



CUSTODY VISITING SCHEME GUIDELINES

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CUSTODY VISITING SCHEME

GUIDELINES

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1. ESTABLISHMENT OF THE SCHEME

The Police & Crime Commissioner (PCC) has a Statutory Duty under Section 51 (6) of the Police Reform Act 2002 (as amended by the Police Reform & Social Responsibility Act 2011) to establish and manage a Custody Visiting Scheme.

Whilst the operation of the Scheme is the responsibility of the PCC, this is exercised in consultation with the Chief Constable.

The Coroners and Justice Act 2009 extends the remit of independent custody visitors (ICVs) remit to include terrorist suspects in detention. Given the differences between terrorist and non-terrorist investigations and statutory frameworks, there are differences in how ICVs operate in relation to terrorist suspects in detention. See 3.7 for more detail.

2. BACKGROUND

The PCC's Custody Visiting Scheme offers an extra level of mutual protection to detained persons and police officers by providing independent scrutiny of the treatment of detained persons, and the conditions in which they are held.

The Scheme affords members of the local community the opportunity to become ICVs to observe, comment and report on the conditions under which persons are detained at Police Investigation Centres (PICs), to ensure that they have been offered their appropriate rights and entitlements in accordance with the statutory and non-statutory regulations governing their detention (namely the Police And Criminal Evidence Act 1984, referred to as PACE and Safer Detention Guidance), and to check on their health and wellbeing whilst being detained.

The Scheme aims to secure a greater understanding and confidence within the local community in respect of the above matters.

3. CUSTODY VISITORS

3.1 Eligibility

The PCC must seek to ensure that the overall make up of ICVs is representative of the local community and provides a suitable balance in terms of age, gender and ethnicity.

Subject to the exceptions outlined below, any person aged 18 or over who lives or works within the police force area and has been a resident in the UK for at least 3 years prior to the date of application, may be appointed.

ICVs are independent of the criminal justice system. On behalf of the PCC, they must be able to make impartial and informed judgements and unbiased observations, in which the community can have confidence and which the police will accept as fair criticism when it is justified.

3.2 **Exemptions**

Anyone who has been convicted of an offence punishable with imprisonment or who has ever served a term of imprisonment or detention, may not be eligible for the position for this reason.

Applicants will be asked to include (as part of the application process) the following:

- a) Details of any such convictions, including those which are spent by reason of the Rehabilitation of Offenders Act 1974;
- b) Consent to a police security clearance check being undertaken. Where the information provided by the applicant differs from that obtained via the security clearance check, the PCC will then discuss the discrepancy with the applicant concerned before deciding whether or not to appoint.

Past offending is not an automatic barrier to acceptance and the PCC is responsible for all appointments of ICVs. The Chief Officer should provide advice to enable the PCC to decide with regard to the suitability of each applicant. The PCC should be informed by the Chief Officer as to the reason(s) for recommending that a volunteer should not be appointed.

In appointing ICVs, the PCC must take care to avoid any potential conflicts of interest. For example, serving police officers, police staff and members of the Police & Crime Panel will be unsuitable for that reason. The same will apply to serving special constables, justices of the peace and officers of the PCC. Time limits may apply for individuals wishing to apply to the Scheme after leaving the above roles.

Each application will, however, be treated on its individual merits, the over-riding factor will be to maintain the independence and integrity of the Scheme as a whole.

The PCCs for Norfolk and Suffolk have agreed that, for their counties, Custody Visitors **should not** also be Appropriate Adults.

The PCCs for Norfolk and Suffolk have determined that Custody Visitors **should not** act as Lay Observers in their counties.

3.3 **Recruitment and Selection**

The PCC will recruit ICVs by inviting applications from the general public on a standardised application form. This will be conducted by open, non-discriminatory advertising, or by other means which the PCC may consider suitable. Recruitment is based on clear role profiles and person specifications setting out the qualities ICVs require to carry out their role effectively. All reasonable adjustments will be made to accommodate individuals with disabilities (as defined in the Equality Act 2010), and individuals for whom English is not their first language but who are able to communicate effectively so as to be understood (where they are considered suitable candidates). He/she

must be informed that visits with detainees are carried out in English as is all documentation relating to detainees.

