

## **LANCASHIRE POLICE AUTHORITY**

### **THE INDEPENDENT CUSTODY VISITING SCHEME**

#### **Objectives**

The Independent Custody Visiting Scheme is the new name for the Lay Visiting Scheme which followed the recommendations of Lord Scarman to enable members of the local community to attend police stations and check on the treatment and conditions under which persons are detained.

Independent custody visiting offers an extra level of protection to detainees by providing independent scrutiny of their treatment and the conditions in which they are held. By allowing members of the local community to observe comment and report on these matters, it can reassure that community, improve the local community's understanding of procedures at police stations and strengthen their confidence that these are properly applied.

From a police perspective, it is a clear demonstration of their commitment to transparency and openness in relation to this critical aspect of their duties and can improve police management of their own performance by pointing out areas where problems may have occurred.

For police authorities, independent custody visiting can be an extremely important aid in fulfilling their responsibility to ensure that policing in their areas is carried out fairly, in accordance with statutory and other rules and with respect for the human rights of all those coming into contact with the police.

#### **Establishment of the scheme**

This scheme has been established by the Lancashire Police Authority, in consultation with the Chief Constable of Lancashire. The operation of the scheme is the responsibility of the police authority, and that responsibility is exercised, in consultation with the Chief Constable. The police authority has the final responsibility in all matters relating to the operation of the scheme.

#### **Custody Visitors**

##### **Eligibility**

Subject to the exceptions set out below, any person over 18 and residing within Lancashire may be appointed by the police authority as a custody visitor.

Visitors should be independent persons of good character who are able to make impartial and informed judgements in which the community can have confidence and which the police will accept as fair criticism when it is justified. They should also be discrete and have respect for confidentiality. 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 may not be suitable for this reason. Applicants will therefore be asked to include on their application form details of any such convictions and to consent to police vetting enquiries being made.

Independent custody visitors shall be representative of all sections of the community. The police authority will not appoint Members of the Authority, magistrates, and serving or former police officers or special constables as custody visitors. Other people may be excluded, after discussion with the individual applicant, if they have a direct involvement in the criminal justice system such as solicitors or probation officers.

Each application will be treated on its merits, but the overriding factor will be to prevent possible conflicts of interest for individuals, and to maintain the independence and integrity of the scheme as a whole.

### Recruitment

The police authority seeks to recruit custody visitors who are representative of the diverse communities of Lancashire and able to demonstrate their respect for people from different ethnic, cultural and social backgrounds. This will be done by inviting applications from the general public by means of advertisements or other publicity, contacts with volunteer bureaux and councils for voluntary service, and any other means which the police authority may consider suitable. Police Authority Community Meetings and personal recommendations will remain a legitimate source of potential custody visitors.

### Selection

Applicants will be invited to attend a formal assessment process by the Police Authority. The final decision will be made by an appointment panel of the Police Authority.

### Training

The responsibility for training lies with the Police Authority and a structured plan with clear objectives is being developed in consultation with the Constabulary. The Scheme Administrator and the Police Authority Member responsible for custody visiting will have a role in the delivery. However, police personnel, particularly those involved in the custody environment and who understand the issues and procedures independent custody visitors will be addressing, will also make a significant input to training. The same is true of medical and other specialist staff who contribute to custody care.

The necessary training is divided into three broad areas.

### Initial training

This will cover the basic knowledge and skills required to carry out independent custody visits effectively. It is likely to require a minimum of one whole day, supported by appropriate pre-reading.

#### Induction training

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

#### Continuing training

There is always scope to refresh and enhance training and there may be specific issues to address in relation to changing legal, procedural and Health and Safety requirements, developing best practice or practical issues emerging from the visiting process. Regular meetings organised by the police authority between groups of independent custody visitors provide an opportunity to share information and experience.

#### Appointment and Accreditation

Following notification of their appointment, the Constabulary will issue each custody visitor with an identity card signed by the Chief Constable and showing the holder's photograph.

The identity card will authorise the holder to visit any 'designated' police station in Lancashire. In practice, visits will normally be confined to the police division for which the custody visitor was appointed, or another previously agreed area. This will be confirmed to each individual on appointment. Visits outside these areas will only take place with prior approval of the co-ordinator, or when a special visit is requested by Lancashire Police.

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 a custody visitor may be terminated.

#### Tenure

Newly appointed custody visitors will complete a probationary period (normally six months). Appointments will then be confirmed for a period of three years.

Following the completion of a three year appointment any custody visitor wishing to continue to visit under this scheme must then re-apply for a further three year period.

