



Independent Custody Visiting Scheme Guidelines

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Foreword

These guidelines have been issued for the guidance of independent custody visitors (ICVs) and will be made available to police officers so that there is a common understanding of the custody visitor's role.

The purpose of custody visiting is to enable members of the community to observe, comment and report on the conditions under which persons are detained at police stations and the operation in practice of the statutory rules governing their welfare. The scheme is written in conjunction with the Home Office Code of Practice on Independent Custody Visiting (Revised 2013) (Appendix A) and National Guidelines as established by the Independent Custody Visiting Association (ICVA) (Appendix B).

The credibility of the Independent Custody Visiting Scheme depends on visits being carried out with sufficient frequency by custody visitors whose training and attributes combine to demonstrate that they can effectively monitor conditions in police stations.

Independent custody visiting is carried out by the consent of all the parties involved: the community from which the visitor has been appointed, the Police and Crime Commissioner (PCC) for Devon and Cornwall who makes the appointment, the police and the detainee.

These guidelines will help Independent custody visitors to undertake visits effectively and should help secure greater public understanding of the role of police officers in the detention and treatment of detainees.

A copy of these guidelines will be placed within the custody areas of police stations in Devon and Cornwall for the information of police officers and custody visitors.

In order to comply with the ethos of transparency operated by the Office of the Police and Crime Commissioner (OPCC), a copy of these guidelines is available on the OPCC website

Section 1: Why we have independent custody visiting

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Background

- 1.1 **The Scarman Report.** Custody visiting (previously known as Lay Visiting) to police stations owes its origin to Lord Scarman, whose report on the Brixton riots in 1981 made recommendations about reforming the law, community relations and policing practices to help tackle the central problems which caused the civil disorders. Lord Scarman advocated a system for members of the public from local communities to inspect the way the police detained people in their custody.
- 1.2 **The Police and Criminal Evidence Act (PACE).** This act was made law in the mid 1980's and has been revised. This act sets out the way in which police officers must carry out their roles and states specific code of practice for police procedures. It also established the rights of people who are detained by the police for a suspected crime or offence. Generally, it is Code C of PACE that covers the Detention, Treatment and Questioning of Persons by Police Officers and details the procedures that police must follow. PACE is a major reference for independent custody visitor as they conduct their inspections in police custody.
- 1.3 **European Convention on Human Rights.** European Human Rights legislation was adopted within the UK in the year 2000. It contains significant implications for all those involved in the custody visiting process. The legislation requires that:
 - Detainees are treated according to UK legislation and their basic human rights are respected
 - Independent custody visitors are aware of appropriate Human Rights Articles and they perform their duties in accordance with them
 - Police and Crime Commissioners who operate their recruitment and selection policies have regard to European Human Rights.
- 1.4 **The Police Reform Act 2002.** Section 51 of this act made custody visiting a statutory obligation for Police and Crime Commissioners in England and Wales. Codes of Practice (latest version 2013) provide further clarification about the roles and responsibilities of those involved in the custody visiting process.
- 1.5. **Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 2002 (OPCAT).** This international protocol establishes a system of regular independent visits to places where people are deprived of their liberty. Its aim is to complement national preventative mechanisms such as independent custody visiting.
- 1.6 **Other influences.** The MacPherson Report on the Stephen Lawrence Inquiry makes a series of recommendations about the treatment of minority ethnic groups. The Safer Detention Guidance of 2012 contains working guides and standards to deal with the Safer Detention and Handling of Persons in Police Custody.

The aim of custody visiting

1.7 The Home Office Code of Practice 2013 states:

“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.”

- 1.8 As well as being independent, the independent custody visitor must be impartial. They may champion the cause of neither the police nor a detainee. Their function is to observe, listen and report.
- 1.9 Custody visiting is carried out by consent; the consent of the community on whose behalf the visitor has been appointed, the PCC who made the appointment, the police and the detainee.
- 1.10 Custody visits need to be regular, unannounced and carried out with a frequency which is appropriate to the area and circumstances.
- 1.11 Independent custody visitor schemes play a valuable role in police/community relations and in the context of providing an independent overview of a sensitive area of policing practice, they are as relevant in rural areas as in inner city conurbations.

Police & Criminal Evidence Act (PACE)

- 1.12 The Police and Criminal Evidence Act (PACE) is a major reference for custody visitors as they carry out inspections of police custody suites. Independent custody visitors must be aware of the law as it applies to the detention of people in police custody; and must have knowledge of a detainee's rights and the limits of police powers. PACE sets out the way in which the police officers must carry out their roles and states specific codes of practice for police procedures. It also establishes the rights of people who are detained by the police for a suspected crime or offence. Specifically, Code C of PACE (Appendix 2) deals with the Detention, Treatment and Questioning of Persons by police officers and contains detailed procedures for the police to follow. These guidelines and codes of practice provide a way of measuring actions taken by the police and a means of checking that people being detained are treated properly.
- 1.13 PACE Code H specifically relates to the Detention, Treatment and Questioning of Persons by police officers detained under Suspected Terrorism offences (TACT).

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2.1 The OPCC is responsible for ensuring that each designated police station receives an adequate number of visits. Visits should be sufficiently regular to support the effectiveness of the system, but not so frequent as to unreasonably interfere with the work of the police. A visiting roster will be drawn up by the Scheme Co-ordinator in association with volunteer panel co-ordinators. Independent custody visitors will be requested to make visits in accordance with the agreed roster.

- 2.2 Care will need to be taken that visits, whilst sufficiently frequent to meet the objectives of the scheme, do not take place so frequently that they impair the efficiency of the administration of the police station concerned or the operational work of the police officers. Independent custody visitors should bear in mind that their visits impose an additional responsibility on custody officers, and they should also be aware of possible delays during custody officer change-over periods. The frequency and spread of visits will be monitored against expectations and reported to the OPCC at regular intervals. Where insufficient visits are taking place, or the spread of visits across days and times during the month is uneven, the causes will be investigated, and corrective action taken. The timing of visits is a matter for individuals. Custody visitors should arrive at the police station without prior notice and should avoid making visits at regular or predictable times.
- 2.3 There is no essential target for the number of visits made per month. An ideal would be four visits per month per custody suite, dependent upon availability of visitors. Visits should be spread across weekdays, weekends and throughout the daytime, evening and night.

