



# **Cumbria Independent Custody Visiting Scheme**

## **Visitors' Handbook**

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## **CUMBRIA OFFICE OF THE POLICE, FIRE AND CRIME COMMISSIONER GUIDELINES FOR INDEPENDENT CUSTODY VISITORS**

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## **Section 1: The Purpose of the Scheme**

All Police and Crime Commissioners in England and Wales have a duty to implement and coordinate an Independent Custody Visiting Scheme. The main purpose of the scheme is to provide independent scrutiny of detainees in custody to ensure they are being treated fairly and in accordance with Code C of the Police and Criminal Evidence Act 1984. Cumbria OPFCC operates their scheme in line with legislation and the Home Office Code of Practice on Independent Custody Visiting.

Independent Custody Visitors (ICVs) are volunteers from the local community recruited by the Office of the Police, Fire and Crime Commissioner (OPFCC) to make regular, unannounced visits to police stations to observe, comment and report on the conditions under which people are detained and the operation in practice of the statutory and other rules which govern their welfare. The scheme is designed to offer protection both to detainees and to the police and to provide reassurance to the community about the welfare and well-being of people detained by the police.

ICVs are concerned solely with the conditions of detention and the treatment of individual detainees. Part of the visiting process involves discussions with custody staff. Detainees may be interviewed subject to their consent being obtained.

ICVs may raise issues which require immediate attention by the custody staff, and these will be raised directly with the Custody Officer at the conclusion of the visit. Following each visit, the ICVs will complete a report of their findings, using a standard report form provided for the purpose, which will be sent to the OPFCC, and a copy kept in the custody suite. ICVs can discuss experiences from visits and raise issues at the regular Panel meetings. The work and findings of the ICV Scheme are reported to the Police, Fire and Crime Commissioner and publicised on the OPFCC website.

This handbook has been developed as a guide about the scheme and to provide assistance to ICVs in their role. It should be used in conjunction with policies and procedures which are relevant to the scheme.

## Section 2: Arrangements of the Scheme

In accordance with Section 51 of the Police Reform Act 2002 (as amended by paragraph 299 of Schedule 16 of the Police Reform and Social Responsibility Act 2011), the Police, Fire and Crime Commissioner (Commissioner) is required to make arrangements for persons detained in police custody to be visited by persons appointed under these regulations. These arrangements should be reviewed from time to time and revised as they think fit.

In line with the Commissioner's Scheme of Delegation the OPFCC Chief Executive will have overall responsibility for the running of the scheme including the final approval for appointment of ICVs, and any disciplinary appeal procedures. The OPFCC's Governance Manager will have strategic oversight and support the Scheme Administrator.

It is the Scheme Administrator who will administer the scheme and oversee the day-to-day operation. This will include:

- Arrange recruitment campaigns to ensure that adequate numbers of visitors are available to carry out a minimum of one visit every week in each of the four panel areas
- Provide and maintain member and key contact lists for each panel
- Arrange training courses, conferences and meetings as required
- Record and monitor weekly reports following each ICV visit, maintaining records and reporting on the performance of the scheme
- Deal with issues raised by visitors arising from their weekly visits
- Liaise with the Constabulary to ensure that any issues raised are dealt with appropriately
- Attend Constabulary custody meetings to discuss issues and be appraised of changes to custody
- Publicise and promote the scheme to raise awareness of the work it carries out
- Provide support to the OPFCC Chief Executive regarding any conduct or discipline issues regarding the ICVs

ICVs are recruited from local communities and appointed to one of the four panels within the Force area:



## **Section 3: Appointment of Visitors**

The OPFCC seeks to ensure that people appointed to the scheme are representative of the local community in terms of age, gender and ethnicity. It is particularly important to avoid any potential or perceived conflict of interest. For that reason, the following will not be eligible for appointment (this is not an exhaustive list but will include) - serving and retired police officers (including police community support officers and special constables), police staff, police volunteers (or immediate relatives thereof) custody medical staff, serving Magistrates and members of the staff of the OPFCC.

Anyone wishing to volunteer for the scheme must be over 18 years of age and live or work within Cumbria. Any appointments will be made solely on the basis of suitability for the role without discrimination.

### **APPOINTMENT PROCEDURE**

The following procedures apply to appointment to and terms of membership of each of the Independent Custody Visiting Panels in Cumbria:

- Complete an application form, provide the names of two referees and declare any conviction for a criminal offence (whether spent or unspent); any term of imprisonment or detention, or any formal caution, warning or reprimand. Past offending will not necessarily debar anyone from appointment.
- Attend an interview by a selection panel including the Scheme Administrator, Governance Manager and any other person appointed to assist the administrator.
- Appointment as an Independent Custody Visitor (ICV) is subject in all cases to the applicant agreeing to submit to security vetting and clearance at Level 2 of the Non-Police Personnel Vetting Scheme (NPPV) and the receipt of two satisfactory written references from suitable persons who are not related to the applicant.
- No appointment can be confirmed until the necessary references and vetting clearances have been obtained.
- When appointed, every ICV shall be required to sign a Code of Conduct and a Memorandum of Understanding. This sets out the expectations required of the ICV by the OPFCC and the level of support, training and feedback which will be provided.
- Prior to starting their appointment, new ICVs must attend at least one session of induction training and an observation visit in custody in the company of an experienced Independent Custody Visitor.
- All appointments will be offered subject to an initial probationary period of six months and will only be confirmed on the satisfactory completion of this period of service. In deciding to confirm the appointment, the OPFCC will consider the number of visits undertaken, feedback from fellow custody visitors, any adverse performance or comments from custody and Police Staff and the views of the Scheme Administrator.
- Following completion of a satisfactory probationary period, the custody visitor will then be appointed to their panel for a period of three years (including the probationary period). They must carry out their duties in accordance with the terms laid down in the

Memorandum of Understanding and within the overall scope of the scheme laid down in Home Office Guidance.

- At the conclusion of the probationary period or three-year term of appointment, a review will be carried out by the Scheme Administrator. They will recommend to the Chief Executive whether or not to confirm or renew the appointment. If the appointment is not confirmed or renewed, the ICV shall have a right of appeal (see Appeals Procedure in Appendix 4).
- ICVs shall be eligible to serve no more than three three-year terms of office and shall retire from the scheme upon completion of nine years' service. If they leave the scheme having completed less than nine years' service, they shall be eligible to re-apply and go through an application process at a later date; but must still retire from the scheme when they have served the maximum period of nine years in total. Whilst it is acknowledged that effective and committed ICVs are a precious resource and that their experience is very valuable it is necessary to balance this against the need to ensure that the panel continues to be representative of the whole community and to introduce fresh perspectives.
- ICVs are free to resign from membership of the scheme at any point; but it would be much appreciated if they could give as much notice as possible to the Scheme Administrator to give time for a replacement to be appointed. ICVs who wish to resign their appointment in mid-term are required to advise the Scheme Administrator in writing and must return their ICV Identity Card, which remains the property of the Office of the Police and Crime Commissioner.

## **Section 4: Training**

### Initial Training

All ICVs must attend an induction training session prior to being confirmed onto the scheme and commencing their role. This will then enable new ICVs to be fully aware of the requirements of their role and their duties as ICVs. The initial induction session takes approximately four hours. Included as part of this training will be the history of the scheme, its benefits, what happens in custody and what our expectations of ICVs will be whilst in custody.

### Observational Visits

All new custody visitors are required to attend an observational visit prior to commencing on the panel rota. These are usually arranged for a Friday night/ Saturday morning or Saturday night/ Sunday morning and allows ICVs to see a busy custody suite in action.

The visit lasts for approximately 4 hours and helps to develop knowledge and understanding of custody processes and procedures. Alternative days/times can be arranged should a busier time be identified.

### Ongoing & Online Training

The Scheme Administrator will arrange on-going training which ICVs are expected to complete or attend as a condition of their appointment. This will be conducted by a variety of providers which may include:

- ICVA on-line bite size training packages
- During panel meetings

- Conferences and specific training events

### Online process

The Independent Custody Visiting Association (ICVA) have developed a number of online bitesize training packages relating to the role of ICVs. Approximately every six weeks the Scheme Administrator will email a link to the YouTube video for the ICVs to access. The video lasts approximately 20 minutes and is interactive asking questions to ensure ICVs understanding.

Once an ICV has completed the online session they must advise the Scheme Administrator via email. Should an ICV not confirm they have completed the training the Scheme Administrator will contact the ICV to ascertain why, if necessary additional training and support will be provided to the ICV to enable them to complete the training.

Should an ICV repeatedly not complete the required training the Scheme Administrator will contact them to understand the reason why and issues. Following receipt of their reasons, if they are unsatisfactory, the Scheme Administrator may invoke the ICV Complaints and Discipline Policy.

## **Section 5: Identity Badges**

All new ICVs will be issued with an identity badge following the induction training session for their use and safekeeping. (A temporary identification letter will be issued for use until the badge has been provided). ICVs must show their ID badge to custody staff upon arrival and at all times within the custody suite.

It should be used for no other purpose than identifying the ICV at designated custody suites within the Cumbria Constabulary force area. It must not be misused; to gain personal or pecuniary advantage; nor to provide identification to another organisation or business. Any reported misuse of the ID Badge may result in dismissal from the Scheme.