#### Complaints

Consideration of complaints which may be made against individual independent custody visitors by detainees, police personnel or others who may come into contact with them in the course of their duties will be dealt with by an appointment panel of the Authority. Clear feedback relating to the resolution of any complaint will be made available to both the visitor concerned and the complainant. Representations can be made by the Chief Constable or his representative, in person or in writing about the conduct of a visitor. However, the final decision rests with the Police Authority. Complaints from visitors about their treatment by police personnel, their general role and conditions or any other matters relevant to their work should be submitted to the Scheme Administrator.

#### Termination of appointment of custody visitors

Although the work is entirely voluntary, the police authority has the right to terminate the appointment of any custody visitor whose conduct is not felt to be of the required standard. In the event of misconduct, the Authority will consider whether it is appropriate to terminate the appointment of that custody visitor. Misconduct will include matters such as misuse of the identity card, conviction of a criminal offence, or abusing one's position as a custody visitor, for example, by consistently flouting the guidelines covering the conduct of custody visitors during visits, but this list is not exclusive. In addition, racist, sexist and homophobic attitudes, insensitive behaviour and inappropriate standards are not acceptable.

Visitors should notify the Chief Executive if they are arrested and charged with a criminal offence. In any event, the Chief Constable or his representative will notify the Chief Executive if it is known that an Independent Custody Visitor has been arrested and charged with a criminal offence. In such circumstances, the Chief Executive will suspend the appointment of that custody visitor until the outcome of any criminal proceedings is known. If the custody visitor is subsequently found to be not guilty or if charges are dropped, the Authority will consider whether the visitor should be reinstated. Where a visitor fails to make a custody visit within a two month period, the Scheme Administrator will write to the person concerned to establish whether this is simply an oversight (eg. because report forms have not been submitted), or to seek an explanation.

Where an individual has not made any visits within a four month period, and no good reason for this has been notified to the scheme administrator, the appointment panel will consider whether that person's appointment should be terminated.

#### Rights of appeal

A right of appeal against termination of appointment (other than on expiry of the term of appointment) will lie to an appeal panel of the Police Authority.

#### Visiting arrangements

### Number of custody visitors

The police authority, in consultation with the Chief Constable, will appoint sufficient custody visitors to ensure that appropriate numbers of random visits are made to designated police stations throughout Lancashire.

### Visiting in pairs

Visitors are required to visit in pairs at all times. Any custody visitors arriving at a police station on their own will not be granted access to the custody area to make a visit.

It is considered that no more than two custody visitors should visit together, as larger parties could constitute an additional burden on the staff at the police station. Custody visitors may not be accompanied by any unauthorised persons.

### Co-ordinators

The police authority will appoint one custody visitor on each division to act as co-ordinator for the scheme. The co-ordinator on each police division will be responsible for making arrangements for visiting in pairs, and will be provided with other custody visitors' telephone numbers for this purpose. The co-ordinator will also be responsible for arranging regular meetings for custody visitors to discuss relevant matters. It is recommended that a representative from the local police division be invited to at least part of the meeting. This will provide an opportunity for feedback to action taken as a result of custody visits and a chance to discuss matters of mutual concern.

Custody visitors wishing to make visits in other than their designated area within Lancashire must contact the co-ordinator for that division prior to undertaking the visit. This will ensure that visits are not made simultaneously at the same police station.

Custody visitor co-ordinators are responsible for ensuring that each police station within their division receives adequate numbers of visits.

### Frequency and Timing of visits

The frequency and timing of visits is a matter for individuals. However, custody visitors are normally expected to make a minimum of 10 visits per year.

Custody visitors should arrive at the police station without prior notice, and should try to avoid making visits at regular or predictable times.

Care will need to be taken that visits, whilst sufficiently frequent to meet the objectives of the scheme, do not impair the efficiency of the administration of the police station concerned or the operational work of the officers attached to it. Custody visitors should bear in mind that their visits impose an unexpected

responsibility on custody officers, and they should also be aware of possible delays during custody officer change over periods.

#### Attendance at the police station

Custody officers will only respond to 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.

Custody visitors should not combine making a custody visit with the conduct of any other business at a police station such as acting as an appropriate adult.

#### **Visits at the request of the police**

Whilst visits should normally be unscheduled, there may be instances when there is particular tension within the local community about the treatment or well-being of one or more persons being detained at a police station. In such circumstances, the duty officer at that police station may invite custody visitors to attend, to check on the treatment and conditions under which persons are detained. The police officer requesting the visit should in the first instance, contact the local panel co-ordinator. However, if this proves unsuccessful, contact should be made with the Scheme Administrator, in order for the appropriate custody visitors to be informed.

#### **Visiting procedures at Police Stations**

##### Immediate access to custody area

Visitors should be admitted immediately to the custody area. Any delay in access may affect the credibility of the scheme. It is inappropriate for access to be delayed because the custody officer is busy. In such circumstances the visitors should be admitted to the custody area but invited to wait until the custody officer or another officer is available to escort them on a visit. It is recommended that access should be delayed only where the visitors 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 custody visitors as to why access is being delayed, which should be recorded by the visitors in their report.

