



# INDEPENDENT CUSTODY VISITING

## SCHEME and GUIDANCE



**OFFICE OF THE STAFFORDSHIRE COMMISSIONER**  
**INDEPENDENT CUSTODY VISITING SCHEME and GUIDANCE**  
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**OFFICE OF THE STAFFORDSHIRE COMMISSIONER**  
**GUIDANCE TO INDEPENDENT CUSTODY VISITORS**

**1. OBJECTIVES**

(a) The role of an Independent Custody Visitor (ICV) is an important one and enables volunteers, appointed from the local community, to observe, comment and report on the conditions under which persons are detained at Police Stations. Their concern will be the welfare of persons in custody and the operation, in practice, of the statutory and other rules governing the welfare of detained persons, with a view to securing greater understanding and confidence in these matters. These arrangements also provide an independent check on the way police officers carry out their duties with regard to detained persons.

(b) This guidance sets out the arrangements for the appointment of ICVs and for the carrying out and performance of their roles

**2. ESTABLISHMENT OF THE SCHEME**

This Scheme has been established by the Office of the Staffordshire Commissioner (OSC) in consultation with the Chief Constable of Staffordshire Police. The operation of the Scheme is the responsibility of the OSC (in accordance with section 51(1) of the Police Reform Act 2002), and the panel co-ordinators appointed for each panel, and in consultation and co-operation with the Chief Constable. The OSC in consultation with the Chief Constable has the final responsibility in all matters relating to the operation of the Scheme.

**3. INDEPENDENT CUSTODY VISITORS**

**Eligibility**

3.1 (a) Subject to the exceptions set out below, any person aged 18 or over who has had permanent residence within the UK for at least three years and who resides or is working within Staffordshire may be appointed by the OSC as an ICV. Independent Custody Visitors should 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. Anyone who has been convicted of an offence punishable with imprisonment within the last five years, or who has ever served a term of imprisonment or detention, would not be suitable for this reason. Where an applicant has one or more convictions for criminal offences, or has received any formal caution, warning or reprimand, or has failed to disclose any such finding, the specific circumstances must be considered in assessing suitability to become an ICV. However, past offending is not an automatic barrier to acceptance and each case will be considered separately. Applicants are advised of this and are asked to consent to police vetting enquiries being made at Level 2 NVP.

(b) Each application will be treated on its merits, but the over-riding factor will be to prevent possible conflicts of interest for individuals, and to maintain the independence and integrity of the Scheme as a whole.

(c) Accordingly, the OSC would not appoint serving Magistrates, serving or former police officers, Special Constables, volunteers working in a police-related environment or Police employees, members of the Police & Crime Panel or Probation Officers as ICVs. Other people may be excluded, after seeking clarification with the individual applicant, if their involvement in the Criminal Justice System would create a potential for conflict of interest or would compromise independence or integrity.

(d) If a successful applicant to become an ICV has a disability (as defined in the Disability Discrimination Act 1995 as amended) then he or she should inform the OSC in order to discuss any reasonable adjustments that may have to be made to accommodate the role. Similarly if an existing ICV becomes or develops a disability (permanent or temporary) then again the OSC should be informed via the panel co-ordinator so that reasonable adjustments can be considered.

## Recruitment

3.2 The OSC recruits ICVs by inviting applications from the general public. This is done annually ( or where necessary) by means of advertisements in local newspapers or other publicity through; for example, volunteer bureaux and Councils for Voluntary Service, and any other means which the OSC may consider suitable to attract interest and applications. Each application for the position of ICV will be made by completing an application form – **Appendix 10.1**. Applicants will be asked to attend an interview to ascertain their suitability to become an ICV. The Selection Panel will comprise a member of the OSC and the relevant panel co-ordinator for the area. All nominations and recommendations for appointment will be forwarded to the OSC who will then decide which candidates to appoint on a probationary basis.

## Training

3.3 The OSC will provide ICVs with appropriate introductory training which will include Data Protection and systems training. All elements of the training must be completed successfully before receiving their formal probationary appointment. **This is part of the selection process** but will also provide those who are subsequently appointed with the basic knowledge and skills they will need to make visits and access custody records electronically.

## Refresher Training

3.4 Appropriate refresher training is provided on an annual basis. All ICVs are expected to attend this training unless the OSC considers there is a good or sufficient cause for an individual ICV not doing so. The OSC will review the

position of those that do not attend and the reason why, and consider whether there are grounds for their appointment to be terminated.

### **Panel Co-ordinators**

3.5 (a) A Panel Co-ordinator, who is an ICV for that area, will be appointed by the panel from amongst its own members. The OSC will seek nominations for the role on an annual basis.

(b) The Panel Co-ordinator will be required to (i) organise an effective rota for visits to police stations (in pairs) and adherence to that rota by ICVs; (ii) organise regular panel meetings (quarterly as a minimum) and (iii) assist in the re-accreditation of ICVs every three years. They will also be expected to keep Panel members suitably informed on relevant issues, including, as appropriate, inviting speakers to Panel meetings and any other administrative tasks to ensure the efficient operation of the Panel.

(c) The Panel Co-ordinator will need to ensure (i) visits are made to each police station with custody facilities on a regular basis; (ii) probationary ICVs are monitored by an experienced ICV for a minimum of six months (and longer if the Panel Co-ordinator feels it is required); (iii) each ICV undertakes a minimum of six to eight visits per year (or the locally set minimum); and (iv) monitor the receipt of report forms and action taken.

(d) The Panel Co-ordinator for each individual Panel will receive an annual allowance from the OSC towards the administrative costs he/she incurs. Additionally, receipted expenditure will be reimbursed where considered appropriate.