The badge remains the property of the OPFCC and must be returned on the expiry or termination of the ICVs appointment. If lost, mislaid, or stolen the visitor must report it to the OPFCC immediately, advising of when and where they last had it. The Scheme Administrator will look into the matter and may provide the ICV with a letter containing their photograph to allow them to carry out visits whilst their ID badge lost or until a replacement badge is provided.

## **Section 6: Expenses & Vehicle Insurance**

ICVs may claim incurred expenses for:

- Travelling expenses incurred within Cumbria in attending visits, panel or authorised meetings, conferences and training courses at the approved rate for casual car users, including parking.
- Any travel costs incurred outside of Cumbria, where transport is not being provided, must be agreed with the Scheme Administrator prior to travel, where practicable.

ICVs must submit their travel expenses form in a timely manner and for no longer period than 4 months. For payment in the current month claims should be submitted by the 3rd of that month

otherwise they will be paid the following month. The payment of expenses is carried out by Cumbria Constabulary on behalf of the OPFCC, via bank transfer on the last working day of each month.

Where an ICV uses their private motor vehicle to travel to a custody suite and wishes to claim mileage expenses they must ensure that:

- they hold a full valid UK or EU driving licence
- certify that their vehicle is insured in connection with use as an ICV
- ensure that their vehicles have any requisite MOT certificate in place (if appropriate)
- sign an indemnity form to confirm the above

## **Section 7: Heath, Safety & Wellbeing**

All ICVs are covered by insurance against personal injury suffered whilst undertaking visits in police premises. While working under the direction and control of the scheme ICVs will be classed as an employee for the purposes of insurance and to that end will be covered by the insurance policies in place (subject to policy restrictions). ICVs must adhere to direction and instructions given by the Scheme Administrator or custody staff at all times.

ICVs are responsible for their own personal health and safety issues whilst undertaking visits. If they feel unwell, have an injury, or have a contagious disease prior to undertaking a visit they should contact another member of their panel and ask them to undertake the visit or if this is not possible cancel the visit with their partner. If a visitor feels unwell during a visit, they should inform either the Detention Officer or Custody Sergeant immediately and if necessary, conclude the visit instantly and leave the custody suite.

ICVs who may have some temporary mobility impairment (e.g., after an operation); are undergoing treatment or who are pregnant must advise the Scheme Administrator immediately. They should consider whether they wish to withdraw temporarily from the scheme or continue. If agreed by the Scheme Administrator for them to remain on the scheme they must make the Custody Officer aware on each visit they undertake so that they can risk assess against factors in custody, e.g., violent detainees, contagious diseases, availability of health staff, breakdown of air conditioning, etc. These issues will be considered for all ICVs, but the risk is more acute when pregnant. In certain circumstances, and following a discussion with the ICV, the Scheme Administrator may decide to suspend the ICVs membership to the scheme until an appropriate period after the birth.

When carrying out visits all ICVs need to be aware of the layout of the custody suite; take care when moving around and in or out of cells or rooms; adhering to any health and safety notices or instructions. ICVs should consider their attire and positioning while speaking to a detainee in the cell; leaving immediately if a situation develops, or they start to be uncomfortable with the detainee's demeanour.

Toilet and handwashing facilities are available within custody should they be required by an ICV.



## **Section 8: Panel Visiting Rota**

Two ICVs from each panel will carry out one visit per week to each of the four designated stations within Cumbria. These are:

- Barrow - Andrews Way, Barrow in Furness, LA14 2UE
- Carlisle - Brunel Way, Durranshill Industrial Estate, Carlisle, CA1 3NQ
- Kendal - Buser Walk, Kendal, LA9 4RJ
- Workington - Hall Brow, Workington, CA14 4AP

The Chief Constable may designate other police stations with cells as appropriate. The Scheme Administrator will advise the appropriate panel of which suite should be incorporated into weekly visits.

A visiting rota will be drawn up for each of the four panels by the Chair. It will detail the two visitors who are to make an unannounced visit during an allocated week. This will ensure that each custody suite is visited fifty-two times during a calendar year.

It is up to the allocated ICVs to arrange between themselves the day and time they will make their visit.

There may be occasions when custody suites and detention areas at police stations will be closed (for example for redecoration or cleaning). ICVs will be notified, in advance whenever possible, and of any alternative or temporary arrangements.

## **Section 9: Access to Police Stations**

Only two ICVs can attend at any one time, and they cannot be accompanied by any unauthorised persons. The only exception to this rule shall be by agreement with the Scheme Administrator for new ICVs or when an observation visit is being carried out as new visitors are accompanied by more experienced colleagues to observe custody staff carrying out their duties. Such visits shall NOT be recorded as custody visits and shall only be arranged for training purposes by the Scheme Administrator.

ICVs will not be allowed access to the police station unless they can produce authorisation in the form of an approved identity card provided by the OPFCC that bears their photograph. The identity card must be shown to both the reception staff at the police station and the custody staff on arrival in the custody area and must be displayed at all times whilst the visitors are in the Police Station.

ICVs may not visit offices or other operational areas, except where necessary to gain access to the custody suite.

When arriving at the Police Station, visitors should report to reception if the reception area is staffed at the time of arrival. If the reception area is closed, visitors should use the communication buzzer provided to contact the Custody officer to obtain entry. If this proves difficult, visitors are advised to telephone 101 and select the option that will transfer you to Custody. The Scheme Administrator may provide you with a direct telephone number for

Custody, should the reception area be closed, and you do not receive a response from using the buzzer, this number can be used.

Immediate access to the custody area must be given. Access may only be delayed if there is a risk to the safety of the visitors themselves or if the safety of someone already in the custody suite would be put at risk by allowing immediate entry. The Custody Officer must provide the visitors with a reason for any delay, which must be recorded in the report of the visit. ICVs should refer to Appendix 6 - "Rights and Powers of Independent Custody Visitors" for further information.

Visitors should leave personal belongings such as bags in their vehicles as they may be asked to hand over personal possessions upon entering the custody suite for safety reasons. All mobile phones should be switched off or put on to 'airplane mode'.

Visits are unannounced and should be conducted in a timely and professional manner. It is recognised that visits will impose an unexpected additional burden on Custody Officers and their staff, particularly at busy times of the day or week, such as Saturday nights, when they are likely to have to deal with a number of arrests – please be patient and understanding if a small wait is necessary.

If you are waiting for longer than ten minutes, please note this on the visiting form. Should ICVs be waiting for longer than twenty minutes they should ask to speak to the duty Custody Inspector to be provided with an explanation. If the ICVs are content with the explanation and happy to continue waiting they may. If they are not, but are still refused entry, this should be raised with the Scheme Administrator. ICVs may make arrangements to return to the custody suite on an alternative date during their allocated week. They are not able to carry their visit over to the following week.

## **Section 10: Carrying out Custody Visits**

The purpose of custody visits is to ensure that Code C – the Code of Practice for Detainees, under the Police and Criminal Evidence Act (PACE) 1984 is being adhered to.

### **Code C of PACE:**

The brief rights and entitlements of a detainee when in police custody are:

- Know the reason why they are being detained
- Get free legal advice
- Tell someone where they are
- Have medical help if they are feeling ill
- They can see the rules the police must follow
- See a written notice telling them about their rights, e.g., regular breaks for food and to use the toilet
- They can ask for a notice in their language or an interpreter to explain the notice
- Be provided with an appropriate adult if they are a child aged 17 or under or a vulnerable adult



The custody officer at the police station must explain the detainee's rights. They will be searched, and their possessions will be kept by the police custody officer while they are in a cell/being interviewed.

When entering the custody suite, the custody officer will set out the situation regarding the persons being detained in the custody suite at the time of the visit. The Custody Officer should inform the visitors if a detainee has been subjected to Captor Incapacitant (e.g., PAVA spray) and ICVs should record this fact on the report form.

Visitors should check on any outstanding issues from the previous visit by consulting the file copy of the previous week's report. ICVs should only take a pen, checklist, notebook, or clipboard into the cell area.

ICVs should focus on whether detainees have been offered their rights and entitlements under Code C of PACE (including receipt of the necessary paperwork) and confirm whether the conditions of detention are adequate. ICVs should encourage an open exchange with the detainee where possible.

All ICVs should self-introduce to detainees. A member of custody staff, prior to allowing access, will carry out a dynamic risk assessment on the detainee, before allowing them entry to the cell to carry out their visit. Should neither of the custody visitors wish to self-introduce they may ask the member of staff to do this for them. However, detainees are more likely to interact with the ICVs if they introduce themselves. How much interaction takes place will vary from detainee to detainee.

When speaking with a detainee, ICVs should also look at the condition of the cell to see that it is clean, and that the toilet/sink are in working order at the time of the visit.

Where there are no detainees in custody at the time of the visit, all other checks can still be carried out. The visitors should bear in mind that there can be benefits from having the time to speak to the custody officer and their staff in more detail and that this may be more practical at a time when there are no, or few, detainees in custody.

ICVs may visit cells, detention rooms, holding cells, charging areas, kitchen/food preparation areas, unoccupied washing facilities, interview rooms and the medical room (only when a healthcare professional is present/available). Visitors should ensure that these areas are clean, tidy and in a reasonable state of repair and decoration, and that bedding in cells is clean and adequate. Empty cells may also be checked to ensure heating/ventilation systems, cell bells and toilet-flushing mechanisms are working properly. ICVs are not able to inspect other parts of the Police Station outside of the custody suite.