Visiting in Pairs

- 2.4 Visitors are always required to visit in pairs. Any independent custody visitor arriving at a police station on their own will not be granted access to the custody area to make a custody visit. It is considered that no more than two Independent custody visitors should visit together, as larger parties could constitute an additional burden on the staff at the police station.
- 2.5 Independent custody visitors may not be accompanied by any unauthorised persons; custody visits will only be made when accompanied by another accredited independent custody visitor.
- 2.6 Independent custody visitors will be responsible for making their own arrangements for visiting in pairs and will be provided with fellow visitors' contact details for this purpose by the Scheme Co-ordinator in association with the Volunteer Panel Co-ordinators if necessary.

Visits at the Request of the Police

- 2.7 Whilst visits should normally be unannounced, there may be instances when there is tension within a local community about the treatment or well-being of one or more persons being detained at a police station. In such circumstances, Independent custody visitor may be invited to attend to allay myth and rumour and to provide reassurance to the surrounding community. The police officer requesting the visit will be responsible for contacting the Scheme Co-ordinator at the OPCC who will arrange the attendance of two independent custody visitors.

Security and Safety

- 2.8 Police staff must be alert to any specific health or safety risks Independent custody visitor might face and must advise them appropriately at the commencement of the visit. In the interests of security and the safety of visitors, the Custody Officer or a Detention Officer will always accompany them during visits.

Attendance at the Police Station

- 2.9 Custody Officers will only respond to Independent custody visitors attending in person at a police station. Telephone enquiries as to the custodial situation at a police station will not be responded to.
- 2.10 Independent custody visitors should not combine making a custody visit with the conduct of any other business at a police station.

Immediate Access to Custody area

- 2.11 Independent custody visitors should be admitted immediately to the custody area. If access is delayed this will affect the credibility of the independent custody visitor Scheme. It is inappropriate for access to be delayed because the Custody Officer or staff are busy. In such circumstances the visitors should be admitted to the custody area but are invited to wait until the Custody Officer¹ or a Detention Officer² is available to escort them on the visit. Immediate access does not mean immediate attention. If this is not possible, access should only be delayed where the visitors may be placed in danger, for example if there is a disturbance in progress in the custody area or a health and safety issue. A full explanation should be given to the Independent custody visitor as to why access is being delayed, which will be recorded by the visitors in their report.
- 2.12 Occasionally when the custody centre is exceptionally busy it will be impractical to visit every detainee. In these circumstances the independent custody visitor will be invited by the Custody Officer or a detention officer to select approximately seven detainees, at random, to whom a visit will be offered.

Access to all Parts of the Custody Area

- 2.13 Independent custody visitors should have access to all parts of the custody area including cells, detention rooms, charging areas and to associated facilities such as food preparation areas and the medical room (this does not include access to locked drugs cabinets). Visitors will wish to satisfy themselves that these areas are clean, tidy and in a reasonable state of repair and decoration and that bedding in cells is clean and adequate. It is not necessary on each visit to inspect stores, but visitors should establish that suitable arrangements exist for; adequate stocks of items such as blankets, clothes and flip flops; the cleaning of blankets; regular replacement of necessary furnishings and equipment. They may inspect empty cells and detention rooms to check heating/ventilation systems, that cell bells and toilet flushing mechanisms are working properly. They may visit interview rooms and medical rooms in the custody area if unoccupied. Visitors may not visit CID rooms or other operational parts of the police station. It is not part of the independent custody visiting role to attend police interviews with detainees.

¹ A Custody Officer is a police Sergeant with responsibility for custody

² A Detention Officer is a member of police staff who provides support to the Custody Officer

CCTV

2.14 Independent custody visitors will be allowed access to CCTV cameras to ensure that they are operational.

Categories of detainees

2.15 Detainees will fall into the following categories:

- PACE prisoners
These will constitute the vast majority and are held under the provisions of the Police and Criminal Evidence Act 1984.
- Home Office Prisoners
These are remanded or sentenced prisoners who would normally be held in prison.
- Immigration detainees
These are persons held under the Immigration Act 1971 and Immigration and Asylum Act 1999 who are subject to deportation proceedings or who are waiting to be removed from the UK as illegal entrants.
- People at risk
These may be persons held under the Mental Health Act Section 136 for their own protection or children taken into police protection under the Children Act 1989.
- Operation Safeguard
These are remanded or sentenced prisoners who would normally be held in prison. The rights and entitlements of Operation Safeguard detainees differ from other detainees. As with all other detainees, issues or concerns should be raised with the custody officer.

Access to detainees

2.16 Independent custody visitors should always have access to all categories of detainees, subject to certain restrictions (see 4.18).

2.17 Persons detained under the provisions of PACE who need for whatever reason to be held in hospital may be visited there with the agreement of the hospital authorities.

2.18 In exceptional circumstances the police may judge that it is necessary for a detained person not to be seen and/or spoken to by Independent custody visitor in order to avoid any possible risk of prejudicing an important investigation. Any decision to deny custody visitors' access to a detained person should be taken by a police officer of or above the rank of Inspector and recorded in the custody record. Any decision to deny access should be taken in each case in the light of all relevant circumstances. Access by Independent custody visitor should not necessarily be denied to any category of detainee, or where a decision has been made that a person should be held incommunicado.

Consent to custody visit by detainee

- 2.19 A detained person is not obliged to see Independent custody visitor or to answer questions. Discussions between detainees and Independent custody visitor must, wherever practicable, take place in the sight, but out of the hearing, of the escorting police officer. Where this is not possible, the Custody or Detention officer will not take any active part in the conversation. Custody/Detention officers should not actively listen to conversations between Independent custody visitor and detainees.
- 2.20 Where practicable, and in order to preserve the privacy of detainees and safety of Independent custody visitors, detainees will be notified by the Custody Officer or Detention Officer within earshot, but out of sight of the Independent custody visitor, that two members of the public will now enter the doorway of their cell and introduce themselves and will also be asked to sit and remain sat on the bed within their cell. Independent custody visitors use self-introduction to determine if a detainee gives consent to a visit and if detainee agrees that the notes about their detention (custody record) may be checked.
- 2.21 Whether or not the detainee agrees to see the visitors, the Custody or Detention Officer should arrange permission for visitors to have access to the detainee's custody record.