Applicants will initially be invited to attend a formal interview, conducted by the PCC, with reasons for appointment or non-appointment being duly recorded. Candidates will be required to complete a personal information form for vetting purposes and provide verification of their identity. Reference details will also be requested.

Following a successful interview and once appropriate vetting clearance is received; candidates will be invited to attend initial training and be offered the opportunity to join the Scheme on a six-month probationary basis. Having successfully completed the six-month probationary period, a permanent appointment will be offered for a pre-determined period of time. This will usually be for three years from the start of their trial period, however this period may be shortened or extended as deemed necessary by the PCC.

3.4 **Training**

Further to the provision of initial training outlined at 3.3, during the six-month probationary period, experience will be acquired in a supportive environment.

As outlined in the Role Profile, continuous ad-hoc training is important as there may be specific issues to address in relation to changing legal, procedural, Equality and Diversity issues and Health & Safety requirements, developing best practice or practical issues emerging from the visiting process. Similarly, periodic refresher training of the basic principles is also important.

ICVs will be expected to attend initial and ongoing ad-hoc training in order to fulfil the minimum requirements of the ICV role.

3.5 **Appointment and Accreditation**

Following notification of appointment, the PCC will provide each ICV with a written "Memorandum of Understanding", summarising their agreed responsibilities and the legitimate expectations of both parties.

Each ICV will be issued with an identity card showing the holder's photograph. A PIC access card will also be issued to enable entry to the Reception area of the PICs.

To retain anonymity for ICVs, it is expected that identity cards are not displayed during the actual visit with detainees.

These identity and access cards should only be used for the purpose of accessing the relevant PIC. The cards remain the property of the Constabulary so should be treated with due care. If an ID or access card is lost or stolen this should be reported to the Office of the PCC as soon as possible. If anyone is found to be using their cards for any other purpose, they will be withdrawn and that person's appointment as an ICV terminated. Upon leaving the Scheme, the identity card and access card must be returned to the PCC.

Appointments are reviewed on a regular basis, and in any event, Panels are reconstituted every three years (cross refer paragraph 3.3). Key factors considered in maintaining appointments are:

- The continuing ability and willingness of the individual in question to conduct the role effectively having regard to the role profile for an ICV;
- Ensuring that the individual is operating within the Scheme Guidelines, in accordance with the Home Office Code of Practice and other National Standards, and within the spirit of the Scheme;
- Suitable completion of the vetting renewal process.

ICVs can serve a maximum of two terms (six years). However, they are welcome to re-apply following a three-year break.

The PCC reserves the right, in exceptional circumstances, to extend a period of appointment (with the individual's agreement) beyond the six-year term. This may be done to retain particular skills within the scheme or to provide continuity.

3.6 **Termination of appointment of Custody Visitors**

It is at the discretion of the PCC to terminate an individual's appointment under the following circumstances:

- The ICV is not performing in accordance with the requirements of the role profile and the Memorandum of Understanding;
- In the event of misconduct – this could include misuse of an individual's identity card, conviction of a criminal offence whilst appointed as an ICV, or abusing one's position as an ICV i.e. violating the Scheme Guidelines covering the conduct of ICVs during visits. In addition, any discriminatory, inappropriate or insensitive behaviour are not acceptable;
- Breach of confidentiality (cross refer paragraph 6.4).

ICVs must notify the Chief Executive to the PCC immediately if they are arrested and charged with a criminal offence, or are arrested and subsequently bailed for any criminal offence. In such circumstances, the Chief Executive will suspend the appointment of that ICV, withdraw his/her identity card, and prohibit the individual from acting as an ICV until the outcome of any criminal proceedings is known. If the individual is subsequently found to be not guilty, or if charges are dropped, he/she may be reinstated at the discretion of the PCC.