### **Appointment and Accreditation**

3.6 (a) Newly appointed ICVs are asked to complete satisfactorily a probationary period (normally six months). Appointments will then either be confirmed, or not, having proper regard to the individual's involvement in and response to the initial training, and his/her performance during the probationary period, and will subsequently be renewable, for those confirmed in appointment after a period of three years and for subsequent three year periods. The OSC are content for the three yearly assessments of an ICVs suitability to continue to be carried out by the appropriate Panel Co-ordinator as it is felt that they are best qualified to assess an ICVs performance however, the OSC will make the final decision on whether the ICV is recredited. There is provision for an individual ICV to be recredited for a lesser period if necessary. The OSC will settle all disputes in relation to this process. It is recommended that the Panel Co-ordinators should retain the records relating to the recreditations for twelve months after the particular ICV has ceased in the role, in case any matters arise in that time where reference to them is warranted. Equally, if there were, sadly, to be a death in custody where the evidence of the ICV was germane, then the OSC would ask for that ICV's records to be transferred to them as they may be of significance in any Court, to the Independent Office for Police Conduct and any internal police investigation.

(b) Following notification of their probationary appointment, the OSC will issue each ICV with an Identity Card, signed by the Chief of Staff and showing the holder's photograph. For security reasons, no Identity Cards will be sent through the post, but are handed direct to each ICV.

(c) Independent Custody Visitors' Identity Cards should be used only for the purpose of making custody visits. If anyone is found to be using their Card for any other purpose, it will be withdrawn and that person's appointment as an ICV will be terminated.

(d) Identity Cards must be worn at all times whilst an ICV is on any OSC premises, or is acting on OSC business but may be covered or removed during actual visits to detained persons in cells to ensure the anonymity of individual visitors. However, identification must be conspicuous at all other times of their visit.

(e) For administrative convenience, the Identity Card will authorise the holder to visit any Police Station in Staffordshire that is 'designated' or 'non-designated' as regards the processing of persons in police detention or police custody. In practice, visits will normally be confined to the panel area for which the ICV was appointed. This will be confirmed to each individual on appointment. Visits outside these areas will only take place at the request of the OSC, or when a special visit is requested by the Police, with the relevant Panel Co-ordinators being consulted and assisting with any such arrangements.

(f) The Identity Card must be surrendered to the OSC when an ICV ceases, for whatever reason, to hold such appointment.

## **Memorandum of Understanding**

3.7 New and existing ICVs will be required to sign a Memorandum of Understanding - **Appendix 10.2** - prior to commencement as a visitor. The Memorandum aims to ensure that new ICVs are aware of their responsibilities and the conduct expected of them.

## **Complaints**

3.8 (a) The OSC has arrangements to consider complaints which may be made against individual ICVs by detained persons, police personnel or people (other than other ICVs) who may come into contact with them in the course of their duties.

(b) Depending on their seriousness, these will often be most appropriately resolved at local Panel level, with scope to refer matters which cannot be resolved in that way to the Chief of Staff to the OSC where appropriate. Clear feedback relating to the resolution of any complaint will be available to both the ICV concerned and the complainant. The OSC will also deal with



complaints from ICVs about their general role and conditions or any other relevant matters.

(c) Wherever a complaint had been made an individual ICV will be given the opportunity to put his/her case – in most cases this will be at the Panel level, with the appropriate Panel Co-ordinator. If the matter, because of its seriousness, within the context of paragraph 3.7 above, is referred to the Chief of Staff of the OSC, the ICV will be invited to submit written information, in respect of the complaint(s), to the Chief of Staff. This will be considered, along with all other information which the Chief of Staff considers relevant to the issues. In these circumstances the Chief of Staff will then decide on the appropriate action to be taken – which may include termination of appointment, and the ICV will be advised accordingly.

(d) Complaints by ICVs against Police Personnel should normally be referred to a supervisory Police Officer or the Staffordshire Police People Services Department as there are existing procedures for dealing with such matters.

## **Disciplinary and Dismissal**

### **Grievance Procedures**

3.9 In relation to grievances or complaints expressed by an individual ICV relating to another ICV or a Panel Co-ordinator or about matters affecting only the ICV expressing the grievance or complaint there will be a 3 stage process as follows:

- **Stage 1.** The ICV will raise the matter with their Panel Co-ordinator, on an informal basis.
- **Stage 2.** If dissatisfied at stage 1, the ICV will meet formally with the Chief of Staff who will decide on the merit of the matter and decide on what action (if any) is to be taken. At this stage representations can be made to the Chief of Staff by the Panel Co-ordinator or the other ICV(s) involved as appropriate.
- **Stage 3.** If the ICV remains dissatisfied, he or she is able to appeal to the Police and Crime Commissioner

### **Capability (including sickness matters)**

3.10 Where in the view of the OSC or the Force a risk assessment is necessary or appropriate to address concerns about the performance capability or safety context of an individual ICV, the OSC will ask the Panel Co-ordinator and the Force to carry out for them that risk assessment and advise the OSC accordingly.

The procedure will be:

- A risk assessment will be carried out by the relevant Panel Co-ordinator and the Force. The Panel Co-ordinator will ensure that the individual ICV is aware of the requirement for performance improvements within set reasonable time scales and will discuss the requirements and timescale with the individual to reach an agreement as to both aspects seeking external advice where appropriate.
- In the event of a disagreement, the Chief of Staff may take a decision as to the requirement and timescales expected of the individual ICV.
- In the event of the individual ICV not meeting the capability or conduct requirements and/or timescales specified the Chief of Staff can terminate the appointment of the individual ICV.
- An ICV whose appointment is terminated by the Chief of Staff can appeal against dismissal to the Police and Crime Commissioner.

### **Termination of Appointment of Independent Custody Visitors**

3.11 (a) Although the work is entirely voluntary, the OSC has the right to terminate the appointment of any ICV whose conduct, or performance, in the ICV role is not felt to be of the required standard.

(b) Unsatisfactory conduct would encompass matters such as misuse of the Identity Card, conviction for a criminal offence, breach of confidentiality, or abusing one's position as an ICV, for example by consistently flouting the guidelines covering the conduct of ICVs during visits or flagrant non-cooperation with the Panel Co-ordinator.