Juveniles

- 2.22 Juveniles may be spoken to with their own consent. 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.

Detainees who are asleep

- 2.23 Sleeping detainees can be woken at the discretion of the Custody or Detention Officer to seek consent to a discussion with visitors. However, where this would involve interrupting the continuous period of eight hours rest out of 24 provided for under PACE, the normal procedure should be not to wake the person but to observe them through the cell hatch and record all observations on the custody visit report form.

Detainees who are being interviewed

- 2.24 If a person is being interviewed the interview may not be interrupted. If the visitors wish to see the detainee later in the visit, after the interview has been completed, they may do so and may, if necessary, wait in the waiting room for this purpose.

Detainees who are unable to consent to a visit

- 2.25 If for whatever reason, a detainee is not able to give consent, the Custody or Detention Officer must allow the visit unless any of the following circumstances apply:

- 2.26 The police may limit or deny Independent custody visitor's access to a specific detainee if a police officer of or above the rank of Inspector believes that to be necessary for the visitors' safety. Such a police officer may also deny or restrict access where they reasonably believe that such access could interfere with process of justice.
- 2.27 Where any of the above circumstances apply, consideration should be given to allowing the visitors some limited form of access to the detainee, such as speaking to them through the cell hatch. Any decision to deny or limit access must be recorded in the detainee's custody record (together with relevant authorisation) and by the Independent custody visitor in their report of the visit.

Access to Custody Record

- 2.28 Subject to obtaining the detainee's consent to examine their custody record, the Independent custody visitor should check its contents against what they have been told by the detainee. Visitors whilst looking through the custody record would also have access to other relevant documentation, which relates to the detainee e.g., risk assessment. All such information should be treated confidentially.
- 2.29 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 custody visitors to examine it.
- 2.30 Visitors will wish to satisfy themselves that the custody record fully and accurately records the action taken in connection with detainees while in police custody.

In particular, visitors will wish to verify:

- Whether their rights and entitlements under PACE have been given;
- Whether the relevant safer detention guidelines have been given
- that medication, injuries, medical examinations, meals / diets are recorded;
- that procedures to assess special risks / vulnerabilities presented by the detainee have been properly recorded;
- the timing and frequency of cell inspections of inebriated or otherwise vulnerable detainees;
- the timing of the reviews of the continuing need for detention.

Medical Record and Medical Conditions

- 2.31 **Independent custody visitors have no right to see the detainee's medical records**, even though these are attached to the custody record. The custody record should include all relevant information about necessary medication for a detainee and the frequency of administering it. Custody officers, on guidance from the medical staff, are responsible for ensuring that medication is given at appropriate times. However, visitors will wish to pay 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 Raised

Conversations between detainees and independent custody visitor

- 2.32 Discussions between detainees and Independent custody visitors must normally take place in sight but out of hearing of the Custody or Detention Officer where that is practical. If for some reason the police decide that the Custody or Detention Officer should remain within hearing, this decision must be taken by the Custody Officer and this should be recorded on the visit form. Visitors should bear in mind however, that some detained persons may be violent or under the influence of drink or drugs and that the presence of the Custody or Detention Officer may deter or frustrate assaults on the visitors.
- 2.33 Visits should normally be conducted in English. Translation support will be provided where necessary either via Language Line or if an interpreter is present and they agree, the visit can be conducted through them.
- 2.34 Independent custody visitors should be aware that the detainee may be from a background where there may be cultural sensitivities concerning how they interact with someone, for example someone of a different gender, of a markedly different age or social standing to themselves. Independent custody visitor themselves should endeavour to treat all detainees cordially and with respect, in accordance with the principles of the Equality Act 2012 during any interaction.
- 2.35 Discussions must focus on checking whether detainees have been offered their rights and entitlements under PACE (including receipt of the necessary paperwork), their health and wellbeing and on confirming whether the conditions of detention are adequate. Independent custody visitor should do all they can to encourage an open exchange with the detainee and use the checklist on every visit to ensure that they cover all the relevant issues. The checklist can be found at Appendix F (ii).

Impartiality

- 2.36 Independent custody visitor should remain impartial and must not seek to involve themselves in any way in the process of investigation. If a detainee presses them for advice about co-operating with the police, making a statement or anything in relation to their defence, the visitor should explain that it is not part of their role. If a detainee seeks to make admissions or otherwise discuss an alleged offence, the visitor must tell them that the relevant contents of the visit will be made known to the custody officer and may be disclosed in legal proceedings. If the detainee's concerns are linked to not yet having received legal advice, that is something that visitors may wish to take up with the Custody Officer.
- 2.37 If an independent custody visitor realises they know or are known by a detainee, they must consider whether to withdraw from the visit. The decision will depend upon the nature of the relationship and its likelihood to affect the visitor's impartiality.

- 2.38 Independent custody visitor must not pass messages for detainees or perform other tasks, for example agreeing to contact any person outside the police station, on behalf of a detainee as this might compromise impartiality of the interests of justice. Independent custody visitor must inform the Custody Officer immediately if this should happen. For this reason, independent custody visitors must not make physical contact with detainees.