Where an individual fails to undertake a visit in accordance with the designated rota for the particular Area, the Scheme Manager and the Panel Co-ordinator will liaise to discuss the matter, and contact will be made with the individual (via the Scheme Manager) to establish the reason(s) behind the failed visit. ICVs should have due regard to the minimum requirement expected of them, as outlined in the role profile.

Where an individual has not made any visits within a six-month period, and no sound reason for this has been notified to the Scheme Manager, the PCC will consider whether that person's appointment should be terminated.

A right of appeal against termination of appointment (other than expiry of the term of appointment) will be made available should the need arise.

3.7 Selection of ICVs visiting TACT detainees

Section 117 of the Coroners and Justice Act 2009 introduces two changes to legislation which are intended to strengthen the independent monitoring of the detention and treatment of suspected terrorist detainees.

These two changes amend:

(a) Section 51 of the Police Reform Act 2002 to ensure that the arrangements made by PCCs for ICVs include a requirement that reports about visits made to suspected terrorist detainees are submitted to the Independent Reviewer of Terrorism Legislation (IRTL) as well as to the PCC. The amendments also allow ICVs to listen and view audio and video recordings of interviews with suspected terrorist detainees, subject to any restrictions on such access, which must be specified in this Code of Practice (please see paragraphs 66-72 for further information).

(b) Section 36 of the Terrorism Act 2006 (review of terrorism legislation) under which the IRTL is appointed and tasked with the annual review of the operation of the Terrorism Act 2000 (TACT) and the Terrorism Act 2006, Part 1. As amended, that provision states that the IRTL may in particular consider the treatment of terrorist suspects detained under a warrant of further detention under Schedule 8 to TACT.

ICVs accredited to visit TACT detainees will need to have successfully completed 18 months of PACE custody visits before they can be considered for TACT detainee visits.

ICVs who visit TACT detainees must have Security Check (SC) level clearance and have undertaken specific training provided for visiting TACT detainees.

A regional pool of ICVs for visiting TACT detainees has been established. ICVs are selected by the local area and trained on a regional basis.

Selection, performance management and de-selection of ICVs is the responsibility of the PCC. Given the specific nature of the remit of this role, separate guidance has been formulated for those visiting TACT detainees.

4. VISITING ARRANGEMENTS

4.1 Number of Custody Visitors

The PCC is responsible for recruiting, selecting and appointing ICVs across the county. The Scheme Manager will liaise with each of the Panel Co-ordinators to ensure an adequate number of suitably trained and accredited ICVs are available at all times.

In order to ensure that the PCC is able to maintain the Scheme in the event that any Panel is faced with a large number of absentees (e.g. holidays, ill health etc.), or a shortage of ICVs, the Scheme Manager will liaise with all relevant Co-ordinator(s) to identify substitutes whilst additional recruitment is undertaken. This will ensure that there is no detrimental effect on the visiting rota.

4.2 **Visiting in pairs**

Visits must be undertaken by pairs of ICVs working together (unless observing a visit for training purposes). The appointed Co-ordinator in each Area will vary the pairings in the interests of best practice. Any ICV arriving at a PIC on his/her own will not be granted access to the custody area to make a visit. In such cases, the standard procedure is to abort and re-arrange the visit.

In general, no more than two ICVs should attend the custody suite at any one time, as larger parties could constitute an additional burden on the staff at the PIC. ICVs must not be accompanied by any unauthorised persons, and visits can only be made when accompanied by another accredited ICV. However, during an ICVs' probationary period, observational visits may be facilitated to enable experience to be acquired in a supportive environment.

4.3 **The role of the Co-ordinator**

Full details of the role and requirements are outlined in a designated role profile for a Co-ordinator (Appendix iv). In summary, he/she will be responsible for:

- Producing a visiting rota for ICVs in the respective Panel, having regard to the requirements of the Scheme;
- Arranging Panel meetings in the respective Area in liaison with the Scheme Manager;
- Attending meetings with respective Co-ordinators in other Areas, along with a representative of the PCC and Constabulary as necessary.