In the interests of security and the safety of the visitors, a custody officer or detention officer will accompany ICVs at all times when visiting detainees. Interviews with persons detained in custody will be held within the sight, but out of the hearing, of the accompanying officer. Visitors should bear in mind that some detained persons may be violent and/or under the influence of drink or drugs, advice from the custody staff must be taken into account when deciding to visit these detainees.

### **Appropriate Adults**

These are adults who are nominated to safeguard the rights, welfare and effective participation of children and vulnerable adults who are detained or questioned by police. They can be a parent or guardian, social worker or appointed from the national scheme.

## Translation Book

Each custody suite has a translation book which ICVs can use to interact with those detainees whose first language is not English. The book has been developed by the Northwest Region and has thirty-seven different language translations of some of the questions which ICVs might ask during their visits. Also included within the book is a copy of British Sign Language to assist with ICVs interacting with any detainee who is deaf.

**Visitors are only concerned with custodial welfare and must remain impartial at all times. They will:**

- **not** involve themselves with legal or evidential matters including the circumstances of the arrest or detention
- **not** involve themselves or discuss the medical conditions of a detainee
- have **no** responsibility for investigating or dealing with individual complaints of misconduct or maltreatment made by or on behalf of detained persons. These should be reported to the custody officer who will deal with the complaint.
- decline to discuss anything more than the conditions in which persons are detained and their treatment, even though some detainees will naturally wish to ask for advice about their possible defence
- **not** give advice about whether or not the detainee should make a statement or otherwise co-operate with police enquiries
- **not** convey messages to or from detainees, however innocuous they may seem. Any request to do so should be raised with the custody staff
- declare an interest at the outset if they recognise the detainee who is in police custody at the time or know beforehand that a particular person is being detained there. If the detainee does not object to the visit continuing, it is permissible for it to do so, but the visitor must consider whether to withdraw from the visit having regard to the nature of the relationship
- bring it to the attention of the custody staff immediately if any detainee indicates that they may harm themselves or any other person
- be aware that they may be called upon to give evidence in any proceedings relating to events which they may have witnessed

## Length of Visits

Visitors should ensure that they allow sufficient time to complete all aspects of their visit. When the custody suite is very busy it may be appropriate to identify a maximum of ten detainees to visit, with particular focus on any juveniles and vulnerable persons. If the majority of the selected detainees do not wish to be interviewed, the visitors may wish to return to the desk to select further detainees to visit and interview.

Where the custody suite is less busy, the visitors should be prepared to visit all the detainees. Visits should only last for the length of time it takes to complete all tasks and generally last between one-two hours.

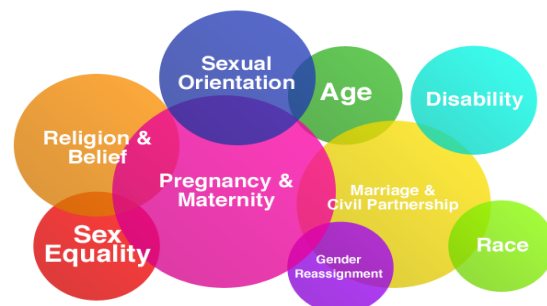
## Section 11: Equality and Inclusion

Within the Equality Act 2010, the General Duty requires the OPFCC to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance quality of opportunity between different groups
- Foster good relations between different groups.

When carrying out visits ICVs will come across many different detainees. They should not be treated differently but should ensure that everyone is treated for their individual needs. Below are some examples:

- **Age** - physical health needs, such as walking aids, able to get up and down from beds. If detainee is a child, is custody risk assessing & treating child as priority / vulnerable?
- **Disability** - is the detainee able to use the facilities? Have reasonable adjustments been made where possible? If a mental health or learning difficulty, has an AA been requested?
- **Gender reassignment** - has the detainee been referred to as the gender they refer to themselves as? If searched, was the search completed by someone of the same gender as they self-identify?
- **Pregnancy and maternity** - if a breastfeeding mother, has a breast pump been provided for expressing? Are any dependent children being looked after outside of custody?
- **Religion or belief** - has the detainee been given any religious items they may need? Are they stored correctly? Does a detainee have any specific dietary requirements?
- **Sex** - has the detainee been offered sanitary protection, was this of the appropriate type they needed?
- **Race** - have translation facilities been provided for those who do not speak English, or it is not their first language. Reading materials should be provided in different languages.



### What does this mean for ICVs?

In line with the Code of Conduct, all ICVs undertake:

- To treat everyone with dignity and respect and to carry out their duties with integrity and to the highest professional standards.
- To maintain strict confidentiality within the scheme regarding any information or personal details which they may learn whilst carrying out the duties of an ICV.
- To carry out their duties in such a way as to never discriminate against, harass or bully any person.
- Not to behave offensively towards others either in word or deed.

## Section 12: Accident Procedure for Custody Suites

Should an ICV have an accident or near miss incident whilst they are in a custody suite, they should report it immediately to a member of custody staff.

- Custody staff will provide appropriate first aid for any injury; and where necessary call for further medical assistance
- The Custody Sergeant must at the time of the incident fully complete and submit an Injury/Accident form.
- The ICV Visit Report Form should be completed, and information recorded including that an ICV has had an accident.
- As soon as possible the custody visitors should inform the OPFCC that an accident has occurred. This can be done via email or telephone depending upon the time of the incident.

## Section 13: Detainee Visit Exceptions

There are some instances when a custody visitor may not be able to see detainees. Detailed below are some examples (but this not an exhaustive list):

### Detainees who:

- **are asleep:**  
ICVs must bear in mind the provision in PACE Code C that a detained person under investigation must be allowed a continuous period of eight hours rest. If detainees are not in a rest period they may be disturbed. Where a detainee is in a rest period the custody officer will advise of the circumstances and the detainee must not be disturbed.
- **are under the influence of drink or drugs (or are for some other reason unable to indicate their willingness to be seen):**  
The custody officer may allow them access, at his or her discretion, unless it is considered that the safety of the visitors or the detainee could be at risk.
- **are being interviewed:**  
While visitors may visit unoccupied interview rooms, they will not be admitted to an interview in progress and no interview may be interrupted. Visitors may be able to see the person being interviewed, if they are still in the custody suite when the interview has been concluded.
- **are being examined or treated by a medical practitioner:**  
Visitors may visit medical rooms whenever a medical or healthcare professional is present but may not interrupt a medical examination or treatment in order to do so. Medical rooms are the responsibility of the provider of medical and nursing care and do not form part of the police custody premises. Custody staff do not normally have access to medical rooms, which **should be kept locked** unless a healthcare practitioner is present.
- **are violent or who present a risk to the safety of the Visitors, staff or themselves:**

If the Custody Officer has reason to believe that a detainee may present a risk to the safety of the visitors, detention staff or themselves if access is given, he or she will advise the visitors not to interview them. In these circumstances it may still be appropriate for the visitors to observe the detainee through the cell hatch, unless this also carries a risk. It is for the visitors to decide whether to observe the detainee via the hatch, but they should always take the recommendation of the Custody Officer into account. The Custody Officer's recommendation should be recorded in the report of the visit.

- ***may present a possible risk of prejudicing an important investigation if a visit goes ahead:***

In exceptional circumstances, it may be necessary for a detained person not to be seen by the visitors in order to avoid any possible risk of prejudicing an important investigation. Any decision to deny the visitors' access to a detained person must be taken by an officer of the rank of Inspector or above, who will explain to the custody visitors and record his or her reason on the detainee's custody record on each occasion. The visitors should also record the fact in their report of the visit.

Where it is not possible to visit detainees or view them through the cell door hatch, ICVs can gain assurance of wellbeing via:

### **Custody records and closed-circuit television (CCTV)**

Where a detainee cannot be visited or spoken to, where appropriate the ICVs may ask to view the detainee on the CCTV system to be assured that they are safe or alternatively view the custody record. A note of this must be recorded on the visiting form.

Subject to obtaining or assuming the detainee's consent to view their Custody Record, the visitors may check its contents (only in relation to their rights and wellbeing) against what they have been told by the detainee or custody staff. In particular, visitors may wish to verify:

- whether entitlements under PACE have been given
- that medication, injuries, medical examinations, dietary requirements and meals are recorded
- the timing and frequency of cell inspections of inebriated or otherwise vulnerable detainees
- the timing of reviews of the continuing need for detention

### **Medical records**

Visitors have **no** right to see a detainee's medical records, even when attached to the Custody Record. However, key points relevant to medical treatment should be recorded in the Custody Record itself. Visitors should 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 should establish from the Custody Sergeant what instructions for medical treatment have been given and confirm by consulting the Custody Record that these instructions have been carried out.

## Section 14: Visit reports and follow-up actions

ICVs will complete a report of their findings at the end of the visit using a standard template provided for the purpose. They will report on each detainee in custody at the time of the visit and on any other issues as appropriate, such as estate.

References to individuals must be by their cell number in order to preserve their anonymity but if the visitor wishes to raise an issue that requires later investigation, the custody record number can be obtained and quoted on the report form.

### Identified Issues:

Where an issue is identified during the visit the ICVs will seek to have it resolved as soon as possible by the custody staff or an explanation given. These must be noted on the visiting form with the explanation from the custody staff. Where there remains disagreement over the interpretation of any observation made during the visit, the Custody Officer can append their view on the ICV report form. They cannot ask for the ICVs comment to be amended or removed.