Treatment of Detainees

- 2.39 Independent custody visitor should primarily be concerned with overall conditions, standards and procedures at police stations. However, if there are immediate concerns about the treatment of detainees this must be passed on immediately to those in a position to take corrective action (such as a Custody Officer). If a detainee indicates that they may harm themselves or any other person, this should be brought to the attention of the Custody Officer.
- 2.40 Independent custody visitors should satisfy themselves that the statutory rights have been explained to detainees and that they have been given the written notice of those rights. They should also be satisfied that detainees have received those facilities to which they are entitled under Code C of the Codes of Practice, PACE Act 1984. (See Appendix A)

Complaints by Detainees

- 2.41 It is important to distinguish between complaints by detainees about their general treatment or conditions of detention and a complaint of misconduct by a police officer. The former may encompass complaints such as that the detainee had not been notified of his statutory rights or had not received entitlements under the PACE Act 1984 Codes of Practice. Such complaints are clearly for custody visitors to pursue with the Custody Officer, or senior officer at the police station, ***at the time of the visit subject to the detainee's consent.***

Complaints of Misconduct by a Police Officer

- 2.42 If a detainee makes a complaint of misconduct by a police officer, they must be advised to address it to the duty police officer in charge of the police station. With the detainees' consent, it may be appropriate for the custody visitor to notify the duty police officer that the detainee wishes to make a complaint. In addition, visitors may want to remind them that they can seek legal advice in relation to the complaint or to ask to see a doctor if an alleged assault is involved. However, such complaints must be dealt with through the formal procedures which are laid down in the Police and Criminal Evidence Act 1984 and there is no broader role for visitors. Visitors must not involve themselves in individual cases or make representations on detainee's behalf.

Deaths in Custody

- 2.43 Where there has been a death in custody, the OPCC will be informed following the agreed procedure between the Police & OPCC. Consideration will then be given to whether a visit would be helpful in terms of informing and reassuring the local community. Any visit following a death in custody or some other major incident will not be allowed to interfere with any relevant investigation which may be taking place. There may be circumstances in which the Senior Investigating Officer dealing with such an incident needs to refuse or restrict access to particular areas.

Procedures at a Temporary Remand Centre (when applicable)

- 2.44 Occasionally, where there is an industrial dispute involving the Prison Service, remand prisoners are detained at one or more of the custody centres, these are then referred to as Temporary Remand Centres. Because of the high number of persons detained at any one time at a Temporary Remand Centre, the procedure applicable will be varied to produce a more practical application of the Independent Custody Visiting Scheme.
- 2.45 Upon arrival at a Temporary Remand Centre, the independent custody visitor will be met by the duty Sergeant or Inspector who will tell the Independent custody visitor how many persons are in custody at the centre and invite the Independent custody visitor to choose which cell or detainee numbers should be approached to see if they wish to receive a custody visit. It is suggested that between five and ten persons in custody would be a reasonable sample to approach.
- 2.46 At the Temporary Remand Centre it may be more practical to take the persons in custody to an interview room instead of the visitor going to cells. The procedure for the Temporary Remand Centre is otherwise as applicable to police stations.

Remand and Sentenced Prisoners

- 2.47 Remand and sentenced prisoners held in police stations may seek to complain about conditions in prisons or the treatment they have received there. Independent custody visitor must not involve themselves in such matters. There are recognised grievance procedures open to prisoners such as writing to or petitioning the Home Secretary or a Member of Parliament or contacting a solicitor.

Report Forms

Completion of independent custody visitor visit report forms

- 2.48 At the end of each visit, Independent custody visitor should complete a report of their findings on the forms contained in the custody visiting book held in the custody centre. 3 copies are made, and therefore handwriting needs to be clear and written with a ball point pen so that a clear impression is made on each copy. The Custody Officer will be asked to sign the completed form to acknowledge the issues. A white copy is passed to the Custody Inspector, the yellow copy is sent to the OPCC

Scheme Co-ordinator at via internal post, and the green copy remains in the book. An example visit report form is set out at Appendix H

Issues to Report

- 2.49 If a visit discloses any aspect of the treatment of detainees or conditions at the police station which are unsatisfactory, they should be included on the report comprehensively and raised with the Custody Officer **at the time**. This is an essential part of the visit process. Any action which the Custody Officer takes must also be recorded in the custody visit report form. (as shown on Appendix H)

Feedback

Feedback at a local level

- 2.50 The Scheme Co-ordinator is responsible for drawing together issues and identifying trends emerging from visits in their area and addressing these with relevant police supervisors. To achieve this, the Scheme Co-ordinator in association with the Volunteer Panel Co-ordinators should arrange and attend quarterly, panel meetings where groups of visitors will discuss their work and have force representatives present. After each Panel meeting, the Co-ordinator of the Scheme will arrange a meeting or follow up any issues arising from the panel meeting with the Custody Inspector responsible for criminal justice at a local level. Such meetings or follow ups may take place more regularly if required, for example, if there is an issue that needs to be addressed urgently. Volunteer Panel Co-ordinators may also wish to meet from time to time to share experience.
- 2.51 The annual refresher training, organised by the Scheme Co-ordinator, will give visitors an opportunity to network and discuss issues arising from custody visits and to share experience.

Feedback at Police & Crime Commissioner level

- 2.52 The OPCC Scheme Co-ordinator will meet regularly with the Chief Inspector with force wide responsibilities for custody to raise concerns and issues arising from independent custody visits. Such meetings may take place quarterly, or more regularly if required (e.g. Custody Health and Safety Meetings) Discussion at these meetings will be based on feedback from local panel meetings and meetings with the local Custody Inspectors provided by the Panel Co-ordinator and the local Custody Inspectors.
- 2.53 A report summarising the output from the independent custody visitor scheme and the way in which concerns have or have not been addressed will be produced by the Scheme Co-ordinator for the Police & Crime Commissioners' consideration twice a year.

Feedback to the wider community

- 2.54 Independent custody visitors may report on their visits *in general terms* to members of their local community.

- 2.53. The Police & Crime Commissioner publicises the independent custody visitor Scheme on its website.
- 2.54 The OPCC has an independent custody visitor scheme presence through the OPCC website and Twitter account. Social networking is a key resource in making contact and transmitting messages to people.
- 2.55 To assess how effectively the independent custody visiting scheme arrangements are working, independent custody visiting reports will be monitored for quality, frequency and spread of visits and the number of occasions on which detainees refuse to speak to visitors.
- 2.56 This will indicate whether expectations of frequency are being met and highlight any locations or groups where corrective action is necessary. It will also indicate something about the detainee's perception of the visiting system as well as reflecting the effectiveness with which visitors are introduced at police stations.