4.4 **Frequency and Timing of visits**

Each individual ICV is expected to undertake a minimum of 8 visits per year. Whilst the precise timing of visits is a matter for each individual ICV to determine with their visiting partner, it is important to ensure a suitable spread of visits across a range of days and times during a week.

ICVs will arrive at the PIC without prior notice, and should avoid making visits at regular or predictable times.

The PCC, in consultation with the Chief Constable, has agreed that visits to PIC will be undertaken once a week. Care has been taken to ensure that visits, whilst sufficiently frequent to meet the objectives of the Scheme, do not take place so frequently that they impair the efficiency of the administration of the PIC concerned or the operational work of the officers attached to it.

ICVs should bear in mind that their visits impose an additional responsibility on custody officers, and they should also be aware of possible delays during Custody shift change over periods.

4.5 **Visits at the request of Norfolk or Suffolk Constabularies/High-Profile Detainees**

Whilst visits should normally be unannounced, there may be instances when there is particular tension within the local community about the treatment or well-being of one or more persons being detained at a PIC, or cases of a high-profile nature. In such circumstances, ICVs may be invited to attend. Should this be the case, the Constabulary will liaise with the PCC (via the Chief Executive), who will ensure the necessary arrangements are made.

5. **VISITING PROCEDURES AT THE POLICE INVESTIGATION CENTRE**

5.1 **Immediate access to the custody area**

ICVs must be admitted to the custody area **immediately** unless there is a threat to the ICVs' health and safety. If access is delayed, this will affect the credibility of the Scheme.

In order to gain access, ICVs will attend the PIC reception and make themselves known to staff (by ringing the buzzer). Once in the custody area, delays may occur in visits commencing if the custody officer is busy. In such circumstances, ICVs should be invited to wait at an appropriate place near the custody desk until the custody officer or another officer is available to escort them. A full explanation should be given to the ICVs as to the reason for any delay, and this will be recorded by the ICVs in their report.

5.2 **Access to all parts of the custody area**

Dependent on the facility being visited, Custody Visitors should have access to those parts of the custody area highlighted at Appendices A-F. This includes cells, charging areas, washing facilities, food preparation areas, visit rooms and medical/forensic rooms (this does not, however, include access to locked drugs cabinets). The purpose of these checks is to ensure adequate provision has been made to deal with the needs of detainees and their health and wellbeing.

ICVs will wish to satisfy themselves that these areas are clean, tidy and in a reasonable state of repair and decoration, and that bedding in cells is clean and adequate. Custody facilities also have "forensic search rooms" which have been forensically cleaned, for use should a detained person be required to surrender their own clothing to obtain potential evidence. As a result of forensic cleaning, doors to these rooms will be locked and therefore won't be available for inspection by ICVs.

ICVs can periodically check that suitable arrangements exist for adequate stocks of mattresses and blankets, the cleaning of such items, and for regular replacement of necessary furnishings and equipment. ICVs will be allowed access to CCTV systems installed to observe the custody area or individual cells, to ensure they are operating properly and that appropriate pixelation is in place.

They may review empty cells to check heating/ventilation systems, and that cell buzzers and toilet flushing/hand washing mechanisms are working properly. They may review interview rooms and consultation rooms in the custody area if unoccupied. ICVs may not visit other operational parts of the PIC.

5.3 **Duration and management of visits**

ICVs will need to allow adequate time to ensure that detainees can be spoken with, custody records can be checked and conditions of facilities can be examined. It is **recommended** that ICVs spend **no longer** than **2 hours** in the PIC Centre given the operational demands required in escorting ICVs.

As a result and given the size of the facilities, ICVs may wish to select a 'sample' of detainees to offer visits to so that there is still sufficient time to undertake the other aspects of the role within the 2 hour timeframe. It is left to the discretion of the ICVs as to how many individuals are selected albeit consideration should be given to prioritising vulnerable detainees, females, children and young people.

ICVs are encouraged to review the last few visit report forms prior to starting the visit process to ensure that items picked up previously receive the required focus and that specific areas, including same cell wings, are not repeatedly checked (with others being missed).

