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Code of Practice On Independent Custody Visiting

**(Made by the Secretary of State for the Home
Department in April 2010)**

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Presented to Parliament pursuant to Section 51(8) of the
Police Reform Act 2002

Code of Practice on Independent Custody Visiting (2010)

Introduction

1. This Code of Practice on independent custody visiting is issued in accordance with section 51(6) of the Police Reform Act 2002. Police services, police authorities and independent custody visitors shall have regard to the Code in carrying out their relevant functions.

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

3. The Code is supported by more detailed National Standards, which expand on the relevant procedures and systems and set out established good practice.

Organisation and Infrastructure

4. Section 51(1) of the Police Reform Act 2002 places the responsibility for organising and overseeing the delivery of independent custody visiting with police authorities, in consultation with chief officers. Police authorities must therefore ensure that they have in place robust and effective procedures for establishing and maintaining their independent custody visiting schemes, including the allocation of appropriate resources to this function.

5. Overall responsibility for the central administration of the scheme must be given to a nominated officer on the police authority's staff, supported as necessary by other personnel and resources.

6. At police authority level, groups or panels of volunteers must be organised to visit police stations in the authority's area. Every group needs to have its own co-ordinator locally supported by the authority.

Recruitment and Conditions of Service

Organising Recruitment

7. Police authorities are responsible for recruiting, selecting and appointing independent custody visitors and must ensure these functions are adequately resourced.

8. Adequate numbers of suitably trained and accredited independent custody visitors must be available at all times.

The Recruitment Process

9. Recruitment must be based on clear role descriptions, as well as person specifications setting out the qualities independent custody visitors require to carry out their role effectively.

10. Recruitment must be open, non-discriminatory and well publicised.

11. All selections must be made on the basis of a standard application form with adjustments based on local circumstances.

12. No person shall be appointed as an independent custody visitor without an interview taking place. The selection panel must record the reasons for decisions about appointment or non-appointment. Any appointment is subject to vetting or security clearance for all custody visitors (to an appropriate level as determined by the Home Office, which will be at Developed Vetting (DV) level for those visiting persons detained under the Terrorism Acts). Vetting renewal must be undertaken for all visitors before their appointments are renewed (see paragraph 23 below).

13. Any appointment must be made solely on merit and all independent custody visitors must be at least 18 years old and must be from those living or working within the police authority boundary and who have been resident in the UK for at least 2 years prior to the date of application.

Who Should be Selected?

14. The police authority must seek to ensure that the overall set of independent custody visitors is representative of the local community and provides a suitable balance in terms of age, gender and ethnicity.

15. All reasonable adjustments must be made to accommodate those with a disability, as defined in the Disability Discrimination Act 1995, and those who do not have English as their first language but who are able to communicate effectively so as to be understood, where they are considered suitable candidates.

16. Visitors must be independent persons who are able to make informed judgements and unbiased observations in which the community can have confidence and which the police will accept as fair criticism when it is justified.

17. Where an applicant has 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 independent custody visitor. However, past offending is not an automatic barrier to acceptance. The police authority is responsible for all appointments of custody visitors. The chief officer should provide advice to enable the authority to make a decision with regard to the suitability of each applicant. The police authority should be informed by the chief officer as to the reason(s) for recommending that a volunteer should not be appointed.

18. In appointing independent custody visitors, care must be taken to avoid any potential conflict of interest. For example, serving police officers and other serving members of police or police authority staff will be unsuitable for that reason. The same will apply to special constables, justices of the peace and members of the police authority. All other applications must be considered on their merit.

Other Possible Roles for Custody Visitors

19. Independent custody visitors may also act as appropriate adults. However,

individuals must not switch between those roles during the course of a visit to the same police station and must declare if they have previously carried out either role with the same detainee.

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

Basis of Service

21. The police authority must provide each independent custody visitor with a written memorandum of understanding summarising their agreed responsibilities and the legitimate expectations of both parties.

22. The police authority must provide each independent custody visitor with an identity pass as their authority to visit any police station in the force area that is holding detainees on a regular or temporary basis.

Tenure

23. Appointments must initially be for three years and must not be confirmed until a six-month probationary period has been satisfactorily completed. Full re-assessments of suitability must take place at regular intervals but no longer than three years apart. The key factors in renewing appointments for further periods must be the continuing ability and willingness of the individuals involved to do the job effectively.

Removal

24. A police authority can terminate an independent custody visitor's appointment because of misconduct or poor performance.

25. Procedures for considering possible termination of appointment must follow the principles of natural justice and must be publicised.

Complaints Procedures

26. Procedures must be in place to deal with complaints against independent custody visitors by detainees, police personnel or others. Equally, there must also be a clear mechanism for handling any complaints from visitors.

Payment

27. Independent custody visitors are entitled to be reimbursed for their legitimate expenses incurred in carrying out their role.

Insurance

28. The police authority must ensure adequate cover and provision for claims arising from an independent custody visitor's role.

Training

29. The basic responsibility for initial and ongoing training lies with the police authority and a structured plan with clear objectives must be developed in consultation with the police service and the local independent custody visiting community.

30. The police authority must evaluate the effectiveness of training and the extent to which it is achieving its objectives.

Frequency and Coverage

31. The police authority should liaise with the chief officer about the frequency with which visits should be carried out.

32. Visits must be sufficiently regular to support the effectiveness of the system, but not so frequent as to unreasonably interfere with the work of the police.

