ICV must follow the self-introduction process to establish whether a detainee wishes to speak with them. Whether or not the detainee agrees to speak with the ICVs, they must also seek permission from them to have access to the detainee's Custody Record.

If a detainee is not able to give consent, perhaps because of the effects of drink or drugs, the escorting officer must allow access unless it is considered that the ICVs safety would be at risk. In such circumstances the visitors may wish to speak to the detainee through the cell hatch. That may also apply where consent is given, but the escorting officer judges the visitors would be in danger from a violent or potentially violence detainee if they enter the cell. Any decision to deny or limit access must be recorded in the detainee's Custody Record and by the ICVs on their Report Form.

Sleeping detainees can be woken to seek consent for a visit. However, where this would involve interrupting the continuous period of eight hours of rest provided under PACE, the normal procedure should not be to wake the person. ICVs should instead observe them through the cell hatch and record all observations on the Report Form.

Police interviews with detainees should not be interrupted to facilitate visits. However, ICVs may await the completion of the interview if they wish to see the person concerned.

Juveniles may be visited with their own consent. It is not necessary to obtain the additional consent of a parent or guardian. If an Appropriate Adult is in attendance to support a juvenile or vulnerable person, the detained person's wishes should be sought and respected as to whether the Appropriate Adult should attend any visit.

In exceptional circumstances the police may judge that it is necessary for a detained person not to be seen by an ICV to avoid any possible risk of prejudicing an important investigation. Any decision to deny visitors' access to a detained person should be taken by an officer of or above the rank of Inspector and recorded in the Custody Record. The decision to deny access should be taken in each case considering all the relevant circumstances. There should be no presumption that access should be denied to any circumstances. There should be no presumption that access should be denied to any category of detainee or because a decision has been made that a person should be held incommunicado.

The Independent Custody Visiting Association (ICVA) has developed a checklist to assist ICVs to carry out their visit/interviews with detainees. The Commissioner has also developed cue cards that could either be read out or viewed by detainees to obtain their consent. These have also been translated into other languages.

### **Conversations with the Detainee**

Conversations between detainees and ICVs must normally take place in sight but out of hearing of the escorting officer. If for some reason the police consider that the escorting officer should remain within hearing, the Custody Officer must take this decision. Visitors should bear in mind, however, that some detained persons may be violent or under the influence of drugs and that the presence of a Police Officer may deter or prevent assaults on the visitor.

Conversations must focus on checking whether or not detainees have been offered their rights and entitlements under the Police and Crime Evidence Act 1984 (including receipt of the necessary paperwork) and on confirming whether the conditions of detention are adequate. ICVs should do all they can to encourage an open exchange with the detainee and may wish to use a checklist to ensure that they cover all the relevant issues.

ICVs must remain impartial and must not seek to involve themselves in in any way in the process of investigation. If detainees press them for advice about co-operating with the police, making a statement or anything in relation to their defence, they should explain that it is not part of their role. If a detainee seeks to make admissions or otherwise discuss an alleged offence, the ICV must tell them that the matters raised during the visit may be disclosed to the police and may be later used in legal proceedings. If the detainee's



concerns are linked to not yet having legal advice that is something the visitors should take up with the Custody Officers.

If an ICV realises they know or are known by a detainee, they must consider whether to withdraw from the visit. The decision will depend on the nature of the relationship and its likely effect on the visitor's impartiality. It should be explained to the detainee however why a visitor has withdrawn.

ICVs must not pass messages for detainees or perform other tasks on their behalf and must inform the Custody Officer immediately if they are asked to do so.

ICVs are primarily concerned with overall conditions, standards, and procedures at Police Stations. However, immediate concerns about the treatment of individuals must be passed on to those in a position to take corrective action, this could be the Custody Sergeant or Inspector or for more serious concerns or out of hours, then 'Oscar 1,' the Inspector in the Force Control Room should be contacted. The OPCC should be notified. If a detainee indicates that they may harm themselves or any other person, this must immediately be brought to the attention of custody staff.

## **Custody Records**

Subject to obtaining the detainee's consent to view their custody record, the ICVs should check its contents against what they have been told by the detainee. In particular, ICVs will wish to verify:

- Whether entitlements under PACE have been given and where applicable signed for.
- That medication, injuries medical examinations, meals/diet are recorded.
- That procedures to assess special risks/vulnerabilities presented by the detainee have been properly recorded.
- If applicable the timing and frequency of cell inspections.
- The timing of reviews of the continuing need for detention.

If a detainee is for any reason incapable of deciding whether to allow access to their custody record, the presumption must be in favour of allowing the ICVs to examine the record.

## **Medical issues**

ICVs have no right to see the detainee's medical records, even where these are attached to the Custody Record. However, key points relevant to medical treatment should be recorded in the Custody Record itself. ICVs will wish to pay particular attention to detained persons who are suffering from any form of illness, injury, or disability. They should satisfy themselves that, if appropriate, medical advice has been obtained and establish from the Custody Officer what instructions for medical treatment have been given and confirm by consulting the Custody Record that these instructions have been carried out.