Volunteer Panel

- 2.57 The Volunteer Panel consists of custody visitors who live or work in the Devon and Cornwall Police force area. The panel is led by the Volunteer Panel Co-ordinator, supported by the Deputy Volunteer Panel Co-ordinator. Panel members may visit any or all designated custody centres in the Devon and Cornwall area, i.e. Barnstaple, Exeter, Plymouth (Charles Cross), Torquay, Newquay and Camborne, and the non-designated centre, the Isles of Scilly.

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Establishment and responsibility for the scheme

- 3.1 This scheme has been established by the Police and Crime Commissioner in consultation with the Chief Constable of Devon and Cornwall. The operation of the scheme is the responsibility of the Police and Crime Commissioner. The Police and Crime Commissioner, in consultation with the Chief Constable, has the final responsibility in all matters relating to the operation of the scheme.
- 3.2 The Police and Crime Commissioner establishes, in conjunction with the Chief Constable, a visiting frequency across Devon & Cornwall's area, against which performance is monitored, measured and published annually.
- 3.3 Independent custody visitors are organised to visit designated police stations on a regular basis and non-designated police stations on a twice-annual basis.

- 3.4 A designated custody suite is designed to Home Office specifications, staffed by designated custody officers and detention officers and can hold detainees for periods over 6 hours and up to 24 hours before an extension needs to be obtained. (Except for persons detained under the Mental Health Act who can be detained for up to 72 hours).
- 3.5 A person can be detained at a non-designated suite for up to 6 hours, but they must then be transferred to a designated unit as they will need to be reviewed by a police Inspector and where the facilities are adequate for longer stays.
- 3.6 Overall responsibility for the oversight of the scheme rests with a nominated officer on the PCC's staff who fulfils the role of Scheme Co-ordinator. The Volunteer Panel has its own Co-ordinator who is also an independent custody visitor. There is also provision for one or more Deputy Volunteer Panel Co-ordinators who support the Volunteer Panel Co-ordinator.

Section 4: The Role of the Volunteer

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Recruitment Process

- 4.1 The Office of the Police and Crime Commissioner recruits independent custody visitors from the general public and operates competency-based selection

processes. Information on recruitment is found on the website and the process is outlined in the application pack (Appendix N).

- 4.2 The Office of the Police and Crime Commissioner's aim is to develop a volunteer panel which reflects the diversity of the communities of Devon and Cornwall and the Isles of Scilly and is committed to the belief that all people have the right to be treated with dignity and respect. Applications from members of minority groups are particularly welcome.
- 4.3 The Office of the Police and Crime Commissioner are committed to ensuring people with a disability can undertake their role as a volunteer by providing disabled access and making reasonable adjustments in line with the Equality Act 2010.

Eligibility

- 4.4 Subject to the exceptions set out below, any person over the age of 18 years and who lives or works within Devon and Cornwall and who has been resident in the UK for at least 3 years can apply as an independent custody visitor. There is no upper age limit.
- 4.5 Visitors should also be independent persons of good character who are able to make unbiased observations in which the community can have confidence and which the police will accept as fair criticism when it is justified. Where an applicant has convictions (whether spent or unspent) for criminal offences, or has received any formal caution, warning or reprimand, or has failed to disclose any such finding, the specific circumstances will be considered in assessing suitability to become an independent custody visitor. However, past offending is not an automatic barrier to acceptance. Applicants will be asked to include in their application forms details of any such convictions and to consent to police enquiries being made. An appropriate Senior Police Officer should provide advice to enable a decision to be made on the suitability of each applicant.
- 4.6 When appointing independent custody visitors, it is necessary to avoid any potential conflict of interest. Serving police officers and other serving members of the police staff or officers of the Office of the Police and Crime Commissioner will be unsuitable for that reason. The same will apply to special constables, lay justices and members of the Police & Crime Panel and members of the Councillor Advocate scheme. Applicants who have recently retired from working within the criminal justice system in Devon and Cornwall will be considered on an individual basis in terms of the potential conflict of interest.
- 4.7 Once appointed, any changes to individual circumstances that could cause a conflict of interest or compromise the independence and integrity of the scheme as a whole must be notified to the Scheme Co-ordinator or another appropriate officer at the Office of the Police and Crime Commissioner immediately.

Application form

- 4.8 All selections will be made based on a standard application form (See Appendix N). Application forms are redacted to remove personal information and shortlisted on a competency-based recruitment and selection process.

Informal talk

- 4.9 Individuals successfully shortlisted at the application stage of the recruitment process will be invited to an informal interview. No person shall be appointed as an independent custody visitor without an informal talk taking place. The informal talk will be with the Scheme Co-ordinator and another member of OPCC staff, with the Panel Co-ordinator or Deputy Panel Co-ordinator to observe and assist if possible

Appointments

- 4.10 All successful candidates at the informal interview stage of the recruitment process will be notified by the Scheme Co-ordinator. This appointment will be subject to vetting clearance and references and initially as a probationer.

Tenure

- 4.11 An essential part of the Scheme is its independence. To reduce the risk of familiarisation and to increase the opportunity to take part, the maximum term of appointment for an independent custody visitor is eight years (two terms of four years) subject to successful volunteer reviews.
- 4.12 Initial tenures are for a term of four years. Re-appointment of tenure and accreditation will be subject to continuing satisfactory performance and suitability.
- 4.13 In exceptional circumstances the Chief Executive of the OPCC may extend the tenure of an individual volunteer for a set time for a specific purpose.
- 4.14 If the appointment of an independent custody visitor to a Volunteer Panel Co-ordinator or Deputy Volunteer Panel Co-ordinator role takes the independent custody visitor over the eight years, an exception will be granted for their time to continue on the scheme for an additional period of four years.

Vetting

- 4.15 Any appointment is subject to vetting or security clearance for all independent custody visitors (to an appropriate level). Vetting is renewed every three years.
- 4.16 A higher level of vetting at an appropriate level applies to those independent custody visitors who are designated to visit persons detained under the Terrorism Acts (TACT).