(c) Independent Custody Visitors must notify the OSC if they are arrested/served with a street bail notice, charged, cautioned/issued with a street warning notice reported or issued with a Penalty Notice for Disorder for a criminal offence.

(d) The OSC may suspend the appointment of an ICV until the outcome of any criminal proceedings brought against him or her is known. If the ICV is subsequently found to be not guilty, or if the charges are not proceeded with, his/her position will be reviewed by the Chief of Staff in the light of all relevant available information and having considered that information and the views or representations expressed in writing by the individual ICV, his/her Panel Co-ordinator and the Chief Constable, the Chief of Staff can terminate the appointment of the ICV.

(e) An ICV whose appointment is terminated by the Chief of Staff can appeal against dismissal to the OSC.

(f) Where an ICV fails to make a custody visit or attend Panel meetings within a six month period, the Panel Co-ordinator will write to the person concerned to establish whether this is simply an oversight (e.g. because report forms

have not been submitted) and to seek an explanation and will advise the OSC accordingly.

(g) Where an individual has not made any visits or attended Panel meetings within a six month period, and no good reason for this has been notified to the Panel Co-ordinator, the OSC will consider whether that individual's appointment should be terminated.

### **Numbers of Independent Custody Visitors**

3.12 The OSC will endeavour to appoint the appropriate number of ICVs to each of the panels within the Staffordshire Police area.

**NOTE:** The OSC will reserve the right to change panel numbers or numbers of ICVs, in light of changes to custody arrangements in the area, after consultation with the relevant ICVs.

## **4. VISITING ARRANGEMENTS**

### **Visiting in Pairs**

4.1 (a) ICVs are required to visit in pairs at all times. Any ICV arriving at a Police Station on his/her own will not be granted access to the custody area to make a custody visit.

(b) Generally speaking it is unlikely to be practical or safe, for more than one pair of ICVs to visit at any one time. In the unlikely event that two or more pairs of ICVs arrive at the same time or a pair of ICVs arrive whilst a visit is in progress, then the Custody Officer will require them to wait until the first visit is concluded or return at a mutually agreed time or the pair can elect to defer the visit until another day.

(c) Independent Custody Visitors may not be accompanied by any unauthorised persons, and custody visits can only be made when accompanied by another accredited ICV.

(d) The Panel Co-ordinator within each area will be responsible for making arrangements for visiting in pairs and for ensuring, so far as practicable, that visits are spread over different days of the week or, if visits are to be made on a single day, then to ensure that visits are not simultaneous. Visits occurring simultaneously, for instance throughout an evening, must be avoided.

(e) Panel Co-ordinators are responsible for ensuring that each Police Custody Facility within their Panel area receives adequate numbers of Custody Visits.

### **Frequency and Timing of Visits**

4.2 (a) The frequency and timing of visits is a matter for individuals. However, ICVs are normally expected to make a minimum of six to eight visits per year

(in pairs). 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 functioning of the Custody Facility concerned or the operational work of the officers attached to it. Independent Custody Visitors should bear in mind that their visits impose additional responsibilities on Custody Officers, and they should also be aware of possible delays during Custody Officers' change-over periods or at busy times.

(b) Independent Custody Visitors should arrive at the Custody Facility without prior notice to the Police, and should try to avoid making visits at regular or predictable times.

### **Attendance at the Custody Facility**

4.3 (a) Custody Officers or other appropriate staff will only respond to ICVs attending in person at a Custody Facility. Independent Custody Visitors must be in possession of their OSC Identification Cards at the time of the visit or they will not be allowed into the Facility. Telephone enquiries as to the custodial situation at a Custody Facility will not be responded to.

(b) Independent Custody Visitors should not combine making a custody visit with the conduct of any other business at a Custody Facility. Independent Custody Visitors should allow sufficient time to complete the visit. Visits should be to the point and business like concentrating only on the custody area, detained persons and the facilities in relation to detained persons, and should not extend to a general inspection of Police premises.

### **Visits at the Request of the Police**

4.4 Whilst visits should normally be unscheduled, there may be instances when there is particular tension within the local community, for example about the treatment or well-being of one or more persons being detained at a Custody Facility or some other specific reason for requesting an inspection to ensure openness and accountability for the care of a detained person. In such circumstances, a senior Police Officer may formally invite ICVs to attend, to allay concerns. The Police Officer requesting the visit will be responsible for contacting the Panel Co-ordinator who will arrange for two ICVs to make the visit.

## **5. VISITING PROCEDURES AT POLICE STATIONS**

**Note** – Independent Custody Visitors are primarily concerned with overall conditions, standards and procedures at Custody Facilities with regard to the treatment of detained persons. Immediate concerns about the treatment of particular individuals should be passed on to those in a position to take corrective action. If a detained person indicates that he/she may cause harm to themselves or to any other person, this must immediately be brought to the attention of custody staff.

## **Immediate Access to Custody Areas**

5.1 (a) Independent Custody Visitors presenting themselves at reception should normally be admitted immediately to the custody area. If access is delayed this will affect the credibility of the Independent Custody Visiting Scheme. It is inappropriate for access to the custody area to be delayed because the Custody Officer is busy. In such circumstances the ICVs should be admitted to the custody area (where they may observe activities as part of their visit) but invited to wait until the Custody Officer is available to discuss their visit and brief them regarding risk assessments concerning detained persons and to arrange an escort for them on the visit.

(b) Independent Custody Visitors should understand that their visit commences when they are admitted to the custody area and for safety reasons they cannot always obtain immediate access to other parts of the custody suite until the escort is available. Access to the general custody suite from the reception should only be delayed when the Custody Officer (or other relevant officer) considers that the ICVs may be placed in danger, for example if there is a disturbance in progress in the custody area. A full explanation should be given to the ICVs as to why access is being delayed, which should be recorded by the ICVs in their report.