The form will be completed immediately at the end of each visit. Following completion, the ICVs will discuss their findings and notate any actions which have been taken by custody staff to remedy issues identified. A note of the custody visitors' visit should be entered by the Custody Sergeant on the detainee's custody record.

The form must be signed by both ICVs and the Custody Officer and/or the escorting Detention Officer (if different). The top copy of the form will be sent to the Scheme Administrator using the pre-paid envelopes provided, with the carbon copy remaining in the custody suite.

Visitors may make a more detailed report if they wish, and they have the right to ask the Duty Inspector to attend if there are any issues which they cannot resolve with the Custody Officer to their satisfaction at the time. This is if they believe that it is essential for the issue to be dealt with immediately.

### Escalation of Issues:

Where an issue cannot be resolved it should be escalated in the first instance to the Custody or Duty Inspector. The visitors should note down the Custody or Duty Inspector's explanation and any resolution that is provided at the time.

Where the issue remains unresolved or not fully explained, this must be escalated to the Scheme Administrator via telephone or email. They will then raise the issue appropriately, e.g., with the Criminal Justice Unit Inspector, Estates Department, Custody Inspector. Where necessary they will raise the issue with the OPFCC Chief Executive and at the quarterly Custody Forum Meetings

If the issue affects or could affect other custody suites, the actions taken will be communicated to all Panels and new procedures introduced via the Criminal Justice Unit and Custody Managers as appropriate.

### Complaints

If a detainee makes a complaint of misconduct against an officer, they **must** be advised to address it to the duty officer in charge of the police station. The visitors should notify the duty officer that the detainee wishes to make a complaint. Such complaints must be dealt with



through the formal procedures and there is no role for ICVs. They must not involve themselves in individual cases or make representations on behalf of detainees

### **Monitoring of Visit Reports**

Upon receipt of the completed custody visitor reports, the Scheme Administrator will review and action any identified issues as necessary.

The information contained within the reports will be inserted into a spreadsheet. On a four monthly basis visit reporting information will be published on the OPFCC website following the cycle of panel meetings.

The Scheme Administrator will monitor the dates and times of each visit and advise panels to ensure that visits are spread across all seven days of the week and take place at different times of the day. This and other visiting information will be fed back to ICVs at their panel meetings.

## **Section 15: Panel Arrangements, Meetings & Conferences**

Panel meetings are held every four months in February, June and October each year. They provide an essential forum to discuss any issues arising from custody visits, keeping in contact with other panel members and for the delivery of training or provision of relevant information.

### **Custody Visitors will agree to:**

- attend each meeting of their panel
- advise the Scheme Administrator if they are unable to do so
- contribute to the discussions or training at each meeting as appropriate
- discuss issues raised by custody visits at each meeting

Should a custody visitor fail to attend 3 meetings without good reason in succession (or within a 12-month rolling period), without prior arrangement or agreed suspension from the scheme, the Scheme Administrator will contact the individual and carry out a review of their performance. Dependent upon the outcome of the review the Scheme Administrator may remove the custody visitor from the scheme.

Reports on the Panels' work and the operation of the Scheme in general, will be posted on the OPFCC website on a four monthly basis after each round of meetings. An annual report will be submitted by the Scheme Administrator to the Police, Fire and Crime Commissioner and published on the OPFCC website.

### **Panel Chair & Vice-Chair**

Each panel has a Panel Chair and Vice-Chair that assist the Scheme Administrator at a local level. Their role includes – preparing the visiting rota, providing local support to panel members where necessary and bringing to the attention of the Scheme Administrator any major issues or problems.

On an annual basis the appointment for each post will be for a 1-year term and can only be carried out for a maximum of 3 years by any one person. Anyone wishing to be considered for the role should have completed one full year as an ICV. This may only be dispensed in exceptional circumstances by agreement of the Scheme Administrator.

## Conferences

Cumbria OPFCC will look to hold an annual conference for all ICVs. It affords the opportunity for all ICVs to meet with fellow ICVs from other Panels within the county, receive presentations on custody related topics; training or interactive sessions and keep their knowledge and skills up to date.

A Northwest Regional Conference is generally held on an annual basis and involves all schemes within the Northwest and North Wales. It allows different schemes to come together, providing an opportunity for national speakers to have an input into the day.

## Section 16: Emergency Protocol

In the event that ICVs are not able to go into custody suites to carry out visits due to a pandemic or other designated reason, an emergency protocol will be enacted to allow contact with detainees.

Where this occurs, the custody visit will take place in the form of a weekly telephone call to each of the four designated custody suites. Calls to all suites can be made on any day and at any time (except between 8am and 10.00 am). The Scheme Administrator will provide the contact telephone numbers and electronic reporting form.

When contacting the custody suite, ICVs will need to identify themselves, why they are calling and provide a pre-arranged password. They should speak with the detention officer regarding custody and how many people are being detained. ICVs will be able to speak to up to two detainees during the call. After speaking with the detainees ICVs should speak with the detention officer to discuss any issues that have arisen and then complete the electronic visiting form. This should then be emailed to the Scheme Administrator. If an ICV encounters any difficulties or refusal by the detention officer this should be raised with the Scheme Administrator.

## Section 17: General Provisions

### Appropriate Adults

It is not possible to be both an Appropriate Adult (with the national provider) and an Independent Custody Visitor (ICV) and we will not recruit new ICVs who are AAs. If you decide you wish to become an AA whilst appointed as an ICV, please contact the Scheme Manager as you will need to withdraw from the scheme immediately. This is not applicable if you are acting as a parent/guardian or in your employment such as a social worker etc.

### Confidentiality

Personal information relating to any of the detained persons must be protected against improper or unnecessary disclosure. Visitors undertake not to release the identity of, or any information capable of identifying, any person in police custody, or the nature of the circumstances for which they are in custody. **Breach of this undertaking may render a visitor liable to civil proceedings by the detained person concerned and will result in dismissal from the scheme.**

Visitors must ensure that, if a copy of any part of a custody record is printed out for information, it is returned to the Custody Officer before leaving the secure area and is not taken outside the custody suite. No photographs of this information are to be saved or retained. If a visitor does this, they may be dismissed from the scheme.

Improper disclosure extends to discussion of individual cases and identities with other visitors and to the system of written reporting to the Office of the Police and Crime Commissioner. Visitors should also bear in mind that unauthorised disclosure of facts concerning police operations, or the security of police stations may constitute an offence under the Official Secrets Act 1989.

### **Juveniles**

ICVs are able to speak to juveniles with their own consent and it is not necessary to obtain the additional consent of a parent or guardian

All persons who have not attained their eighteenth birthday are to be treated as juveniles when in detention. An Appropriate Adult should be appointed for them; except that young people aged between 17 and 18 have the right to refuse the offer of the support of an appropriate adult.

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 be present during any visits from custody visitors.

### **Persons Informally Present at the Custody Suite**

Exceptionally, there may be persons at the custody suite who, whilst not detained under the formal arrest procedure, are there as a "voluntary attender" to be interviewed in connection with an offence either by the Constabulary or an agency such as Border Force. Such persons do not fall within the provisions of the Custody Visiting Scheme. However, should the ICVs wish to satisfy themselves as to their welfare, their consent should first be ascertained by the Custody Sergeant.

The following persons may also be present in a custody suite and may be visited by the ICVs when they are under the control and responsibility of the police service:

- Home Office Prisoners  
On occasion, remanded and sentenced prisoners are held in custody suites. They are known, in the Police context, as Home Office prisoners. Home Office Circular 74/91 "Remand and sentenced prisoners held in police cells" sets out the categories of prisoner who may be held and can be visited (see Remand and Sentenced prisoners, below).
- Immigration detainees  
These are persons held under the Immigration Act 1971 and the Immigration and Asylum Act 1999 who are subject to deportation proceedings or who are waiting to be removed from the UK as illegal immigrants.
- People at Risk/Police Protection  
These may be persons held for their own protection under the Mental Health Act 1983 or children taken into Police Protection under the Children Act 1989.
- Operation Safeguard  
Operation Safeguard refers to the temporary re-housing of prisoners from Her Majesty's Prison Service into police cells nationwide. Since the statutory regulations relating to Independent Custody Visiting came into effect in the Police Reform Act 2002, Section 51 of the Act and Paragraph 2 of the Independent Custody Visiting Codes of Practice make no distinction as to the status of the detainee (i.e., whether they are being detained under

PACE, terrorism powers, immigration powers, etc.) On that basis, visitors should be given access to Operation Safeguard detainees in cells at Custody suites or police stations unless the standard exceptions apply.

## Publicity

Guidelines on publicity for the Scheme are included at **Appendix 3**.

## Remand and Sentenced Prisoners

Visitors may also visit prisoners detained under Section 6 of the Imprisonment (Temporary Provisions) Act 1980 (persons remanded in, or sentenced to, custody) other than those in the custody of the current appointed transport provider.

In practice the great majority of such prisoners will be held on remand in custody pending their appearance in court. A smaller number of prisoners who may be encountered are those who have been sentenced and are awaiting transfer to a prison establishment.