##### Access to all parts of the custody area

Visitors should have access to all parts of the custody area including cells, detention rooms, charging areas and medical room (this does not however 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 to inspect stores but visitors should establish that suitable

arrangements exist for adequate stocks of mattresses and blankets and for the cleaning of such items, and for regular replacement of necessary furnishings and equipment. 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 should check that any CCTV systems installed to observe the custody area or individual cells are operating properly. They may visit interview rooms in the custody area if unoccupied. Visitors may not visit CID rooms or other operational parts of the station.

### Security and Safety

In the interests of security and the safety of visitors, the custody officer or a member of the custody staff will accompany them during visits. The police officers should be out of hearing during the visit, but must remain in sight of both visitors and detainees at all times.

### Consent to a custody visit by a detainee

A detained person is not obliged to see custody visitors or to answer questions. The officer who is escorting the visitors is responsible for establishing whether or not each detainee wishes to see the visitors, and will present to each detainee the printed card explaining the purpose of the custody visiting. The card is printed in several other languages on the reverse, for the benefit of any detainees whose first language is not English.

Where the detainee is unable to read, the custody officer will read out what is printed on the card.

Where practicable, in order to preserve the privacy of detainees who may not wish to be visited, detainees will be asked by the custody officer within earshot, but out of sight of the custody visitors whether or not they wish to receive a visit.

The detainee will then be asked to sign the custody record, indicating whether or not he/she consents to a visit. Whether or not the detainee agrees to see the visitors, the escorting officer should seek permission for them to have access to the detainees custody record. Any agreement will be written into the custody record and signed by the detainee.

### Access to detainees

Subject to the exceptions set out below, visitors may normally have access to any person detained at a police station.

Detainees will fall into the following categories:

- ◆ Detainees 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 United Kingdom 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.

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.

Persons normally detained by non-Home Office police forces such as the British Transport Police are not covered by these arrangements. However, persons detained by the British Transport Police within Lancashire are taken to the nearest Home-Office Police Station and detained under PACE and therefore should be visited.

Detainees can only be visited with their consent and the escorting officer is responsible for establishing whether or not they wish to see the independent custody visitors. This should be done within the hearing of the visitors but, as far as practicable and in order to preserve the privacy of detainees, out of their sight. The escorting officer's introduction is a very important factor bearing on the effectiveness of the whole system of independent custody visiting and he or she should introduce the visitors in a positive way, which will encourage the detainee to see them. Whether or not the detainee agrees to see the visitors the escorting officer should seek permission for them to have access to the detainees custody record.

If a detainee is not in a position to give consent, perhaps because of the effects of drink or drugs or by virtue of a mental illness, the escorting officer should allow access unless it is considered that the independent custody visitors' safety would be at risk. In such circumstances, the visitors may wish to speak to the detainee through the cell hatch. That may also apply where consent is given, but the escorting officer judges the visitors would be in danger from a violent or potentially violent detainee if they entered the cell.

Sleeping detainees can be woken at the discretion of the escorting 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 normal procedure should be not to wake the person but to observe them through the cell hatch.

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

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

Juveniles should not be placed in cells unless no other secure accommodation is available and the custody officer considers that it is not practicable to supervise them if they are not placed in cells. If a juvenile is kept in a cell, visitors should seek an explanation from the custody officer and check that this has been recorded on the custody record.

In exceptional circumstances, the police may judge that it is necessary for a detained person not to be seen by independent custody visitors in order to avoid any possible risk of prejudicing an important investigation. Any decision to deny visitors access to a detained person should be taken by the custody officer and recorded in the custody record. The decision to deny access should be taken in each case in the light of all the relevant circumstances. There should be no presumption that access should be denied to any particular category of detainee or because a decision has been made that a person should be held incommunicado.

#### *Conversations with the detainee*

Conversations between detainees and independent custody visitors should normally take place in sight but out of hearing of the escorting officer. If for some reason the police consider that the escorting officer should remain within hearing, this decision must be taken by the custody officer. 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 may deter or prevent assaults on the visitor.

Visits should be conducted in English where possible. However, on occasions it may be more appropriate to conduct a visit in another language spoken by the detainee, if one of the independent custody visitors is fluent in that language. In such circumstances care must be taken to ensure that any other visitor present is kept informed about what is being said.

Conversations should focus on checking whether or not detainees 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 detainee and may wish to use a checklist to ensure that they cover all the relevant issues.