## **Access to all Parts of the Custody Area**

5.2 (a) Independent Custody Visitors should have access to those parts of the custody facility pertaining to the detention, care and treatment of persons in custody. This includes cells, detention rooms, charging areas, interview rooms within the secure custody area (providing they are not occupied), washing facilities, kitchen or food preparation areas and medical room (but not the drugs cabinet). Some areas within the custody suites at non-designated stations have been formally taken out of use for safety reasons (usually the actual cells) and because those areas are no longer used for processing detained persons they are not subject to inspections. The remaining areas within non-designated custody suites e.g. charge rooms and interview rooms for instance are still subject to inspection. Independent Custody Visitors will wish to satisfy themselves that these areas are clean, tidy and in a reasonable state of repair and decoration, and that bedding is clean and adequate. Relevant storage areas may also be seen and visitors should check that there are adequate stocks of bedding and other necessary items.

(b) Independent Custody Visitors should also verify that arrangements are established for the cleaning of blankets etc. and for any necessary replacement of furnishings and equipment. They should also check that any CCTV systems installed to observe the custody area or individual cells are operating properly. Independent Custody Visitors may not view any stored digital images or recorded magnetic (VHS) tapes on the CCTV systems, unless invited to do so following a critical incident in the custody facility. See Section 5.14 for further guidance. They may inspect empty cells and detention rooms to check heating/ventilation systems and that cell bells and toilet

flushing mechanisms are working properly. They may visit interview rooms in the custody area if unoccupied, but it is not part of their role to attend police interviews with detained persons. Independent Custody Visitors may not visit any operational or administrative parts of the building which are not associated with custody arrangements.

## **Security and Safety**

5.3 (a) Independent Custody Visitors are not permitted to have automatic and/or unannounced access to detained persons held under terrorism legislation. In such cases, under nationally agreed protocols, access is not permitted until all administrative and forensic procedures have been completed which is unlikely to be within the first 24 hours of detention. The nationally agreed protocols provide that unannounced visits will not be permitted because of the nature of the investigations and lengthy interviews; and when access is permitted, only those ICVs that have been vetted to an appropriate level will be allowed access and then only by appointment. There are currently no facilities within Staffordshire appointed for the reception or holding of terrorism cases.

(b) In addition to the risk of violence from detained persons (see paragraphs 5.1 and 5.6) the custody staff should also be alert to any specific health or safety risks ICVs might face and should advise them as appropriate. For example, ICVs should always be told if there is a possibility of them coming into contact with detained persons or cells exposed to CS spray. Whilst it remains a police responsibility to risk assess visits to detained person it is also the responsibility of ICVs to ask the Custody Officer if there are any issues they should know about concerning safety risks. In this way the likelihood of safety risks not being discussed will be minimised. It is advisable for ICVs to ensure that open cuts/wounds are covered to minimise the risk of infection.

(c) In the interests of security and the safety of ICVs, the Custody Officer or a member of the custody staff will accompany them during visits. This includes accompanying them on their inspections of all of the permitted areas of custody but excludes when ICVs are writing their reports. The escorting officer will, for safety reasons, keep the detained person and visitors in view to enable prompt action if necessary but where possible should normally remain out of hearing during discussions between visitors and detained persons.

(d) Although immediate risk assessments are carried out by the Force Custody Officer before allowing an ICV into a cell, ICVs must also have regard to their own safety whilst conducting a visit. For example, ICVs should ensure that they do not have anything on their person that could be used by a detainee as a weapon against them. This could apply to pens, neckties, chains on identity tags or walking aids or anything else that could be used against a visitor or staff in a custody suite.

Both the OSC and Staffordshire Police has a duty of care for those people who work for, or are volunteers undertaking a role on behalf of the OSC and

ICVs are therefore reminded that they are responsible for ensuring that they comply with this requirement prior to commencing a visit. Any queries on the appropriateness of taking individual items into the suite should be raised with the Custody Officer PRIOR to commencing the visit.

### **Access to Detained Persons**

5.4 (a) Subject to the exceptions referred to below, ICVs may normally have access to any person detained at a Custody Facility. Detained persons 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 detained persons**

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 1983 for their own protection or children taken into police protection under the Children Act 1989.

(b) 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.

(c) Non-Home Office police forces such as the British Transport Police and HM Revenue and Customs have powers to detain people. If as a result of action by one of those agencies, a detained person is held in a Staffordshire Police cell, then the arrangements in this guidance remain applicable. However, if such a detained person is held elsewhere, the arrangements made by those agencies for Custody Visiting will prevail and this guidance does not apply.

### **Consent to Custody Visit by Detained Persons**

5.5 (a) Detained persons can only be visited with their consent. Following a risk assessment by the custody officer the escorting officer must make a final check that the visit to a particular detained person is still appropriate to continue before opening the cell/detention room door.

(b) The ICVs will then be afforded the opportunity to introduce themselves to the detained person and will complete an Introduction Form ICV2 - **Appendix 10.3**.

(c) The ICVs will also ask the detained person for permission to see their custody record. Subject to paragraph 5.10 below, the detained person's written consent is required for this, due to the personal and/or sensitive nature of the information contained in the record. Accordingly, it is necessary to obtain a signature from the detained person on the form ICV2 indicating their full and freely given consent to such viewing. This is a safeguard both for the ICV and Staffordshire Police.

### **Detained Persons who are Unable to Consent to a Visit**

5.6 (a) If a detained person is not in a position to give consent to a visit, perhaps because of the effects of drink or drugs or by virtue of a mental illness, the Custody Sergeant should consider allowing the ICVs to observe the detained person through the cell door hatch to satisfy themselves of the general welfare and treatment of them.

(b) Similar arrangements may be applied even where consent has been given, if the Custody Officer judges that the ICVs would be in danger from a violent or potentially violent detained person if they entered the cell.

### **Detained Persons who are asleep**

5.7 Sleeping detained persons can be woken at the discretion of the Custody Officer to seek consent to a visit. However, where that would involve interrupting the continuous period of eight hours rest provided for under PACE, the detained person should not be awoken but may be observed through the cell door hatch.