Identity Cards

- 4.17 Following notification of their appointment, the Office of the Police and Crime Commissioner will issue each independent custody visitor with an identity card showing the holder's photograph. The identity card will authorise the holder to visit

all police stations in Devon and Cornwall with accommodation for detainees, at the request of the OPCC or when a special visit is requested by the Devon and Cornwall police.

- 4.18 Independent custody visitor's identity cards should be used only for the purpose of making custody visits. If anyone uses their card for any other purpose, it may be withdrawn and that person's appointment as an independent custody visitor may be terminated.

Memorandum of Understanding

- 4.19 The custody visitor will also be provided with and asked to sign a written Memorandum of Understanding (See Appendix D) on appointment (and re-appointment), summarising their agreed responsibilities and the legitimate expectations of both parties.

Induction Training

- 4.20 Successful applicants will be invited to attend a one-day training session organised by the Scheme Co-ordinator. This will provide those who are appointed with the basic knowledge and skills they will need to make visits. The training sessions will be held on various days and times to enable all to attend. No independent custody visitor can begin visiting prior to undertaking this training session

Equality, Diversity and Human Rights Training

- 4.21 All Independent custody visitors are required to attend Equality, Diversity and Human Rights Training considered appropriate by the OPCC. This training emphasises the need for individuals to demonstrate commitment to the spirit of the Act by the behaviours that they adopt and the willingness to robustly challenge inappropriate behaviour in others. This training is mandatory for all Independent custody visitors. Training sessions will be held on various days and at various times to enable all to attend.

Probationary Period

- 4.22 All appointments are subject to a probationary period. Probationers visit with an experienced independent custody visitor who can offer advice and give feedback as they learn in the role. Carrying out visits in tandem with an experienced independent custody visitor has many benefits. Along with discussion of practical issues and difficulties after visits have been completed, this will provide valuable practical training. The Office of the Police and Crime Commissioner Scheme Co-ordinator and Volunteer Panel Co-ordinator are available to support new Independent custody visitor as they learn and will make regular contact during this period. It is important to address any coaching or development issues. The Scheme Co-ordinator will discuss initial progress made with the custody visitor after the initial six visits to assess progress and address any coaching or support required. Independent custody visitors are encouraged to question as they learn and feedback on their visits to the Office of the Police and Crime Commissioner Scheme Co-ordinator and Volunteer Panel Co-ordinator if they have queries.

In deciding on the probationary period coming to a successful conclusion, the following will be considered:

- Feedback from experienced independent custody visitors and Volunteer Panel Co-ordinator (See Appendix J)
- Feedback from other involved agencies, e.g. custody and police staff (where applicable)
- Attendance and contribution at volunteer meetings
- Attendance and contribution at training
- Quality of visit reports
- A review carried out by the Scheme Co-ordinator (Appendix K)

4.23 Following a successful probationary period, an independent custody visitor will be appointed for a four-year period during which they will carry out their duties in accordance with the Memorandum of Understanding (Appendix D) and National Code of Practice (Appendix A).

If the decision is made not to confirm probation or continue with their appointment and the Independent custody visitor disagrees with the decision, they can appeal through the Appeals Procedure which is set out at Appendix L.

Continuous Training

4.24 Annual Refresher Training sessions are arranged by the OPCC in association with the Independent Custody Visiting Association (ICVA).

4.25 Other training sessions may be held either on request (if appropriate) or through an identified training need or personal development, either on a one to one basis or for all Independent custody visitor.

4.26 Custody visitors are expected to attend training sessions if they can as it is of great importance that Independent custody visitor's knowledge and training are kept up to date. Training sessions will be held on various days and at various times to enable all the opportunity to attend.

4.27 In addition to this, there may be the opportunity for attendance at conferences and other gatherings organised by the OPCC or other agencies, which can increase knowledge and experience.

Volunteer Reviews & Re-appointment

4.28 Subject to the independent custody visitor wishing to continue, a Volunteer Review (Appendix K) will be held at the end of the probationary period and again after one year from appointment and each subsequent one-year period. The following points will be considered:

- Number of allocated visits undertaken successfully (including times and days of visits)
- Feedback from fellow independent custody visitors Appendix J

- Feedback from other involved agencies, e.g. custody and police staff
- Observations of the Panel Co-ordinator
- Attendance and contribution at volunteer meetings
- Attendance and contribution at training sessions
- Quality of report forms

- 4.29 Each independent custody visitor will receive notification in writing of the outcome of the volunteer review which will include the decision whether to extend the appointment by a further period up to the maximum term of eight years. The key factors in renewing appointments for further periods will be the continuing ability and willingness of the independent custody visitor to carry out their role effectively.
- 4.30 Any re-appointment is subject to vetting at the appropriate level on a three-year basis.
- 4.31 If the extension is not approved; unless the eight-year tenure has expired there is a right of appeal set out at Appendix L.

Volunteer Meetings

- 4.32 Volunteer Panel meetings are held four times a year spread at quarterly intervals. They are organised and chaired by the Volunteer Panel Co-ordinator. The OPCC provides support in the way of arranging accommodation and refreshments. In order to provide all Independent custody visitor, the opportunity to attend volunteer meetings these may be held on alternative days or locations in order that they may be as inclusive as possible for all custody visitors. Independent custody visitors are expected to attend all panel meetings whenever possible.
- 4.33 Volunteer meetings are attended by independent custody visitors, the Co-ordinator of the Scheme and members of Force personnel such as Custody Inspectors or similar.
- 4.34 The volunteer meetings are a forum for volunteers to discuss issues arising from visits since the last meeting and other relevant matters. The Co-ordinator and/or Force personnel will also provide updates to the panels on relevant issues. Training and/or guest speakers may also be included in the meetings as a development opportunity.