## Treatment of Prisoners (Remand and Sentenced Prisoners)

The facilities provided to remand prisoners detained in police custody are the responsibility of the Chief Constable. Visitors will appreciate that it will not be possible for the police to provide all of the facilities which a remand/sentenced prisoner might receive if detained in prison. There are a number of reasons for this, not least being that police cells are designed to hold people for short periods and do not incorporate some of the facilities which would be normal in a prison establishment. The police will seek to ensure that priority is given to the provision of such facilities, such as access to a doctor and visits by legal representatives.

## Scheme Review

The Scheme Administrator will carry out a three-year review of the scheme in line with all OPFCC policies and procedures. Following a review any updates to the handbook a copy will be provided to the ICVs and published on the OPFCC website.

## Section 18: Termination of Appointment

Although custody visitors are volunteers there may be occasions when a visitor's appointment has to be withdrawn, either because of **poor performance**, **misconduct** or **for other reasons**. Below are some examples of what these may be although it is not an exhaustive list.

### Poor performance will include:

- Failure to carry out a minimum of six visits in any one year
- Failure to attend Panel meetings and training events without providing the Scheme Administrator with a valid reason, this being three consecutive panel meetings, or 3 within a twelve-month rolling period
- Continued failure to attend rostered visits within a four-month period without informing the Panel Chair/ Scheme Administrator and without making arrangements to swap with another visitor

Where a Visitor fails to make a minimum of six visits during the course of a year and/or regularly fails to attend Panel meetings and training events with no good reason being provided, the Scheme Administrator will attempt to contact the ICV for an explanation. Following this they may recommend to the Chief Executive that the Visitor's appointment be terminated. Where termination is considered and agreed the Scheme Administrator will write to the custody visitor,

notifying them of their withdrawal from the scheme. They will request the return of their ID badge and ask that all outstanding expense claims be made within twenty-eight days.

Where the Scheme Administrator is advised of alleged misconduct, they will invoke the Complaint and Discipline Policy. Examples of misconduct are set out below. This is a guide and is not an exhaustive list. Repeated instances of misconduct whether of a similar or different nature could result in dismissal

**Misconduct will include:**

- misuse of the identity card
- conviction of a criminal offence
- abuse of position
- inappropriate behaviour or comments made during a visit, at a meeting, conference, or to an individual in contravention to MoU
- breaching the guidelines for conducting visits

**Other reasons will include:**

- incivility to other custody visitors, OPFCC staff or members of the Constabulary contrary to MoU
- inability to demonstrate independence during visits or display independent views at Panel meetings
- inappropriate disclosure of information obtained during a custody visit
- failure to adhere to any guidelines or procedures governing the scheme

Visitors **must** notify the Scheme Administrator immediately if they are arrested, cautioned or charged with a criminal offence. The Scheme Administrator will then suspend the visitor's appointment until the outcome of any criminal proceedings are known. If the visitor is found not guilty consideration of the circumstances will be taken before a final decision is made as to whether they may be reinstated. If found guilty, the appointment will automatically be terminated. In the case of a caution or other form of disposal the Governance Manager of the OPFCC will review the nature of the offence and make a recommendation to the Chief Executive about whether the visitor remains on the scheme.

Every breach of the guidelines will be judged on its own merits and there may be instances where a single breach is sufficient to merit the termination of a visitor's appointment.

Some instances may not be eligible for appeal, e.g., if convicted of a criminal offence, given a police caution, etc.

Full details of the ICV Complaints and Discipline Policy can be found at Appendix 4.

## Appendix 1: Custody Visitor Code of Conduct

### I undertake:

- to treat everyone with whom I come into contact with dignity and respect and to carry out my duties with integrity and to the highest professional standards
- to maintain strict confidentiality within the scheme regarding any information or personal details which I may learn whilst carrying out the duties of a custody visitor
- to carry out my duties as an Independent Custody Visitor in such a way as to never discriminate against, harass or bully any person
- not to behave offensively towards others either in word or deed
- to develop and maintain professional relationships with police and OPFCC staff, based on mutual respect and understanding of each other's legitimate roles
- to strike the right balance: establishing effective working arrangements without developing a relationship that is too close

Certain types of behaviour on the part of custody visitors have the potential to create tension and conflict and should be avoided.

### I understand that:

- Discrimination or harassment can be based on many grounds.
  - Race
  - Gender
  - Religious or political beliefs
  - Disability, sensory impairment or learning difficulties
  - Sexual orientation
  - Age
  - Alleged offences
- Offensive behaviour can manifest itself in many ways.
  - Verbal remarks
  - Non-verbal gestures or suggestion
  - Physical or psychological bullying
  - Persistent criticism
  - Practical jokes
  - Gossip
- Relationships which are too close will seriously affect the ability of independent custody visitors to provide an objective and constructive report on conditions and procedures. Certain types of behaviour have the potential to create tension and conflict.
  - Failing to appreciate police priorities
  - Engaging in petty criticism
  - Criticising officers in reports without bringing that criticism directly to their notice
  - Adopting an overly adversarial approach
  - Concentrating on finding fault and trying to catch the police out
  - Criticising or questioning judgements in areas outside the visitors' remit
  - Telling, or suggesting, to the police what they should do
  - Breaching confidentiality
  - Not advocating a detainee's issue(s) clearly or correctly

## Appendix 2: Memorandum of Understanding

The purpose of this agreement is to highlight some of the main commitments that Cumbria Office of the Police, Fire and Crime Commissioner (OPFCC) requires from each Independent Custody Visitor (ICV).

### 1. ROLE AND RESPONSIBILITIES

The purpose of your role is to observe and report upon the conditions under which persons are detained at Police Stations. Your concern is for the welfare of the person in custody and the operations in practice of the statutory and other rules governing their welfare including a consideration of their welfare in regard to equality.

Cumbria OPFCC takes a holistic approach to custody and asks that ICVs also consider the welfare of custody staff and their working conditions.

### 2. PROBATIONARY PERIOD

You must serve a probationary period of 6 months, starting from the date of commencement of voluntary service. The purpose of the probationary period is to give you an opportunity to establish your own suitability for the role. The appointment is subject to the satisfactory completion of these and the OPFCC's opinion of your suitability.

### 3. APPOINTMENT

Your appointment is initially for a period of three years. At the end of each three-year term, you will be eligible to be considered for re-appointment for a further three years. This is subject to the approval of the Scheme Administrator. No visitor may serve more than three terms of appointment (i.e., a maximum of 9 years).

### 4. IDENTITY CARDS

Your ICV identity card will be valid for the period that you are appointed as an ICV. The identity card authorises you to visit police stations within your Panel area and should only be used for the purpose of making visits. If it is used for any other purpose, it will be withdrawn and your appointment as an ICV may be terminated. Identity cards must be returned on termination of appointment as an ICV.

### 5. EXPECTED ROTA AVAILABILITY & VISITS

You are expected to make a minimum of six visits per year. If there are exceptional circumstances which prevent you from fulfilling this requirement, you should contact the Scheme Administrator immediately to discuss you carrying out the role. If you have not made a visit within a four-month period, the Scheme Administrator will write to you to ascertain the reason and seek an explanation. Should an unsatisfactory explanation be provided the Scheme Administrator may remove you from the scheme.

We recognise that this role is given on a voluntary basis, however it is hoped that you will make every effort to fulfil the commitments you have agreed to undertake. Inability to sustain regular and reliable attendance may be grounds for termination of your appointment, as this may have an impact on the scheme as a whole.

### 6. UNDERTAKING VISITING

You are required to make visits in pairs at all times and you can only make a visit when accompanied by another ICV. There are no exceptions to this requirement, and custody staff are aware that they should not allow anyone who is unaccompanied to make a visit. Failure to adhere to this may result in you being removed from the Scheme.

### 7. DOCUMENTATION

You are required to complete reports for every custody visit made (even when there were no detainees in custody) and submit them promptly to the Office of the Police, Fire and Crime Commissioner (ideally as soon as you have finished the visit but no later than within 14 days)

## **8. DISCLOSURE OF CRIMINAL CONVICTIONS OR CHANGE IN CIRCUMSTANCES DURING YOUR ROLE AS A VOLUNTEER WITH CUMBRIA OPFCC**

As a volunteer for Cumbria OPFCC, it is important that you maintain high standards and that the OPFCC should be made aware of any matter which could affect its relationship with you. Accordingly, you are required to inform the Scheme Administrator in writing, within 7 days of any involvement in ongoing civil or criminal court proceedings, any criminal convictions or cautions received or any ongoing criminal investigations in which you are involved. Similarly, you should also notify the Scheme Administrator if you become a Magistrate, Special Constable, Police Officer or undertake any other work which may present you with a conflict of interest.

## **9. ATTENDANCE AT CONFERENCES AND TRAINING**

You will be expected to attend the training events and conferences arranged by the Office of the Police, Fire and Crime Commissioner for Cumbria. You are also encouraged to attend regional conferences where appropriate.

## **10. ATTENDANCE AT PANEL MEETINGS**

You will be expected to attend each of the 4 monthly panel meetings. If you have not attended any Panel meetings within a twelve-month period, the Scheme Administrator will write to you to ascertain the reason and seek an explanation. Dependent upon the outcome, the Scheme Administrator may remove you from the scheme. Continued non-attendance at panel meetings will be reviewed by the Scheme Administrator and you may be removed from the scheme.