### **Access to Young Persons**

5.8 Young Persons (i.e. those persons aged under 18 years of age) 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 young person or vulnerable person, the detained person's wishes should be sought and respected as to whether the appropriate adult should be present during any visit.

### **Female Detained Persons**

5.9 (a) Female detainees aged 18 years and over should be given access to a female member of custody staff whose responsibility is to check on her welfare needs. If no female is working in custody a female police officer who is on duty at the station or unit will be assigned this role.

(b) Girls under the age of 18 years must be 'under the care of a woman' while being detained, conveyed or waiting to be so.



(c) 'Under the care of a woman' in this context means that a female police officer or female member of police staff (including Custody Detention Officers under contract to the Force) must be assigned responsibility for the care of a female under the age of 18 years while they are in police detention or custody. Subject to the risk assessment the 'carer' need not be physically present with the detained person at all times but must be readily available. Each case must be treated individually and consideration should always be given as to whether a carer should be physically present or not. The assigned responsibility can also be shared by more than one female carer. On being assigned, the carer should arrange with the custody officer to visit the detained person and check on her welfare needs. The detained person should be told that she can ask to see the carer at any time.

### **Access to Custody Record**

5.10 (a) Subject to sub-paragraphs (b), (c), and (d) below, once the detained person's consent to view their custody record has been obtained, the ICVs should check its contents against what they have been told by the detained person. In particular, visitors will wish to verify:

- whether rights and entitlements under PACE have been given and signed for
- that medication, injuries, medical examinations, meals/diet are recorded
- that procedures to assess special risks/vulnerabilities presented by the detained person have been properly recorded
- the timing and frequency of cell inspections of inebriated or otherwise vulnerable detained persons
- the timing of reviews of the continuing need for detention

(b) If a detained person refuses consent to allow the ICVs to view their custody record it should not be viewed. However, the ICVs should consider asking the Custody Officer appropriate questions to satisfy themselves regarding the treatment of the detained person whilst in custody.

(c) If the detained person is capable of giving consent but is not available, such as when in interview, then if the ICVs wish to view the detained person's custody record the consent of the detained person must be sought. ICVs would be expected to speak with the detained persons face to face and should consider waiting until there is an opportunity for this to be done (and see 5.11 below).

(d) If the detained person is for any reason incapable at the time of the visit of deciding whether to allow access to their custody record, the presumption must be in favour of allowing the ICVs to examine it. **In these circumstances any medical examinations must not be viewed by the ICVs.**

(e) A young person's custody record may be viewed with their own consent. It is not necessary to obtain the additional consent of a parent or guardian.

(f) ICVs should, when trained, view the electronic custody record via an allocated police computer terminal. If for operational or technical reasons such a terminal is not available then the printed record should be viewed. ICVs should not view custody records using computer terminals situated at the custody desk for use by the custody officer(s). When viewing electronic records ICVs are not permitted to view any PNC information or any information held on the handover tab.

(g) Detained persons who have been transferred from another place of detention will have a Person Escort Record form completed by the person who handed them to the escorts. This form should outline the risk assessment of the detained person so that the current Custody officer is informed of risks (if any) that they should take into account. This form is part of the custody record and subject to the consent of the detained person (actually present in custody at the time of the visit) for the ICVs to view their custody record then this form may be viewed as part of that process.

### **Detainees who are being interviewed**

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

### **Restrictions on Access to Detained Persons (Public Interest)**

5.12 (a) In exceptional circumstances the Police may judge that it is not in the public interest for a detained person to be seen by ICVs. Any decision to deny the ICVs access to a detained person on these grounds should be taken only by an officer of the rank of Inspector or above. An explanation of the reasons for refusal should be given to the ICVs on each occasion, and recorded in the custody record. The decision to deny access should be taken in each case in the light of all relevant circumstances. Access to ICVs should not necessarily be denied to any particular category of detained person, or where a decision has been made that a person should be held incommunicado.

(b) It will be the responsibility of the officer in charge of the case to ensure that in appropriate circumstances the necessary authority to refuse access is obtained, and communicated in writing to the Custody Officer in charge of the detainee.

(c) If a custody visit is refused on these grounds, the officer restricting access will notify the Superintendent in charge of Justice Services (via e-mail) before going off duty for the information of the Chief Constable and the OSC

## **Conversations between Detained Persons and ICVs.**

5.13 (a) Conversations between detained persons and ICVs will take place within sight of but normally out of hearing of the escorting officer. If, due to a risk assessment, the police consider that the escorting officer should remain within hearing, this decision must be taken by the Custody Officer. Independent Custody 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 a police officer or Custody Detention Officer may deter or prevent assaults on the ICV.

(b) Visits should normally be conducted in English. On occasions it may be more appropriate to conduct a visit in another language spoken by the detained person and translation support is provided where necessary. If one of the ICVs is fluent in an appropriate language they can conduct the visit in that language. However, in such circumstances care must be taken to ensure that any other ICV present is kept informed about what is being said.

(c) Conversations should focus on checking whether or not detained persons have been offered their rights and entitlements under PACE (including receipt of the necessary paperwork) and on confirming whether the conditions of detention are adequate. Independent Custody Visitors should do all they can to encourage an open exchange with the detained person and may wish to use a checklist to ensure that they cover all the relevant issues.

(d) Independent Custody Visitors must remain impartial and must not seek to involve themselves in any way in the process of investigation. If detained persons press them for advice about co-operating with the Police, making a statement or anything in relation to their defence, the ICVs should explain that it is not part of their role. If a detained person seeks to make admissions or otherwise discuss an alleged offence, the ICVs must tell them that the discussions (whatever the detained persons may say during the visit) and/or the relevant contents of the visit may be disclosed in legal proceedings.

(e) If the detained person's concerns are linked to not yet having received legal advice that is something the ICVs may wish to take up with the Custody Officer.

(f) If an ICV realises he or she knows or is known by a detained person, 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 ICVs impartiality.

(g) Independent Custody Visitors must not pass messages to or for detained persons or perform other tasks on their behalf as this might compromise impartiality or the interests of justice.