5.4 **Access to Police Investigation Centres when closed**

In the rare event of the PIC Centre being closed when ICVs arrive to undertake a visit, where prior notification of the closure had not been provided, they should contact the Scheme Manager (who will, in turn, advise the Panel Co-ordinator) as soon as possible to investigate the reason behind the closure, and why prior notification had not been provided.

A Custody Visiting Report Form should also be completed (cross refer 7.1) so that suitable documentation is available for scrutiny by the PCC.

5.5 **Security and Safety**

The custody officer or a member of the custody staff must be alert to any specific health or safety risks ICVs might face and **must** advise them appropriately **at the commencement of the visit process**. This detail will be recorded by ICVs in their report.

ICVs are reminded not to take any personal belongings into the custody suite (e.g. handbags, mobile phones etc.).

In the interests of security and the safety of ICVs, the custody officer or a member of the custody staff will accompany them **at all times** whilst speaking to detainees or reviewing facilities. The requirements of the Scheme are such that ICVs should remain within sight of the custody staff during the course of conversations with detainees (to ensure the safety of ICVs is not compromised), although wherever practicable, the custody staff should be out of hearing of the discussion taking place.

ICVs are encouraged to be mindful of their personal safety whilst in the cells and advised not to get too close to, or have any contact with, detainees. Due care must be taken when using the translation sheets.

ICVs should be left in a 'safe space' (e.g. professional waiting room or consultation room) to review/discuss custody records and complete their report forms.

5.6 **CCTV**

In respect of conducting a visit via CCTV, the Home Office view is that ICVs should carry out their function in person as their role is fundamentally interactive with both detained persons and police staff, and therefore cannot be discharged remotely. There may also be issues about infringing the privacy of detained persons who have not consented to ICVs observing them using CCTV.

Therefore, it has been deemed inappropriate for ICVs to view CCTV footage. However, as referred to in paragraph 5.2, ICVs will be allowed access to CCTV systems installed to observe the custody area or individual cells, to ensure they are operating properly.

5.7 **Access to detained persons**

Subject to the exceptions referred to at 5.10, ICVs must be allowed access to **any person detained at the PIC**. In addition to PACE detainees, this may include:

- Persons remanded to police custody in accordance with section 128 of the Magistrates Courts Act 1980, as amended;
- Remand and sentenced prisoners held in police cells under Section 6 of the Imprisonment (Temporary Provisions) Act 1980; and
- Persons detained under the powers of the Immigration Act 1971

Only ICVs who have undergone the appropriate security vetting and training will be allowed access to Persons detained in accordance with section 41 and Schedule 8 of the Terrorism Act 2000 (see paragraph 3.7).

5.8 **Consent to a custody visit by a detained person**

A detained person is not obliged to speak with ICVs or to answer questions, and can only be visited with their consent.

Consent for a visit to take place will be established by self-introduction. ICVs will explain their purpose and seek permission to speak to the detainee. Whether or not the detained person agrees to see the ICVs, permission should also be sought for ICVs to have access to the detained person's custody record (cross refer paragraph 5.13). Any agreement will be added to the custody record.

5.9 **Detained persons who are unable to consent to a visit**

If, for whatever reason, a detainee is not in a position to provide 'consent' to a visit (e.g. due to mental health illness or the effects of alcohol or drugs) subject to

the exemptions outlined at 5.10, access to the custody record will be granted without permission being sought.

5.10 **Restrictions to visits**

The police may limit or deny ICVs access to a specific detained person only if an officer **of or above the rank of Inspector**:

- i) has carried out a thorough risk assessment and believes that to be necessary for the ICVs' safety; or
- ii) reasonably believes that such access could interfere with the process of justice.

If either of these circumstances apply, consideration should be given to allowing the ICVs some limited form of access to the detainees, such as speaking to them through the cell hatch.

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

5.11 **Detained persons who are asleep**

Detained persons who are sleeping can be woken at the discretion of the escorting officer to seek consent to a visit. However, where this would involve interrupting the continuous period of eight hours rest provided for under PACE regulations, the normal procedure should be not to wake the person but to observe them through the cell hatch.