## **11. IMPARTIALITY AND CONFIDENTIALITY**

During the course of your duties, you may acquire considerable personal information about persons connected with police enquiries, the majority of whom will not at that time have appeared in Court. Some will never appear in Court. That information must be protected against improper or unnecessary disclosure. You should be aware that improper disclosure of information acquired during the course of a visit may attract civil or criminal proceedings. Additionally, unauthorised disclosure of facts concerning police operations, or the security of police stations may constitute an offence under the Official Secrets Act 1911 and 1989 and the Data Protection Act 1998 or any amending legislation including the General Data Protection Regulation EU2016/67 and the Computer Misuse Act 1990.

You must undertake not to disclose any information related to persons connected with police enquiries or police operations that you may acquire as part of your duties as a Custody Visitor.

## **12. DATA PROTECTION**

Cumbria OPFCC will only ask for information that it really needs and that it will keep the information securely, limit access to it and will not pass any details on without consent unless legally obliged to do so.

## **13. DRESS CODE**

All Independent Custody Visitors are required to be smart in appearance whilst undertaking their volunteering duties in order to create a professional image.

## **14. EXPENSES**

It is essential that you are not out-of-pocket because of your voluntary work and all reasonable travel expenses will be paid. Any ICV using their own motor vehicle to and from a designated custody suite are advised to inform their insurers about their duties. The OPFCC requires all ICVs to complete a Vehicle Indemnity Insurance form if they are using their own vehicle to travel to visits.

## **15. TIME AWAY FROM THE SCHEME**

We recognise that there may be times when you need to take a longer period of time off from your role as an ICV, which could be due to personal or work circumstances. Please contact the Scheme Administrator as soon as possible to discuss the issues and assess the request for time away from the scheme. The Scheme Administrator has the ability to authorize an absence of up to a maximum of twelve months from the scheme.



**16. PERIOD OF NOTICE**

Wherever possible we would ask that you provide the OPFCC with at least one months' notice of your intention to resign your appointment. This should be given to the Scheme Administrator. All ID badges and any other information or equipment must be returned on your last day of service.

**17. HEALTH AND WELLBEING**

In accordance with the Health and Safety at Work Act 1974, as a volunteer you are responsible for ensuring your own safety and must not do anything which may cause injury or risks to other persons, whether they are Cumbria Constabulary employees, volunteers or members of the public.

**18. NO SMOKING POLICY**

The OPFCC and Cumbria Constabulary operate a No Smoking Policy throughout its estate.

**19. PERSONAL DATA**

As a volunteer you give Cumbria OPFCC permission to collect, retain and process information about you in relation to your ICV role. This information will only be used so that we can monitor our compliance with the law and for expense payment purposes. Should your personal circumstances change, you should notify the Scheme Administrator immediately.

**20. QUERIES**

Queries on any aspect of the scheme should be addressed to the Scheme Administrator, who can be contacted on 01768 217734 or via e-mail [custodyvisitors@cumbria-PFCC.gov.uk](mailto:custodyvisitors@cumbria-PFCC.gov.uk)

**Please read, sign the declaration below and return to the ICV Scheme Administrator**

ICV Memorandum of Understanding Signed Statement:

- I have read and understood this Memorandum of Understanding and agree to abide by it.
- I confirm my receipt, understanding of and agreement to the provisions of the Official Secrets Act 1911 and 1989, Data Protection Act 1998 or any amending legislation including the General Data Protection Regulations EU2016/67 and Computer Misuse Act 1990 both during the course of my voluntary service and following its termination.

Name: ..... Signed: .....  
 (BLOCK CAPITALS) Date: .....

Appointed to : BARROW\* / KENDAL\* / NORTH\* / WEST\* Panel

(\* Please delete as not appropriate)

### Appendix 3: Guidelines on Publicity for ICVs

- There is a lot of value in promoting the role and aims of the Scheme to the public; it is useful when encouraging others to participate and it reinforces public confidence in the criminal justice system.
- The advice of the Scheme Administrator must be sought before an interview or talk is given. Visitors must also seek advice before submitting articles for publication and seek assistance from the OPFCC's Press Office before giving an interview.
- In the case of the press, local radio and television or business/in-house magazines, etc. there is no reason why visitors should not participate in interviews, which promote their role and the scope of the Scheme in general terms. Such activity must be agreed with the Scheme Administrator prior to participation. This may include quotes and personal comments of a positive nature. The inclusion of personal photographs in any such article is a matter for individual discretion.
- Visitors must not discuss the cases of individuals with whom they come into contact during visits to police stations. Under no circumstances should individual cases or specific events be discussed except in general anonymous terms if doing so helps to support an explanation of the purpose of the Scheme.
- Visitors should bear in mind that the purpose of publicity is to inform the public about the Scheme and not to draw attention to them personally.
- If an invitation to speak to a local group or organisation appears to be of value in promoting the role and scope of the Scheme, it is a matter for the visitor's own discretion whether or not to accept the invitation. Prior to this the visitor must discuss the invitation with the Panel Chair and the Scheme Administrator. A standard presentation will be provided to the ICV by the Scheme Administrator.
- It is a question of personal preference for visitors 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 visitors should be willing to reveal their identities. In doing so visitors should be aware that they might then be contacted directly by members of the public and if that occurs, they should bear in mind that they are first and foremost accountable to the OPFCC. There is no necessity to reveal personal addresses.
- Responses to general enquiries received from the press should only be provided by the Scheme Administrator and then only if they are satisfied that the required information is of sufficiently general nature to enable a reply to be made. Any concerns in this matter should be addressed to the Scheme Administrator, especially if enquiries are received from national newspapers or broadcasting organisations. Any enquiry concerning any particular case must be referred to Cumbria Constabulary or the OPFCC.
- Under no circumstances should Visitors 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 which may involve the Scheme or visitors. Any such matters should be directed to the Chief Constable via the Press Office at Force Headquarters, Penrith.

- Visitors should inform the Scheme Administrator of their intentions in relation to publicity so that there is co-ordination at a local level. Details of publicity gained for the Scheme should be included in the regular reports to the Scheme Administrator to enable them to be monitored overall.

## **Appendix 4: Complaints and Disciplinary Procedure**

### **OVERVIEW OF POLICY**

The OPFCC operates an Independent Custody Visiting scheme (ICV) which is staffed by volunteers.

The policy is in two parts a Complaints Procedure and a Disciplinary Procedure. Both are completely separate procedures and should be run independently of each other. Where applicable the disciplinary procedure can be used following the outcome of a complaint procedure.

The following policy provides clear guidelines for the Police, Fire and Crime Commissioner, Independent Custody Visitors, Police Officers and Police Staff and all other staff to adhere to when a complaint is made against an Independent Custody Visitor.

The policy also provides clear guidelines for the Disciplinary Process to be followed if the Complaint is upheld or if there are other serious concerns about a volunteer.

### **COMPLAINTS PROCEDURE**

Individuals who want to make a complaint about an Independent Custody Visitor should follow this procedure.

It is important that concerns are identified at an early stage and shared with the appropriate person so that they can be discussed and, if possible, matters put right in an informal way. Individuals are encouraged where possible to try to make their concerns clear to the other person involved so that they can discuss the issues and work together to try to resolve the matter between them. If they are not able to reach a satisfactory conclusion informally, then this procedure should be followed.

Complaints that are raised normally need to be about a matter which has occurred in the previous 2 weeks. However, relevant corroborating information may be gathered by the investigator as evidence of a pattern of behaviour.

### **PROCEDURE STAGES**

#### **STAGE 1**

- 1) The Complainant will be asked to make their complaint in writing addressed to the ICV Scheme Administrator. Complaints should, where possible, be submitted within 2 weeks of any incident.
- 2) The ICV Scheme Administrator will send out an invitation to meet the Complainant within fourteen days of receiving the complaint; the Complainant will be encouraged to think about what their desired outcome would be and how they believe the situation could be satisfactorily resolved. The Complainant may be accompanied by another person of their choice, for support. The ICV Scheme Administrator will also have a second person from within the organisation present to make notes of the meeting.
- 3) As the complaint will be about a volunteer, then the ICV Scheme Administrator will also meet with this volunteer to discuss the matter and hear their side of the story. This is a

meeting to find out facts and to ascertain whether they would be able to reach agreement or a compromise with the Complainant. The volunteer may be accompanied by another person of their choice, for support. The ICV Scheme Administrator will also have a second person from within the organisation present to make notes of the meeting.

- 4) Both the Complainant and the volunteer complained about will be offered Peer Support to assist them during the process.
  - i) If an informal resolution is possible the Scheme Administrator may invite both parties to a meeting to informally resolve the issue. This may not be appropriate if the complaint was one of bullying or sexual harassment.
- 5) The ICV Scheme Administrator will have one of three decisions to make:
  - A) No further action needed.
  - B) Complaint upheld.
  - C) Complaint not upheld.
- 6) The ICV Scheme Administrator will inform the Complainant of their decision, either face-to-face or by a phone call, which will then be followed up in writing to confirm within three weeks of the meeting.
- 7) Where a complaint is upheld, it may be necessary to then follow the disciplinary procedure below with the volunteer against whom the complaint was made.
- 8) If the Complainant is not satisfied with the outcome of Stage 1, the Complainant can escalate the issue by going to the Appeal Stage.
- 9) If the Complainant chooses not to appeal the outcome, the process is now concluded.
- 10) If the complaint was between volunteers and the process has now concluded but challenges remain between the volunteers involved, mediation should be recommended as a way of improving working relationships between the volunteers.