## **CCTV footage**

5.14 (a) The introduction of CCTV into custody suites has impacted on the role of ICVs. Independent Custody Visitors should carry out their functions in person, and not by viewing either live CCTV pictures or recorded footage. Their role is fundamentally interactive with both detained persons and police staff, and cannot be discharged remotely. There may also be issues about infringing the privacy of detained persons who have not consented to ICVs observing them using CCTV. Independent Custody Visitors should, however, be able to ask the custody officer whether the CCTV is working and be given a demonstration, on request, to show that it is. If a detained person is being held in a cell or area monitored by CCTV for safety reasons then any visit by the ICVs will be conducted 'on camera' – again for safety reasons.

(b) A Superintendent may authorise the showing of images on the CCTV systems, to a community representative (e.g. – local councillor, Member of Parliament, member of Police Community Consultative Group, Independent Custody Visitor, etc.) or any relevant person (e.g. – solicitor, doctor) if the following circumstances exist:

- a death or other critical incident has occurred involving a person in police custody; and
- as a result of the death or incident serious public order is likely; and
- showing the CCTV images is likely to help prevent this public order from occurring; and
- the interests of public safety in preventing disorder outweigh the possible privacy issues caused by showing the CCTV images.

## **Documentation**

5.15 (a) The proper maintenance of contemporaneous records plays an important part in the application of the rules governing the treatment of detained persons and the process of supervision. Independent Custody Visitors will, if consent is given by the detained person, view the custody record and satisfy themselves that the record fully and properly records the action taken in connection with the detained person whilst in police detention or Custody. This consent also allows ICVs to see the medical examination documents attached to the custody record and Person Escort Record as per 5.10 (f).

(b) At the conclusion of the visit any custody records printed and viewed by the ICVs will be handed back to custody staff. They must not be taken away from the custody suite by the Visitors.

## **Medical Conditions**

5.16 (a) Custody Officers are responsible for ensuring that appropriate medication is given at all relevant or required times, under the guidance of a healthcare professional. The custody record should include all relevant

information about necessary medication for a detained person and the frequency of administering it. ICVs are entitled to see any medical records contained in the custody record if consent is given by the detained person on the ICV2.

(b) Independent Custody Visitors 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, a healthcare professional has been called and establish from the Custody Officer what instructions for medical treatment have been given, and, if the detained person has given their consent, confirm these by consulting the custody record showing that these instructions have been carried out.

(c) Subject to the agreement of the detained person, the Custody Officer and the hospital authorities, ICVs may visit detained persons (but not persons released from custody) in hospital, whether or not under police guard, subject to the agreement of the detained person, the Custody Officer and the hospital authorities. To prevent a wasted journey it should be established, via the hospital, whether the detained person is willing to talk to ICVs. Where a detainee in hospital is under police guard, the police officer will remain at all times with the detained person. Access to the custody record can be permitted only if the detained person has given consent in the normal way.

## **Deaths in Custody**

5.17 (a) All deaths in custody will be the subject of a Coroner's Inquest to which the Police will report formally. Where a death in police custody occurs, there are existing procedures whereby the on-call Performance Standards Unit (PSU) Investigator is contacted and will attend. They will ensure that a Senior Investigating Officer, the on-call Executive Officer and the Independent Police Complaints Commission are notified without delay. An investigation will be commenced with immediate effect. Custody management both senior and operational will be informed as soon as is appropriate by the PSU. Custody management will in turn inform the OSC of the incident and the Panel Co-ordinator for the area.

## **Appropriate Adults**

5.18 (a) There is no barrier to ICVs also acting as appropriate adults in certain circumstances. Individuals must not switch between the role of ICV and appropriate adult during the course of a visit to the same custody facility, since this can blur responsibilities and create confusion for all concerned.

(b) However, those fulfilling the role of ICVs are not prevented from acting as appropriate adults on separate and distinct occasions, preferably at completely different custody facilities. There is no compelling evidence that this kind of dual role causes significant conflicts of interest and individuals who choose to do so should be free to act in both capacities.

(c) There is no reason why ICVs should not also be able to act as Lay Observers, who are appointed under the Criminal Justice Act 1991 to inspect the conditions under which prisoners are transported and held.

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

5.19 (a) Where a detained person makes a complaint or raises an issue about their general treatment or conditions at the custody facility, ICVs should (subject to the detained person's consent) take this up as soon as possible with custody staff or other staff at the facility/police station in order to seek a resolution. The same applies to similar issues identified by ICVs in the course of their attendance.

(b) If a detained person makes a complaint of misconduct by a police officer or a member of police staff or other persons employed by the police (e.g. Custody Detention Officers), the ICVs should advise the detained person to address it to the Custody Officer or another officer of at least sergeant rank who is not subject to the complaint. However, with the detained person's consent, it may be appropriate for ICVs to notify the duty/independent sergeant that the detained person has stated that he/she wishes to make a complaint. In addition ICVs may want to remind the detained person that they can seek legal advice in relation to the complaint or ask to see a Healthcare Professional if an alleged assault is involved. All such complaints must be dealt with through the formal procedures which are laid down and there is no broader role for ICVs. They should not involve themselves in individual cases or make representations on a detained person's behalf.

(c) Remand or sentenced prisoners held in police stations who seek to complain about their conditions or treatment in prison should be advised that ICVs cannot involve themselves in such matters and that there are recognised procedures open to them such as writing to or petitioning the Home Secretary or writing to their Solicitor or Member of Parliament.

### **Effective working relationships**

5.20 (a) For Independent Custody visiting to be effective it is essential that ICVs and police staff develop and maintain professional working relationships based on mutual respect and understanding of each other's legitimate roles. Such relationships can only exist where there is politeness and consideration on both sides. On the other hand, there is a range of behaviour which has the potential to create tension and conflict and some examples are given below.