Expenses- Travelling Expenses

- 4.35 The role is entirely voluntary but travelling expenses will be payable to all Independent custody visitor in line with HM Inland Revenue approved mileage rates. Public transport fares or private car mileage, at the agreed rate, will be paid. Expenses can also be claimed for telephone calls and attending training sessions. Expenses must be claimed within three months of the date they were incurred. Claims are made via e-form (Appendix G) directly to the OPCC via email: opcc@devonandcornwall.pnn.police.uk. or opcc@dc.police.uk.
- 4.36 Custody visitors whose role necessitates them to travel as a major part of their role will be reimbursed travelling costs as set out below.

Mileage Rates	
Car Mileage Rate	45p per mile (for the first 10,000 miles per annum)
Car Mileage Rate	25p per mile (after the first 10,000 miles per annum)
Passenger Rate	5p per passenger per business mile for carrying their fellow custody visitor(s) as a passenger in their car or van on journeys to undertake a custody visit when all are undertaking a custody visit, or when all are attending a custody visiting related event. The rate that is approved as tax free by HM Revenue and Customs

- 4.37 The rates will be reviewed annually, however are likely to remain the same unless fuel costs rise significantly.
- 4.38 All claims for mileage must be supported by a VAT fuel receipt that should be retained for three years by the independent custody visitor for audit purposes. The receipt needs to be dated on or before the date of travel claimed but can be for any amount. (See Appendix G)

Expenses- Other modes of Transport

- 4.39 Use of public transport should be considered by Independent custody visitor as a matter of economy. If an independent custody visitor requires rail transport in advance (i.e. for a conference or meeting or travel to the Isles of Scilly), this is to be arranged and paid for through the Office of the Police and Crime Commissioner wherever possible. Please discuss with the Office of the Police and Crime Commissioner Scheme Co-ordinator before the date of travel.
- 4.40 Public transport will be paid for in advance for Independent custody visitor whenever possible. If this is not possible, all reasonable costs will be reimbursed provided a receipt is retained in relation to the claim. Receipts with VAT details must be kept by the claimant for three years for audit purposes and available for inspection.
- 4.41 In relation to claims for public transport costs the following points should be noted:
- Rail tickets should be standard class unless prior agreement has been obtained from the Chief Executive of the Office of Police and Crime Commissioner.
 - Receipts should be submitted wherever possible to support expenditure claims and allow the Office of the Police and Crime Commissioner to reclaim the appropriate element of VAT, where applicable.

Expenses- Subsistence

- 4.42 Reasonable out of pocket costs will be reimbursed provided a receipt is available to be checked and kept by the independent custody visitor for three years from the date of expenditure.

4.43 In relation to claims for subsistence the following points should be noted:

- Out of pocket expenses include such items as car parking tickets, telephone calls and stationery. Expenses are not refundable for fines e.g. penalties incurred for exceeding parking restrictions.
- Receipts should be available to support expenditure claims (to include fuel receipts) and allow the Office of the Police and Crime Commissioner to reclaim the appropriate element of VAT. They must be retained by the independent custody visitor for three years from the date expenditure incurred for audit purposes.

Expenses-Carers/Dependants Allowance

4.44 An independent custody visitor who needs to engage the services of a carer for a dependant relative or child to enable them to attend custody visiting business shall be entitled to claim the actual evidenced cost incurred subject to a maximum of £100.00 per day per carer.

4.45 For an allowance to be payable the dependent being cared for must be in one of the following groups:

- Under 16 years of age
- A person with a mental or physical disability
- A person with a learning disability who must not be left unsupervised.

The Chief Executive, has authority to vary these arrangements in exceptional circumstances

Insurance

4.46 The Office of the Police and Crime Commissioner has arranged appropriate insurance cover for Independent custody visitor during a custody visit at a police station.

4.47 Independent custody visitors must ensure the vehicle cited in their travel claim is covered by fully comprehensive business use motor insurance.

Car Tax, MOT and driving licence

4.48 If visitors are using their own vehicle to conduct visits on behalf of the PCC, they must be able to provide a copy on request of:

- the insurance policy
- the MOT certificate
- evidence of car tax for that vehicle
- a valid driving licence.

Visitor Safety – travelling for visits

4.49 If visitors are using their own vehicle to conduct duties on behalf of the Police and Crime Commissioner, they are encouraged to complete the online driver awareness training that will be provided for their health and safety. ICVs are reminded to check the weather and road conditions before a visit and not undertake to travel if a severe weather warning has been issued, remembering to inform their visiting partner of this decision.

Effective working relationships

4.50 For independent custody visiting to be effective, it is essential that visitors and police staff develop and maintain professional working relationships based on mutual respect and understanding of each other's legitimate roles. If a complaint is received by the OPCC about:

- a) An independent custody visitor from a detainee, a member of police personnel or others, or
- b) A member of police personnel from an independent custody visitor, then the procedures for dealing with such complaints as detailed in Appendix L will be invoked.

Appropriate Adults & Lay Observers

4.51 Independence is key to the role of the independent custody visitor. New applications from interested custody visitors will not be accepted if they are currently an appropriate adult in the same area. This is due to a conflict of interests in the two roles, as custody visitors may, on occasion, have cause to give critical feedback regarding the provision of appropriate adult services in the area they visit. Therefore, the independence element of the custody visitor role precludes one person covering both independent custody visitor and appropriate adult roles in a suite.

Independent custody visitors may act as exclusively as an appropriate adult but not an independent custody visitor if:

- in relation to a child, they are the parent or guardian; or
- in relation to a vulnerable adult, they are a relative, guardian or other person responsible for their care or custody.

4.52 Independent custody visitors may also act as lay observers appointed under the Criminal Justice Act 1991 to inspect the conditions under which prisoners are transported and held.

Independent custody visitor giving Evidence in Criminal Proceedings

4.53 Conversations between independent custody visitors and detainees are not privileged information and it would be open to a court to issue a witness summons requiring the attendance of an independent custody visitor to give oral evidence or to produce documents such as a report on a particular visit. An Independent custody visitor is 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.

Confidentiality

4.54 Visitors will acquire considerable personal information about persons in police custody. Personal information relating to detainees must be protected against improper or unnecessary disclosure. Visitors will therefore be asked to give an undertaking not to release the identity of, or information capable of identifying, any person in police custody (See Appendix C). It is desirable, in the interests of the strict application of the principles of confidentiality, that visitors do not name or otherwise identify persons in custody even in reports to fellow visitors or the OPCC. Independent custody visitors are strictly forbidden from disclosing any information regarding the identity of detainees or removing such information from custody suites or police premises. This may result in termination of the independent custody visitor's accreditation with the OPCC.