It is recognised that an individual who is asleep is not classed as 'incapable' and therefore automatic access to the custody record is not granted in such circumstances.

5.12 **Access to juveniles**

A juvenile, i.e. those aged below 18 years (as defined under PACE Regulations), may be visited with his/her own consent. Similarly, access to the custody record may also be given with his/her own consent, and it is not necessary to obtain the additional consent of a parent or guardian. If an Appropriate Adult is in attendance to support a juvenile or vulnerable person, the detained person's wishes should be sought and respected as to whether the Appropriate Adult should be present during the visit.

Children or young persons should not be allowed to associate or travel with adult detainees while in detention or transported, unless association, with jointly charged adults and relatives, is permitted in accordance with Section 31 Children and Young Persons Act 1933.

Juveniles should be subject to more frequent observations and monitoring by the custody officer.

Girls under the age of 18 years must be under the care of a female officer/member of staff while being detained, conveyed or waiting to be so.

5.13 **Access to the Custody Record**

A detained person is not obliged to provide ICVs with consent to view their custody record and ICVs are responsible for establishing whether or not each detained person will provide consent). If a detained person, including a juvenile, refuses access to the custody record, ICVs will not be allowed to see it.

However, if a person is for any reason incapable of deciding whether to allow access to their custody record (e.g. owing to a mental illness or disability, being comatose, or incapacitated through the influence of drugs or alcohol) the presumption should be in favour of allowing the ICVs to examine it.

To facilitate effective use of the custody record information and to limit interruption to the running of the PIC, good practice dictates that ICVs are provided with a hard copy of the appropriate sections of the custody record. Further detail in this respect is contained within the Athena Information Protocol located in the ICV Custody File.

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

- Whether entitlements under PACE have been given and signed for;
- That medication, injuries, medical examinations, meals/diet are recorded;
- The timing and frequency of cell inspections of detainees;
- The timing of reviews in relation to the continuing need for detention.

ICVs may also have access to other relevant documentation which relates to a detainee (e.g. risk assessment) and all such information should be treated confidentially. However, ICVs have no right to see a detainee's medical records even when they are attached to the custody record. Key points relevant to medical treatment should be recorded in the custody record itself, in particular the 'medication form'.

Where detained persons are not visited under paragraphs 5.11 and 5.14 it must be construed that no consent has been given to view the custody record.

5.14 **Detained persons who are being interviewed**

If a detained person is being interviewed, the interview may not be interrupted. If the ICVs wish to see the person later in the visit, following completion of the interview, they may seek to do so and may, if necessary, wait in the professional waiting room for this purpose. The visit taking place with the detained person will, of course, be dependent on their consent being given.

5.15 **Conversations between detained persons and Custody Visitors**

Conversations between ICVs and detained persons should focus on:

- Checking whether or not detained persons have been offered their rights and entitlements under PACE (including receipt of the necessary paperwork);

- That relevant Safer Detention Guidelines are being observed;
- Checking on a detainee's health and wellbeing, and;
- Confirming whether the conditions of detention are appropriate.

ICVs should do all they can to encourage an open exchange with the detained person, and may wish to use a checklist to ensure that they cover all the relevant issues. It must be stressed, however, that ICVs must remain impartial, and must not involve themselves in discussions pertaining to the police investigation of an incident.

5.16 **Conversations with detained persons where English is not their first language**

Where English is not the detained person's first language, translation support should be provided where necessary, primarily through the use of the centralised translation telephone facility.

All ICVs will have access to a series of translation sheets which allow ICVs to raise a series of questions most pertinent to their remit. This enables a basic check to be made, again following consent being obtained, in the spirit of the Scheme.

5.17 **Child Protection Responsibilities**

Under Section 11 of the Children's Act 2004 (as amended by the Police Reform & Social Responsibility Act 2011), the PCC has responsibilities in relation to the welfare of children; and for the purposes of the Act, a child is defined as an individual under the age of 18 years.