33. The frequency of visits must be monitored against expectations and reported to the police authority at regular intervals. Where insufficient visits are taking place, the causes must be investigated and corrective action taken.

34. Consideration must be given to making visits to all police stations where detainees are held even where they are only accommodated for relatively short periods of time.

Working arrangements

Conducting visits

35. Visits must be undertaken by pairs of independent custody visitors working together.

Visiting Procedures at Stations

36. Independent custody visitors must be admitted to the custody area immediately. Delay is only permitted when immediate access may place the visitors in danger. A full explanation must be given to the visitors as to why access is being delayed and that explanation must be recorded by the visitors in their report.

37. Independent custody visitors must have access to all parts of the custody area and to associated facilities such as food preparation areas and medical rooms. However, it is not part of their role to attend police interviews with detainees. Custody visitors will be allowed access to CCTV cameras to ensure that they are operational.

38. Police staff must be alert to any specific health or safety risks independent custody visitors might face and must advise them appropriately at the commencement of the visit.

39. The custody officer or a member of custody staff must accompany independent custody visitors during visits (*but see paragraph 46*).

Access to Detainees

40. Subject to the exceptions referred to in paragraph 43, independent custody visitors must be allowed access to any person detained at the police station. However, detainees may only be spoken to with their consent, and the escorting officer is responsible for establishing whether they wish to speak to the independent custody visitors, which may be established by self-introduction by the independent

custody visitors themselves (in the presence of the escorting officer) or by the escorting officer.

41. Juveniles may be spoken to with their own consent.

42. If, for whatever reason, a detainee is not in a position to give consent, the escorting officer must allow the visit unless any of the circumstances set out in paragraph 43 apply.

43. The custody officer may limit or deny independent custody visitors' access to a specific detainee only if authorised by an officer of or above the rank of inspector and where either:

i) after a thorough risk assessment has been carried out the officer reasonably believes that to be necessary for the visitors' safety, or

ii) if the officer reasonably believes that such access could interfere with the process of justice.

44. Where any of the circumstances referred to in paragraph 43 apply, consideration should be given to allowing the visitors some limited form of access to the detainee, such as speaking to them through the cell hatch.

45. Any decision to deny or limit access must be recorded in the detainee's custody record (together with the relevant authorisation) and by the independent custody visitors in their report of the visit.

Discussions with Detainees

46. Discussions between detainees and independent custody visitors must, wherever practicable, take place in the sight, but out of the hearing, of the escorting officer.

47. Discussions must focus on checking whether detainees have been offered their rights and entitlements under PACE, their health and wellbeing, and the relevant safer detention guidelines and confirming whether the conditions of detention are adequate.

48. Independent custody visitors must remain impartial and must not seek to involve themselves in any way in the process of investigation. If a detainee seeks to make admissions or otherwise discuss an alleged offence, the visitor must tell them that the relevant contents of the visit will be made known to the custody officer and may be disclosed in legal proceedings.

49. If an independent custody visitor realises they know or are known by a detainee, they must declare this and consider whether to withdraw from the visit.

50. Independent custody visitors must not pass messages to or from detainees or offer to perform other tasks on their behalf. If they are asked to do so they must immediately inform the custody officer.

51. If a detainee indicates they may harm themselves or any other person, this must immediately be brought to the attention of custody staff.

52. Subject to obtaining the detainee's consent to examine their custody record, the independent custody visitors should check its contents against what they have been told by the detainee. Visitors may also have access to other relevant documentation, which relates to a detainee e.g. risk assessment. All such information must be treated confidentially.

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

Medical Issues

54. 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.

Dealing with Issues and Complaints

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

56. If a detainee makes a complaint of misconduct by a specific police officer, they must be advised to address it to the duty officer in charge of the police station.

Effective Working Relationships

57. For independent custody visiting to be effective, it is essential that visitors and police staff develop and maintain professional working relationships based on mutual respect and understanding of each others' legitimate roles.

Reporting on a Visit

58. At the end of each visit, and while they are still at the police station, independent custody visitors must complete a report of their findings to include conditions and facilities, rights and entitlements and health and well being. One copy of the report must remain at the station for the attention of the officer in charge. Copies must go to the police authority and other parties as determined locally.

59. Report forms must include an undertaking not to reveal the names of persons visited or other confidential information obtained in the course of a visit.

Feedback

60. Systems must be in place to ensure that the output from visits is drawn rapidly to the attention of those in a position to make the appropriate response.

61. The police authority is responsible for drawing together issues and identifying trends emerging from visits in their area and addressing these with relevant police supervisors.

62. The police authority must have a regular and formal opportunity to raise concerns and issues with a designated senior officer with force-wide responsibilities. It will usually be appropriate for that officer to be of Assistant Chief Constable/Commander rank. Regular reports shall be provided by the administrator of the scheme to the police authority. These reports must be discussed at police authority meetings as appropriate and reflected in an entry about independent custody visiting in the police authority's own annual report.

Sharing Experience

63. The police authority must ensure that independent custody visitors have regular opportunities to meet together to discuss their work.

Reviewing Performance

64. Police authorities must take steps to assess how effectively their independent custody visiting arrangements are working. Key aspects of that process will be reviewing the quality of reports, the frequency with which visits take place and the number of occasions on which detainees refuse to speak to visitors.

Home Office
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