Breach of Confidentiality

4.55 A breach of this undertaking may make a visitor liable to civil proceedings by the detainee. Visitors will also need to be aware that the unauthorised disclosure of the facts concerning police operations, or the security of police stations may constitute an offence under Section 5 of the Official Secrets Act 1989.

Section 5: Problem Resolution

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5.0 Resolving Problems

- 5.1 The Office of the Police and Crime Commissioner will always endeavour to:
- treat all complaints sensitively and confidentially, the issues will only be discussed amongst those who are directly involved in trying to resolve the issue
 - keep all individuals involved in the process informed at every step of the procedure (where appropriate).
- 5.2 All complaints must be resolved openly, fairly and efficiently to help protect volunteers and the Office of the Police and Crime Commissioner. This must minimise disruption to staff, volunteers and service users.

- 5.3 The role of independent custody visitor is entirely voluntary and does not imply a contract. The Office of the Police and Crime Commissioner maintains an agreed standard of service to the community. It is important that the volunteer feels their contribution is valued and enjoy the role they undertake.
- 5.4 Independent custody visitors are expected to adhere to the Home Office Code of Practice (Appendix A)) and the Scheme Guidelines that govern the scheme. Failure to adhere to these may threaten the reputation of the scheme or jeopardises the relationship between the independent custody visitor, the Office of the Police and Crime Commissioner and police.

Complaints made by an independent custody visitor about Police Personnel

- 5.5 Should an independent custody visitor have need to make a complaint about a police officer or member of police staff, the following procedures should be taken:
- 5.6 Initially, the independent custody visitor should refer their complaint to a supervisory officer based at the police station. This should be done as soon as possible after the incident. The complaint will be recorded in an official complaint form by that officer.
- 5.7 The custody visitor must advise the Scheme Co-ordinator about the complaint as soon as is practically possible.
- 5.8 If the complaint is of a relatively minor and straight forward nature, there may be scope for resolving the problem there and then.
- 5.9 Should that not be possible, or the nature of the complaint is of a scale that it is more appropriately dealt with by a person independent of the local custody centre, then the independent custody visitor should put their complaint in writing and send it to the Scheme Co-ordinator. The complaint will then be referred to the relevant police personnel to investigate it.
- 5.10 Based on the severity of the complaint, the following conclusions may be arrived at:
- That the complaint is unproven.
 - That the complaint is proven, in which case the following recommendations may be made:
 - Words of advice.
 - A Written Warning.
 - Formal Misconduct Hearing.
- 5.11 If a formal investigation is undertaken, the Professional Standards Department, Police Headquarters will write to the complainant giving a detailed summary of the investigation report. If the complainant remains dissatisfied there is a right of appeal.

Complaints made by custody visitors concerning Office of the Police and Crime Commissioner staff

- 5.12 If an independent custody visitor has an issue or problem, they should in the first instance contact the Scheme Co-ordinator. If the custody visitor does not feel able

to speak to the Scheme Co-ordinator they can speak to a relevant Senior Manager at the Office of the Police and Crime Commissioner, for example the Business Support and Customer Service Manager. It is expected that the individuals concerned will use their best endeavours to achieve a satisfactory resolution at local level wherever possible, however if this is not possible, the grievance procedure as set out in Appendix (M) should be referred to.

Conduct

- 5.13 Each independent custody visitor is a representative of the Office of the Police and Crime Commissioner. At all times conduct of the highest standard is expected to ensure confidence is maintained.
- 5.14 Independent custody visitors must ensure that activities undertaken in their private lives do not affect the integrity of the Office of the Police and Crime Commissioner or compromise the activity of the Independent Custody Visiting Scheme.
- 5.15 All Independent custody visitor will be required to comply with all relevant policies and procedures associated with the Office of the Police and Crime Commissioner and must also adhere to the Memorandum of Understanding (Appendix D).
- 5.16 There is an expectation that Independent custody visitor will undertake a minimum number of visits. Where an individual fails to make their scheduled visits during a twelve-month period and / or regularly fails to attend volunteer meetings and training sessions and a valid reason has not been provided; removal of an independent custody visitor's accreditation to the scheme may be considered.

Performance Issues

- 5.17 Difficulties or concerns in respect of an Independent custody visitor's performance or attendance can sometimes arise. In such cases, the Scheme Co-ordinator is responsible for discussing the difficulty or concern with the custody visitor. This may be done either face to face or online, as the custody visitor wishes.
- 5.18 The focus of these discussions is on agreeing actions to achieve the required improvements in performance and/or attendance. If practical, support or further training will be offered. The discussions and actions will be documented at each stage by the Scheme Co-ordinator will write to the independent custody visitor outlining the concerns, the improvements expected and the actions that have been agreed.
- 5.19 If the Scheme Co-ordinator concludes that, despite local attempts to address the situation, performance or attendance has not improved to an acceptable standard, the matter is referred to an appropriate Senior Manager, e.g. Business Support and Customer Service Manager at the Office of the Police and Crime Commissioner. A copy of the full procedure is available at Appendix L.

Misconduct

- 5.20 In signing the Memorandum of Understanding (See Appendix D), all custody visitors agree to have regard to and, so far as possible, abide by the Office of the Police and Crime Commissioner and National Code of Practice (Appendix A) for the duration of their time as an independent custody visitor.
- 5.21 The OPCC operates a three-stage procedure for dealing with misconduct which can be found at Appendix L.

Removal of Accreditation and Recourse to Appeal

- 5.22 Exceptionally, the Office of the Police and Crime Commissioner may take action to terminate an Independent custody visitor's appointment if they fail to adhere to the National Code of Practice (Appendix A) or provisions of the scheme, whether through misconduct or poor performance/attendance. However, a right of appeal is available which can be found at Appendix L(i)

October 2019

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