Accordingly, if an ICV becomes concerned as to the welfare of a child for any reason regardless of whether the concern relates to the offence(s) for which he/she is being held, the ICV must inform the custody officer immediately, and a record must be made on the visit Report Form to this effect.

5.18 **Medical conditions**

ICVs should pay particular attention to detained persons who are suffering from any form of illness, injury or disability, and should satisfy themselves that, if appropriate, a medical examiner has been called or telephone advice from a medical professional has been sought. The 'Detention Log' should include details of instances where a detained person requires medication (i.e. the 'medication form'), and the frequency/timing(s) thereof. Custody officers are responsible for ensuring that medication is given at appropriate times.

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

5.19 **Death, serious injury and adverse incidents in custody**

The Constabulary will inform the PCC (via the Chief Executive) of:

- a) Any death or serious injury in police custody;
- b) Any death of a person occurring after a period of police custody where known.

The PCC will, in turn, notify ICVs as appropriate.

The Scheme Manager will receive regular updates on adverse incidents in custody.

5.20 **Complaints by detained persons**

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

If a detained person makes a complaint of misconduct by a police officer, they should be advised to address it to the Custody Inspector in charge of the PIC. With the detained person's consent, it may be appropriate for the ICVs to notify the Custody Inspector that the detained person wishes to make a complaint. In addition, ICVs may want to remind the detained person that they can seek legal advice in relation to the complaint or ask to see a doctor if an alleged assault is involved.

However, such complaints must be dealt with through the Constabulary's formal complaints procedure, and there is no broader role for ICVs. They should not involve themselves in individual cases or make representations on detained persons' behalf.

If a detained person wishes to make a complaint against an ICV during the course of their duties, the custody officer should advise the individual of the procedure in place to do so (See Appendix (v)).

5.21 **Remand and Sentenced Prisoners**

Remand and sentenced prisoners held in PICs may seek to complain about conditions in prisons or the treatment they have received there. ICVs must not involve themselves in such matters. There are recognised grievance procedures open to prisoners, such as writing to or petitioning the Home Secretary or writing to their solicitor or Member of Parliament.

The contractors for the court escort services and the immigration services also have their own procedures for recording complaints about their staff. Any complaint alleging a criminal offence will be reported to the police and the other relevant bodies immediately.

Any complaint made to the contractor which amounts to a police complaint will be referred to the police for investigation as at present.

5.22 **Detained persons who have been subject to an incapacitant spray (e.g. PAVA) or TASER**

ICVs may, during the course of their visits, encounter detained persons who have been subjected to an incapacitant spray or TASER. ICVs may wish to assure themselves of the health and well-being of such persons.

If ICVs believe that the detained person is suffering due to the after effects of an incapacitant spray/TASER, they should bring this to the notice of the custody officer who has responsibility for seeking medical assistance.

5.23 **National pandemic/crisis and remote monitoring arrangements**

In the event of a global pandemic, such as Covid 19, or other national crisis that prevents ICVs from undertaking physical visits to the PICs, the PCC and Constabulary will work together to establish suitable alternative remote monitoring arrangements.

6. IMPARTIALITY AND CONFIDENTIALITY

6.1 **Advice**

ICVs must not involve themselves in individual cases to the extent of offering advice about whether or not detained persons should make a statement or otherwise co-operate with police enquires. Such advice would be inconsistent with the ICVs' independence from the processes of investigation.

ICVs should, therefore, decline to discuss anything other than the conditions in which persons are detained and their treatment, even though some persons will naturally wish to ask advice about their possible defence, particularly if they have not already received legal advice.

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

In the interests of impartiality, if an ICV realises they know or are known by a detainee, they must declare this and consider whether to withdraw from the cell.

6.2 **Contact with persons outside the Police Investigation Centre**

ICVs should never agree to make contact with any person outside the PIC at the request of a detained person. ICVs must not pass messages to or from detainees or offer to perform other tasks on their behalf. If they are asked to do so, they must immediately inform the custody officer.