## **STAGE 2 - APPEAL**

This right of appeal is not afforded to volunteers about whom the complaint is made but is available to the person who made the complaint, should they be unhappy with the outcome. The person who is complained about, may want to raise their own complaint, or if taken through the disciplinary procedure (as a result of the decision made) have the opportunity to explain the circumstances surrounding their behaviour.

- 1) The appeal will be heard by the OPFCC Chief Executive.
- 2) The Complainant must begin the appeals process by writing to the Chief Executive stating that he/she wishes to appeal and setting out the reasons why, clearly explaining why he/she does not agree with the decision, on no more than 4 sides of A4 paper.
- 3) The appeal must be made within 21 days of the date of the result being given.

- 4) The principles for holding an appeal hearing are generally the same as for the Stage 1 hearing above. It can be an occasion when discussion and dialogue could produce a resolution. However, the following should also be considered:
  - A) The reasoning behind the appeal
  - B) Any new evidence since the earlier decision
  - C) Ensure the Stage 1 process was followed accurately
- 5) The Scheme Administrator will coordinate an appeal hearing with the volunteer appealing; the Chief Executive may also need to speak to other involved parties before or after the appeal hearing.
- 6) The Chief Executive will consider all documentation and evidence and the decision letters will be sent within fourteen days of the appeal hearing.
- 7) The decision of the Chief Executive is final and conclusive. There is no further appeal process.
- 8) All avenues of the process have now been exhausted. However, if challenges remain between the volunteers involved, mediation should again be recommended as a way of improving working relationships between the volunteers.

## **DISCIPLINARY PROCEDURE**

This is the part of the policy for when there is an issue about how a volunteer is carrying out their role. This could be because a complaint against a volunteer has been upheld, their performance is not as it should be, their behaviour has caused a breakdown in relationships within the scheme, they have failed to respect confidentiality or have persistent issues with timekeeping or attitude. This is not an exhaustive list. Responding to complaints about a volunteer is never a comfortable process. The procedure is used to ensure a volunteer knows that a complaint has been made, how to respond and make amends and, if necessary, to appeal.

Sometimes a volunteer's performance may be affected by a variety of factors, including health or personal issues they may be managing. The procedure deals with these capability aspects as well as deliberate misconduct. Bearing this in mind can ensure that although there is acknowledgment of something going wrong, there is no assumption of fault.

When addressing difficulties of behaviour or performance, the ICV Scheme Administrator must meet with the volunteer and discuss what the requirement is and how the standard could be reached. At all stages, it is necessary to make any reasonable adjustments for volunteers identified as having disability or health issues.

### **Examples of serious misconduct**

The list below is intended as a guide (and is not exhaustive) to assist investigators to determine whether the action being investigated should be defined as serious misconduct:

- Breach of policies and procedures
- Inappropriate contact with a person/vulnerable person
- Failure to take direction and follow lawful instruction
- Theft, fraud or dishonesty
- Physical violence or threatening behaviour
- Inability to carry out role due to influence of alcohol or drugs

- Falsification of records, including expense claims
- Breach of confidentiality
- Wilful or reckless damage to property
- Discrimination either directly or indirectly towards a detainee and/or on the grounds of gender/sexuality/race/disability, bullying or any other harassment
- Breach of the ICV Code of Conduct
- Behaving in a way that undermines Cumbria Constabulary or the Office of the Police, Fire and Crime Commissioner for Cumbria
- Bringing/potentially bringing Cumbria Constabulary or the Office of the Police, Fire and Crime Commissioner for Cumbria into disrepute.

There are a number of steps and outcomes which are part of the disciplinary procedure. These include:

### **Carrying out an investigation**

An investigator will be appointed to lead the investigation. In most cases this will be an appointed officer from within the Office of the Police, Fire and Crime Commissioner. In some cases, this may be an External Consultant.

### **Suspension**

A volunteer may be suspended from volunteering during an investigation. This will happen where the issue is an allegation that, if proved, could be considered serious misconduct, but may also be necessary if the investigation is likely to cause disruption or unrest. This should not be viewed as a penalty but is important so that the situation can be investigated as fully as possible.

### **Outcomes of an investigation**

After meeting the volunteer concerned, the investigator will analyse all available evidence about the situation. There are five potential outcomes available to conclude the investigation:

#### **i) No further action**

The investigator does not believe there is a case to answer or sufficient evidence to warrant any action.

#### **ii) Development Plan**

The investigator believes that no action is required but there is enough evidence to support a development plan. A list of actions should be drawn up over a specific timeframe (normally 6 months) which gives the volunteer focus on what needs to improve. The ICV Scheme Administrator should meet with the volunteer at the end of the review period to determine whether the volunteer's behaviour or performance has improved. If the volunteer continues to show insufficient improvement, further action may be necessary.

#### **iii) Verbal warning**

The investigator believes the situation not to be too serious, but that action is required to ensure that the volunteer recognises the problem. Verbal warnings last for a maximum of six months and a record of the circumstances that led to this warning must be kept in the volunteer's file.

#### **iv) Written warning**

The investigator believes the situation to be serious and action is required. Written warnings last for a maximum of 12 months and a record of the circumstances that led to this warning must be kept in the volunteer's file.

#### **v) Dismissing volunteer**

The investigator believes the situation to be serious misconduct and that other measures of disciplinary action will not be sufficient. On this occasion, the volunteer will be dismissed from all roles with immediate effect.

### **Stage 1 – Investigation**

This stage should be used to investigate all breaches of misconduct or performance to determine the seriousness of the situation and what action should be taken to resolve it. An investigator will be appointed to carry out this process.

- 1) If the misconduct is deemed sufficiently serious or if it would be in the best interests of the organisation, then the volunteer must be suspended from all active volunteer roles whilst the matter is investigated and concluded.
- 2) The investigator will write to the volunteer asking them to attend a meeting to discuss the issue; the letter should clearly state all the concerns or allegations that will be discussed at the meeting. If any documents will be referred to in the meeting the volunteer will need to receive a copy of these in advance; the letter should also include the five different potential outcomes of the investigation as set out above.
- 3) The volunteer may be accompanied by another person of their choice, for support. The role of this person will be to provide support; however, they will not be able to speak on behalf of the volunteer.
- 4) The investigator will also be accompanied by a second person from within the OPFCC to make notes of the meeting.
- 5) The investigator will advise the volunteer at the end of the meeting that an outcome of the investigation will be communicated within 14 days. If a decision is not available within that timeframe, the investigator will have the option of extending by a further 14 days, however, the volunteer must be informed of the delay and reason for delay within the original 14 days window.
- 6) After the meeting, the investigator may need to meet with other individuals involved to attain further evidence.
- 7) Once the investigator has met with the volunteer, other individuals involved (if necessary) and considered all documented evidence, the investigator will reach one of the following five decisions:
  - A) No further action
  - B) Development plan
  - C) Verbal warning
  - D) Written warning
  - E) Dismissing volunteer
- 8) Outcome D and outcome E require a written report by the investigator explaining the investigation and how the decision was reached.
- 9) The investigator will inform the Scheme Administrator or Governance Manager of their decision. The volunteer will then be informed of the outcome either face-to-face or by telephone, which will then be followed up with written confirmation within 14 days of the meeting/conversation.



- 10) Where the outcome is D or E, the letter to the volunteer should detail the volunteer's right to appeal.

## **Stage 2 – Appeal**

A volunteer has the right of appeal against a written warning and against the decision to ask them to leave. A volunteer does not have the right to complain about outcomes A, B or C.

- 1) The OPFCC Chief Executive who will not previously have been involved in the case will hear the appeal.
- 2) The volunteer should begin the appeals process by writing to the Chief Executive stating that he/she wishes to appeal and clearly setting out the grounds and reasons why he/she does not agree with the decision, on no more than four sides of A4 paper.
- 3) The appeal must be made in writing within 21 days of the date of the result being given to the volunteer.
- 4) The Chief Executive will meet with the volunteer and the investigator separately and another person (whose role will be to provide support but not to actively participate) may accompany each. The Chief Executive should ideally meet within 30 days of an appeal being made. In some limited circumstances, this may take up to 60 days.
- 5) The Chief Executive can uphold a volunteer's appeal against a written warning and a dismissal. However, any return to volunteering remains at the discretion of the ICV Scheme Administrator, and the best interests of the scheme.
- 6) The Chief Executive should inform the volunteer and the investigator of the outcome within 14 days.
- 7) The Chief Executive's decision is final and conclusive. There are no further rights of appeal.

## Appendix 5: Performance Review Procedure

The following procedures apply to the review of performance which is carried out at regular intervals during each ICV's membership of the Independent Custody Visiting Scheme in Cumbria.