Independent custody visitors must remain impartial and should not seek to involve themselves in any way in the process of investigation. If detainees press them for advice about co-operating with the police, making a statement or anything in relation to their defence, they should explain that it is not part of

their role. If a detainee seeks to make admissions or otherwise discuss an alleged offence, the visitor must tell them that the relevant contents of the visit may be disclosed in legal proceedings. If the detainee's concerns are linked to not yet having received legal advice, that is something the visitors may wish to take up with the escorting or custody officer.

If an independent custody visitor realises they know or are known by a detainee, they should consider whether to withdraw from the visit. The decision will depend on the nature of the relationship and its likely effect on the visitor's impartiality.

Independent custody visitors must not pass messages for detainees or perform other tasks on their behalf as this might compromise impartiality or the interests of justice.

Independent custody visitors are primarily concerned with overall conditions, standards and procedures at police stations. However, immediate concerns about the treatment of particular individuals should be passed on to those in a position to take corrective action. If a detainee indicates that they may harm themselves or any other person, this should immediately be brought to the attention of custody staff.

#### Access to Custody Record

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

- ◆ whether 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 detainee have been properly recorded
- ◆ the timing and frequency of cell inspections of inebriated or otherwise vulnerable detainees
- ◆ the timing of reviews of the continuing need for detention.

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

#### Medical conditions

Independent custody visitors have no right to see the detainee's medical records, even where these are attached to the custody record. However, key points relevant to medical treatment should be recorded in the custody record itself. 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, 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.

#### Deaths in custody

Where there has been a death in police custody, the police authority must be informed as soon as possible. This information will then be disseminated to the appropriate Panel Co-ordinator for information as soon as practicable.

#### Issues and Complaints

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

If a detainee makes a complaint of misconduct by a police officer, he or she should be advised to address it to the duty officer in charge of the police station. With the detainee's consent, it may be appropriate for independent custody visitors to notify the duty 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 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 and there is no broader role for visitors. They should not involve themselves in individual cases or make representations on detainees' behalf.

Remand or sentenced prisoners held in police stations who seek to complain about their conditions or treatment in prison should be advised that independent custody visitors 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 the solicitor or Member of Parliament.

#### Confidentiality relating to Detainees

Visitors will acquire considerable personal information about persons in police custody. The great majority will not yet have appeared before a court, and many never will. 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 (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 visitors do not name or otherwise identify

persons in custody even in reports or in discussion with fellow visitors or the police authority.

Breach of this undertaking may make a visitor liable to civil proceedings by the detained person concerned. 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.

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

### **Reports and follow-up action**

#### **Completion of reports**

The top copy of the report should be sent, as soon as possible, to Lancashire Police Authority using the pre-paid envelope provided. The second copy is to be given to the Custody Officer for a divisional response. The third copy is to remain in the custody record book. The fourth copy is to be kept by the Custody Visitors.

#### **Reports on unsatisfactory treatment and conditions**

If a visit discloses any aspects of the treatment of detainees or conditions at the station which are unsatisfactory, it should be included on the report and raised with the custody officer at the time. Any action which, he/she takes should also be recorded.

### Reports on issues arising out of visits

The co-ordinator will call regular meetings of Custody visitors, which will allow the discussion of visiting arrangements divisionally and any concerns to be brought to the attention of the divisional police representative.

Issues arising out of visits will also be submitted to the police authority, and subsequently to the relevant Police Authority Community Meeting.

It is also expected that custody visitors will report on their visits in general terms to their local Police Authority Community Meeting, at an appropriate time of the year, eg. the Annual General Meeting. Such reports may be given in writing or orally.

### Expenses

The work is entirely voluntary, but expenses are payable in accordance with the Police Authority's approved scheme.

### Insurance

The police authority has arranged appropriate insurance for custody visitors under the age of 80, to cover them against violent or criminal assault during a custody visit to a police station.

### Guidelines

A copy of these guidelines will be placed within the custody area of every 'designated' police station within Lancashire, for the information of custody staff, and so that they may be referred to by custody visitors and police officers alike.

### Publicity

It is generally desirable that the role and aims of the scheme should be promoted to the public. Custody visitors must, however, bear in mind that the purpose of publicity is to inform the public about the scheme and not draw attention to individual cases or to themselves.

Visitors should not discuss the cases of individuals with those with whom they come into contact during visits to police stations 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 the Police Authority Community Meeting), about any aspect of custody visiting should be referred to the police authority and should not be undertaken by individual custody visitors except at the request of the police authority, who will in normal circumstances have consulted with the Chief Constable.

Custody visitors should remember that they are accountable to the police authority, and not to the press or individual members of the public.

*Duties to other Custody Visitors*

Other custody visitors' names, addresses, or telephone numbers are given to individual custody visitors in the strictest confidence, and are given to other custody visitors purely for convenience in making personal contact. Such details should not be divulged.