(b) Some examples of areas where problems can arise are:-

- ICVs failing to appreciate police priorities and pressures
- Police failing to accept the status and roles and responsibilities of ICVs
- ICVs criticising police officers in reports without bringing that criticism directly to their notice or discussing this with an appropriate line manager first

- Police demeaning or belittling ICVs, particularly in front of detained persons
- ICVs adopting an overly adversarial approach or trying to tell or suggest to the police what they should do
- Police unreasonably delaying or limiting access to custody areas
- ICVs making promises to, or advising, detained persons about an investigation, or breaching confidentiality
- Police treating ICVs with indifference or disrespect

(c) All these issues must be seen against the background of the need to strike the right balance between establishing effective working arrangements and not developing a relationship that is too close and cosy. Where the latter occurs it becomes increasingly difficult for ICVs to provide the objective and constructive review of procedures and conditions which is a key part of their role.

(d) The issues of conduct and complaints which may be made from time to time are dealt with in paragraphs 3.7 and 3.8 above. However, with sound and effective relationships between ICVs and police officers/staff, it is considered and hoped, that such will be, very much, exceptions to the rule.

## 6. REPORTS AND FOLLOW-UP ACTION

### Completion of Reports

6.1 (a) Recording the details of a visit is one of the most important aspects of the visit. Independent Custody Visitors may wish to make notes in the course of the visit, but should explain to the detained person why they are doing so. Notes should be disposed of appropriately after the visit.

(b) At the end of each visit, ICVs must complete a report of their findings on the Visitors Record Form (ICV 1) – **Appendix 10.4** and place the **fully completed white** copy in an envelope addressed to the OSC **before they leave the custody suite**.

The second (yellow) copy should be sent on – as soon as possible – to the Panel Co-ordinator. The third and fourth copies are for the ICVs who undertook the visit.

(c) All ICV2 forms bearing a Detained Persons written consent should be forwarded to the OSC for retention with the accompanying ICV1. The signed ICV2 is evidence of the Detained Persons consent for his/her custody records to be viewed and it may need to be produced when dip sampling is carried out.

(d) 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 should 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, in a clear and legible form even if the visit has been conducted in

another language. It is essential that each ICV sign the confidentiality clause at the bottom of each completed report.

(e) The OSC will record and monitor the information on the ICV1 report forms and produce quarterly statistics which will be published on the OSC website and shared with Panel Co-ordinators. The OSC will retain ICV1's and ICV2s for a six year period in line with the legislation on the retention of reports.

## **Reports on Unsatisfactory Treatment and Conditions**

6.2 Where an issue has been raised by a detained person or is noticed by an ICV then this should be recorded in brief on the visit record (Form ICV1). Such issues should be checked by reference to the Custody Officer/Custody Record and if answered or resolved through such reference this must be made clear on the visit report. This should include circumstances where an issue has been raised by a detained person, or is noticed by an ICV, and is subsequently answered and resolved through reference to the Custody Officer/Custody Record. Making this clear on the report should provide a balanced view of the circumstances and action.

## **Confidentiality and disclosure**

6.3 (a) Report forms include an undertaking not to reveal (without the appropriate lawful authority) the names of persons visited or other confidential information obtained in the course of a visit. Breach of this undertaking may make an ICV liable to civil proceedings by the detained person concerned and could also lead to the ICV being removed from visiting. 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.

(b) Conversations between ICVs and detained persons are **not privileged** and it would be open to a Court to issue a witness summons requiring the attendance of an ICV to give oral evidence or to produce documents, such as a report of a particular visit. In such a case the report of the visit will be produced by the OSC who hold all such records. Independent Custody 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. They should not be required by police or defence representatives to make statements or produce documents and exhibits but it will be for the Court to decide whether to order the attendance of the ICV and/or the production of evidence.

## **Expenses**

6.4 (a) The work is entirely voluntary, but travelling expenses will be payable to all ICVs on the same basis as to members of the OSC when travelling on OSC business. Only public transport fares, or private car mileage at the agreed rate will be paid. Expenses can also be claimed for attending training sessions and panel meetings. Expense claims must be made on the



appropriate form - **Appendix 10.5** and sent to the Panel Co-ordinator for approval for payment (at intervals agreed by the Panel).

(b) It is the responsibility of each ICV to check that his/her motor car insurance covers them for carrying out custody visits.

(c) The OSC is aware that each panel will have administrative expenses (e.g. post, telephone, stationery, meeting facilities, refreshments - but excluding travel which is claimed separately) and will pay an annual allowance to each Panel Co-ordinator to cover administrative costs and reimburse receipted expenditure.

## **Insurance**

6.5 The OSC has arranged appropriate insurance for ICVs **under the age of 80** to cover them against violent or criminal assault and any third party claims arising from a custody visit to a Police Station. ICVs **over 80 years of age** are subject to a risk assessment for continued cover.

## **Guidance**

6.6 A copy of this guidance will be available to view on the Force Policy Database accessible via computer terminals within every custody area of Staffordshire Police for the information and use of police staff, and so that they may be referred to by ICVs and Police staff alike. It is expected that all Police staff (including Custody Detention Officers) who are likely to have any dealings with ICVs will be fully aware of the provisions of this guidance and the purpose of the Scheme.

## **7. IMPARTIALITY AND CONFIDENTIALITY**

### **Advice**

7.1 (a) Paragraphs 5.13 and 5.20 deal with communications between ICVs and detained persons and issues and complaints raised by detained persons. Additionally it is important to emphasise that ICVs must not involve themselves in individual cases to the extent of offering advice about whether or not detained persons should make a statement or otherwise co-operate with Police inquiries.

(b) Such advice would be inconsistent with the ICVs' independence from the processes of investigation. They should therefore decline to discuss more than the conditions in which persons are detained and their treatment, even though some persons will naturally wish to ask advice about their possible defence, particularly if they have not already received legal advice. In the interests of impartiality, they should not visit friends or relations who are in custody and paragraph 5.13 deals with situations where a detained person is known to an ICV.