### **Dealing with Issues and Complaints**

Where a detainee makes a complaint or raises an issue about their general treatment or conditions at the Police Station, ICVs must (subject to the detainee's consent) take this up as soon as possible with Custody Staff or other staff at the Police Station to seek a resolution. The same applies to similar issues identified by visitors during their attendance.

If a detainee makes a complaint of misconduct by a Police Officer, he or she must be advised to address it to the Duty Officer that the detainee wishes to make a complaint. Such complaints must be dealt with through the formal procedures which are laid down and there is no broader role for ICVs. They must not involve themselves in individual cases or make representations on detainee's behalf.

### **Reporting on a Visit**

Recording the contents of a visit is one of the most important aspects of the scheme. ICVs may wish to make notes during the visit but should explain to the detainee why they are doing so.

At the end of each visit, and while they are still at the Police Station, ICVs must complete a report with their findings. Custody Staff should not be present while ICVs discuss and complete reports and wherever possible they should be able to use a private area for this purpose. Details must include both specific matters (which may already have been brought to the attention of Police Staff) and more general issues relating to Custody conditions or procedures. All reports must be completed in English even if the visit has been conducted in another language.

One copy of the report should remain at the station for the attention of the Officer in Charge, and it may also be helpful to keep one within the Custody Suite for reference purposes. Copies must go to the Commissioner within 48 hours and to the Scheme Manager.

## **Confidentiality and Disclosure**

Report forms include an undertaking not to reveal the names of persons visited or other confidential information obtained during a visit. Breach of this undertaking may make a visitor liable to civil proceedings by the detained person concerned. ICVs also need to be aware that the unauthorised disclosure of facts concerning police operations, or the security of Police Stations may constitute an offence under Section 5 of the Official Secrets Act 1989.

Conversations between ICVs and detainees are not privileged, and it would be open to a court to issue a witness summons requiring the attendance of a visitor to give oral evidence or to produce documents such as a report of a particular visit. Visitors are under no obligation to give evidence or produce documents otherwise than in response to a court order but would be obliged to respond to such an order.

## **Feedback and Making a Difference**

There are systems in place to ensure that the outcomes from visits are drawn to the attention of those who are in a position to respond.

ICVs should make Custody Staff aware of any practical issues and observations that emerged during the visit. The Custody Staff are responsible for ensuring action, where appropriate to rectify any issues.

The Group Co-ordinator is responsible for drawing together issues and identifying trends emerging from visits in their area. They should collate regular reports for submission to the Commissioner via the ICV Scheme Manager.

The Commissioner will have regular and formal opportunities to raise concerns and issues with a designated senior officer with force-wide responsibilities. The ICV Scheme Manager should also produce regular reports for the Commissioner summarising the output from ICVs and the way in which concerns have or have not been addressed. These reports should be discussed at OPCC/Constabulary meetings as appropriate and reflected in an ICV Annual Report as well as feedback to ICVs at the next Panel Meeting.

## **Reviewing Performance**

The Commissioner will collect and regularly review the visiting statistics for each group. This will indicate whether expectations as to frequency of visiting are being met and highlight any locations or groups where corrective action is necessary.

The Commissioner will also collect information on the proportion of occasions on which detainees refuse to see ICVs. This can indicate something about the detainees' perception of the visiting system, as well as reflecting the effectiveness with which the visitors are self-introducing.

The Commissioner will also review performance in relation to specific aspects of ICVs' practice, for example report writing and training. Her Majesty's Inspectorate of Constabulary & Fire and Rescue Services (HMICFRS) will also retain a significant role by monitoring the Independent Custody Visitors' Scheme as part of the standard inspection of forces.

Custody Staff will be invited to provide feedback about the Independent Custody Visitors' Scheme and the effectiveness with which visits are carried out. This can be an important developmental resource for ICVs.

### **Raising Awareness**

An essential purpose of the Independent Custody Visitors' Scheme is to strengthen public confidence in procedures at Police Stations and implies the need for publicity. Raising awareness is also vital to supporting effective recruitment. Internally, it is important to ensure that relevant police staff have knowledge and understanding of the Independent Custody Visitors' Scheme and that suitable information is provided to detainees.

Explanatory notices should be available for detainees, while posters and other publicity material at the Police Station and other public buildings will help to advertise the Independent Custody Visitors' Scheme.

This procedure will be made available to ICVs and Custody Staff. The procedure will be reviewed at least annually and updated where appropriate.

### **Responsibility of the North Group**

Huntingdon Police Station

Ferrars Road

Huntingdon

PE29 3DQ

March Police Station

Burrowmoor Road

March

PE15 9RB

Thorpe Wood Police Station

Thorpe Wood

Longthorpe

Peterborough

PE3 6SD

**Responsibility of the South Group**

Parkside Police Station

Parkside

Cambridge

CB1 1JG

St Neots Police Station

Dovehouse Close

St Neots

PE19 1DS