- A review of every ICV's performance will be carried out by the Scheme Administrator at regular intervals throughout the visitor's membership of the Scheme should the ICV wish to renew their three-year term appointment.
- Formal reviews will be carried out at the end of the six months probationary period and at the end of each of the two three-year terms of office. An exit review meeting may be held at the end of the final term. An informal review may also be arranged at eighteen months intervals if the Scheme Administrator feels it is necessary.
- A formal review may also take place at any other time if the Scheme Administrator believes that there are matters of concern relating to the performance of an individual ICV, which might benefit from holding a performance review to help understand any problems and to set goals and objectives for improvement if necessary.
- Before a review takes place, the Scheme Administrator will provide the ICV with a review questionnaire to assist the visitor to prepare for the review meeting.
- The Scheme Administrator will check:
  - the number of visits undertaken by the visitor and
  - how many, if any, have been missed
  - whether the visitor has attended the meetings of the Panel and whether there have been any unexplained absences
  - whether the visitor has attended any conferences or training courses provided for them during the period under review
  - liaise with the Panel Chair to identify any issues
- The Scheme Administrator may hold an informal meeting with the ICV to discuss any arising issues from the above. Where identified, the Scheme Administrator may set ~~new~~ objectives to support the ICV to undertake their role in Custody and ~~to~~ provide ~~any~~ additional training which they may feel is necessary.
- If the visitor cannot agree to the proposed actions, they have the right to make an appeal to the Chief Executive of the Office of the Police, Fire and Crime Commissioner (see complaints resolution appeal procedure)
- At the conclusion of the appeal, the Chief Executive will recommend to the Scheme Administrator whether or not to confirm or renew the Visitor's appointment.
- If the Scheme Administrator recommends that the appointment should be terminated, they must provide their reasons in writing and the terms of the appointment procedure will then apply, including the right to appeal (see appointment procedure).

## Appendix 6: The Rights and Powers of ICVs

### BACKGROUND

The Police Reform Act 2002 (Section 51) places a statutory responsibility on the Police, Fire and Crime Commissioner to ensure that all police stations where persons are detained are visited by appropriately trained and vetted volunteer members of the public who are appointed to the Independent Custody Visiting Scheme.

An agreement with the Chief Constable permits two visitors to make one unannounced visit to every designated police custody site in each calendar week of the year.

Custody Visiting is a statutory part of the Custody Process, and the following is a guide to the rights and powers of the visitors intended to assist Custody Officers and their staff.

These rights, powers and responsibilities are stated in guidance provided by the Home Office within the Code of Practice on Independent Custody Visiting.

### RIGHT OF ACCESS TO POLICE STATIONS

#### Custody Visitors:

- **must be given immediate access to the Custody Area** (Paragraph 49)

*Delay is only permitted when granting immediate access may place the visitors or another individual already with the custody area in danger. Visitors may be asked to wait within the custody area until the Custody Officer is able to speak to them.*

- **must be given access to all parts of the custody area and associated facilities** (Paragraph 50)  
*This includes cell accommodation, washing and toilet facilities, facilities for the provision of food, interview rooms (when not in use) and medical rooms (whenever the healthcare professional responsible for the room is present – at other times the visitors should check to ensure that the medical room is locked).*

- **have a right to inspect CCTV cameras and systems in PACE detention facilities to ensure that they are operational, but they may not view any CCTV recordings.** (Paragraph 50)

- **must be advised by the Custody Officer of any specific health or safety risks they might face at the commencement of the visit** (Paragraph 51)

*The Visitors must be shown the report file containing the copy report of the previous visit at the start of their visit and the Custody Officer must advise the visitors of the current situation in custody before they begin a tour of the facilities.*

- **The Custody Visitors must be accompanied by the Custody Officer or a member of custody staff during visits** (Paragraph 52)

### RIGHT OF ACCESS TO DETAINED PERSONS

#### Custody Visitors:

- **must be allowed access to any person detained at the police station at the time of the visit.** (Although there are some exceptions, see below) (Paragraph 53)

- **have the right to have sight of any person detained at the police station** in order to satisfy themselves of the physical well-being of every detainee and in order to establish that the detained person's rights under Article 3 of the European Convention on Human Rights are being upheld.

- **have the right to interview any detainee** *who consents to take part.*
- **are entitled to enter the cell** (subject to the exceptions below) *in order to introduce themselves to the detainee.* (Paragraph 53)
- **have the right to introduce themselves and their purpose and to seek permission to speak to the detainee** *or they may, if they wish, ask the escorting officer to explain the purpose of the ICV visit and ask the detainee whether they are willing to speak with the visitors.*
- **have the right to speak to juveniles with their own consent** *and with or without the presence of an appropriate adult.* (Paragraph 54)
- **have the right to examine the detainee's custody record** *provided that the detainee has given consent. ICVs may also have access to other relevant documentation which relates to the detainee, e.g., risk assessment.* (Paragraph 64)  
*Where a detainee is incapable of deciding whether to give their consent, the presumption must be in favour of allowing the ICVs to examine it.* (Paragraph 65)

**The Custody Officer may limit or deny access to a specific detainee ONLY if authorised by an officer of, or above, the rank of Inspector AND where either of the following grounds apply:**

after a risk assessment has been carried out the officer reasonably believes it to be necessary for the visitors' safety, **or**

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

(Paragraph 55)

**The Custody Officer, must, if the above circumstances apply, give consideration to allowing the visitors some limited form of access to the detainee.** (Paragraph 56)

*This may include allowing the visitors to speak to the detainee through the cell hatch or seeking the detainee's consent to allow the visitors to view the custody record.* (Paragraph 56)

*The Custody Visitors are required to record any decision to deny or limit access to any detainee in their visit report and the decision (together with the relevant authorization) must be recorded in the detainee's custody record.* (Paragraph 57)

- **Custody Visitors must (wherever practicable) be afforded the opportunity to carry out interviews with detainees out of hearing but within sight of the escorting officer.**  
*Whilst recognizing the difficulties in achieving this, the escorting officer should not actively listen to conversations between ICVs and detainees and **must not** interrupt the interview.* (Paragraph 58)
- **Custody Visitors are required to undertake to maintain absolute confidentiality** *and have signed a binding undertaking to do so.*
- **When a Custody Visitor realizes that they know, or are known by a detainee, they have the right to continue with the visit,** *provided that they declare this and the detainee has no objection to continuing, or they may withdraw from the interview, in which case the other visitor may continue the interview alone.* (Paragraph 61)
- **Custody Visitors in Cumbria are not trained and qualified to carry out visits to persons detained under the Terrorism Act 2000 (TACT),** *No access will be given to any person detained under TACT.*
- **Visitors have the right to ask to speak to the Duty Inspector**

if they are unable to satisfy themselves about any issue (*but should only request that the Duty Inspector comes to the Police Station to meet them if they are extremely concerned and believe that immediate action is necessary*).

### **Custody Visitors are required to undertake:**

- to withdraw from the cell if the detained person does not wish to be interviewed.
- not to pass messages to or from detainees or offer to perform other tasks on their behalf and must inform the Custody officer immediately if they are asked to do so. (Paragraph 62)
- to inform the Custody Officer immediately if any detainee indicates that they may harm themselves or another person. (Paragraph 63)
  - to discuss any issues raised with them during the visit with the Custody Officer before leaving the Police Station. (Paragraph 74)
- to advise the detainee to inform the Duty Officer in charge of the Police Station if they express a wish to make a formal complaint about any police officer or member of police staff (Paragraph 75)  
*The visitors are required to record that they have done so in their report.*
- to ensure that they have recorded in their report any issues which cannot be resolved in discussion with the Custody officer.
  
- **Custody Visitors DO NOT have the right to see the detainee's medical records** even where these are attached to the custody record. (Paragraph 73)  
*Key points relevant to medical treatment while in custody should be recorded in the custody record itself and may be viewed.*
  
- **Custody Visitors MUST complete their written report at the end of the visit**, whilst they are still at the Police Station. (Paragraph 77)  
*They must be provided with suitable accommodation to discuss their findings in private whilst they are writing their report.*
  - **The Custody Officer must sign the report** and may append any comments they wish to be taken into account.  
*They must ensure that the second copy is placed in the folder for the following week's visitors to see.*
  
  - **The escorting officer must also add their name to the report** (*if not the Custody Officer*)
  
  - **Custody Visitors are expected to undertake their visits in a professional manner**, and they are expected to develop working relationships with Police Officers and staff based on mutual respect and understanding of each other's legitimate roles. (Paragraph 76)

The full Home Office Code of Practice on Independent Custody Visiting is appended to the ICV Scheme Handbook ( a copy of which is held in every custody suite) and is also available on the Home Office website at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/237395/Independent\\_custody\\_visitors\\_code\\_of\\_practice.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237395/Independent_custody_visitors_code_of_practice.pdf)

## Appendix 7: Glossary of Acronyms

AA	Appropriate Adults
BCU	Basic Command Unit
CC	Cumbria Constabulary
CIT	Custody Investigation Team
CS	Custody Sergeant
DO	Detention Officer
DP	Detained Person
HCP	Health Care Professional
HO	Home Office
HMICFRS	His Majesty's Inspectorate of Constabulary and Fire & Rescue Service
ICV	Independent Custody Visitor
ICVA	Independent Custody Visiting Association
INSP	Inspector
IOPC	Independent Office for Police Conduct
L&D	Liaison and Diversion (identify people who have mental health, learning disability, substance misuse or other vulnerabilities when they first come into contact with the criminal justice system)
MOU	Memorandum of Understanding
OPFCC	Office of the Police, Fire and Crime Commissioner
PACE	Police and Criminal Evidence Act 1984
PFCC	Police, Fire and Crime Commissioner
SGT	Sergeant
SUPT	Superintendent
TACT	Terrorism Act 2000 (usually in reference to Code H of PACE - detention of suspects related to terrorism)

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