## **Contact with Persons Outside of the Custody facility**

7.2 Independent Custody Visitors must not make contact with any person outside the Custody Facility at the request of a detained person. Neither should they agree to pass on a message to any other detained person within the Facility, and must immediately notify the Custody Officer of any such request. (See also paragraph 5.20)

## **Confidentiality**

7.3. Independent Custody Visitors will acquire considerable personal information about persons in Police Detention or Custody. The great majority will not yet have appeared before a Court, and some never will. Personal information relating to detained persons must be protected against improper or unnecessary disclosure. ICVs will therefore be asked to give an undertaking (included on the Visitors Record Form – **Appendix 10.4**) not to release the identity of or information capable of identifying any person in Police Detention or Custody (except where a visit has exceptionally been arranged in connection with the treatment of a particular person). It is desirable, in the interests of the strict application of the principles of confidentiality, that ICVs do not name or otherwise identify persons in custody, even in reports to or in discussion with fellow ICVs or the OSC (see paragraph 6.4)

## **Breach of Confidentiality**

7.4 It is important to emphasise again (see paragraph 6.4) that a breach of this undertaking may make an ICV liable to civil proceedings by the detained person concerned. Independent Custody Visitors will also need to be aware that the unauthorised disclosure of the facts concerning Police operations or the security of Police Stations/Custody Facilities may constitute an offence under Section 5 of the Official Secrets Act 1989.

## **8. PUBLICITY**

### **General**

8.1 (a) It is generally desirable that the role and aims of the Scheme should be promoted to the public. Independent Custody Visitors must, however, bear in mind that the purpose of publicity is to inform the public about the Scheme and not to draw attention to individual cases or to themselves.

(b) Independent Custody Visitors should not discuss the cases of individuals with whom they come into contact during visits to Police Custody Facilities, and under no circumstances should individual contacts or specific events be discussed except in general, anonymous terms, which support any explanation of the purpose of the Scheme. Any invitation to speak to the press, or local groups or organisations (other than local Police Community Consultations), about any aspect of Custody Visiting, **except the general role and scope of the scheme**, should be discussed first with the Chief of Staff of

the OSC and should not be undertaken by individual ICVs except with the consent of the Chief of Staff of the OSC.

(c) Independent Custody Visitors should remember that they are accountable to the OSC, and not to the media or individual members or groups within the community.

### **Confidentiality for Independent Custody Visitors**

8.2 Independent Custody Visitors' names, addresses, or telephone numbers are given to individual Panel Co-ordinators in strictest confidence, and are given to other ICVs purely for convenience in making personal contact. Such details should not be divulged to any other person outside the Panel.

### **Guidance on Publicity and Dealing with Media Enquiries**

8.3 (a) **Under no circumstances should ICVs make themselves available to respond to requests for specific information from the Press, other organisations or individuals** about individual cases or events at local Police Stations or Custody Facilities which may involve the Independent Custody Visitors Scheme or its personnel.

(b) In the case of the Press, local radio or organisations' publications, etc., there is no reason why interviews concerning **the role and scope of the Independent Custody Visitors Scheme** should not be publicised in general terms. This may include quotations and personal comments of a positive nature. The inclusion of personal photographs in any such articles is a matter for personal discretion.

(c) The advice of the Chief of Staff of the OSC should be sought not only before an interview/talk is given, but before any articles are submitted for publication by individual ICVs.

(d) It is a question of personal preference for the ICVs themselves to decide whether or not to reveal their own identities in these matters. Anonymity can lead to misunderstanding in the media, and where possible ICVs should be prepared to reveal their identities. They need to be aware, however, of the possibility that they might be contacted directly by members of the public and that they are actually accountable, first and foremost, to the OSC. There is no necessity to reveal personal addresses.

(e) A response to enquiries received from the media should be provided only by Panel Co-ordinators and then only if they are satisfied that the required information is of a sufficiently **general nature** to enable a reply to be made and following consultation with the Chief of Staff of the OSC.

(f) Independent Custody Visitors should inform their Panel Co-ordinator and the Chief of Staff of the OSC of their intentions in relation to publicity in order that there is co-ordination locally.

## 9. INFORMATION

### Key Contacts

TBA  
Assurance Lead  
Block 9  
Office of the Police & Crime Commissioner  
Weston Road  
Stafford  
ST18 0YY  
Telephone: 01785 232246  
Email: [TBA](#)

Michelle Ryan  
Governance Business Support  
Block 9  
Office of the Police & Crime Commissioner  
Weston Road  
Stafford  
ST18 0YY  
Telephone: 01785 232245  
Email: [michelle.ryan@staffordshire.pcc.pnn.gov.uk](mailto:michelle.ryan@staffordshire.pcc.pnn.gov.uk)

### STAFFORDSHIRE POLICE CUSTODY FACILITIES

#### **Tier 1**

These suites are the mainstay of the custody provision, 'Designated' under PACE and open 24 hours a day.

#### **Tier 2**

These suites are fully equipped mirroring Tier 1 suites and 'Designated' but will not open 24 hours a day. They will form the first reserve, to be used in conjunction with, or in lieu of, Tier 1 facilities.

#### **Tier 3**

These suites are 'Non-designated' under PACE limiting detention to a maximum 6 hour period. The cells at these sites are closed and will not be used operationally meaning the facility is only suitable for 'Non-cellular' custody purposes such as 'Bail clinics' or immediate interviews.

TIER 1
Northern Area Custody Facility (NACF), Crown Road, Festival Park, Etruria, Stoke on Trent. ST1 5NP
Watling House Custody Facility, Watling Street, Gailey, ST19 5PR
TIER 2
Stafford Police Station, Eastgate Street, Stafford. ST16 2DQ
Tamworth Police Station, Spinning School Lane, Tamworth. B79 7BB
TIER 3
Uttoxeter Police Station, 32 Balance Street, Uttoxeter. ST14 8JE
Leek Police Station, Fountain Street, Leek, Staffs ST13 6QT
Lichfield Police Station, Frog Lane, Lichfield, Staffs, WS13 6HS

Office of the Staffordshire Commissioner  
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