6.3 **Custody Visitors giving evidence in criminal proceedings**

ICVs must remain impartial and must not seek to involve themselves in any way in the process of investigation. If a detained person seeks to make admissions or otherwise discuss an alleged offence, the ICV must tell them that the relevant

contents of the visit may be disclosed in legal proceedings and consider whether it is necessary to withdraw from the cell.

6.4 **Confidentiality**

ICVs will acquire considerable personal information about detained persons in police custody. The great majority will not yet have appeared before a court, and many never will. Personal information relating to detained persons must be protected against improper or unnecessary disclosure.

ICVs will, therefore, be asked to give an undertaking (included on the visit Report Form) not to release the identity of, or information capable of identifying, any person in police custody, even in discussion with fellow ICVs or the PCC.

6.5 **Breach of Confidentiality**

Breach of this undertaking may make an ICV liable to civil proceedings by the detained person concerned, and subject to immediate removal from the Scheme by the PCC. ICVs also need to be aware that the unauthorised disclosure of the facts concerning police operations or the security of PICs may constitute an offence under Section 5 of the Official Secrets Act 1989.

If the custody officer suspects improper conduct on the part of the ICVs to the extent that their confidence in the proper conduct of visits is undermined, the officer should require the ICVs to withdraw and summon the Custody Inspector, who will hear both parties. Should all other courses fail; the Custody Inspector can decide to terminate the visit. The Custody Inspector will submit an immediate report to the Head of Norfolk & Suffolk Custody Services and, via the Scheme Manager, to the Chief Executive. The Scheme Manager will also liaise with the relevant Panel Co-ordinator to ensure that the rota of visits can be maintained.

6.6 **Social Media**

ICVs must be mindful when using any Social Media platform not to reveal any details of their ICV role, visits, or persons seen.

7. **REPORTS OF VISITS AND FOLLOW-UP ACTION**

7.1 **Completion of reports**

At the end of each visit, and prior to leaving the PIC, ICVs must complete a standard Custody Visiting Report Form and include detail in relation to conditions and facilities, rights and entitlements and health and wellbeing of detainees.

ICVs are required to capture statistical data for **ALL** detainees held at the PIC at the time of their visit, albeit the decision may be taken to offer the visit to a 'sample' of detainees.

ICVs should be shown to a suitable private area (e.g. professional waiting room or consultation room) in which to complete their report form given the need to examine the detention logs and discuss issues highlighted by detained persons. Custody staff should not be present whilst ICVs initially discuss and complete

reports albeit that any queries may be discussed and further detail added prior to the custody sergeant signing the form.

Supplies of Report Forms are held in each of the custody facilities (including via the collaboration portal) and can also be obtained via the Scheme Manager.

One copy of the report is:

- a) Forwarded to the Scheme Manager for the consideration of any action to be taken, and for reference to the PCC (original);
- b) Left in the PIC for perusal by the Custody Inspector, custody officer and subsequent filing;
- c) Forwarded to the respective Panel Co-ordinator for retention.

7.2 **Reports on issues arising out of visits**

If a visit discloses any aspect of the treatment of detained persons or conditions at the station which require immediate attention, details should be included on the Report Form and raised with the custody officer at the time. Items that do not require immediate attention should also be detailed on the Report Form and the Scheme Manager will liaise with the appropriate police supervisors to address problems or issues of concern identified.

In addition, regular Panel meetings for ICVs are held by each Panel to discuss relevant matters, and to draw together issues/identify trends emerging from visits undertaken by their Panel. It is recommended that a police representative (usually the Police Inspector) from the respective custody facility be invited to at least part of the meeting. This will provide an opportunity for feedback to action taken as a result of custody visits and a chance to discuss matters of mutual concern.

7.3 **Expenses**

The work of an ICV is entirely voluntary, but expenses will be payable when travelling to conduct visits. Private car mileage will be paid at the agreed rate and public transport fares will be reimbursed as per appropriate receipts.

Travel and subsistence expenses can also be claimed for attending training sessions, or other relevant/associated events held. Childcare and carer expenses may also be claimed under exceptional circumstances, details of which are available from the Scheme Manager. Such claims must be made on the appropriate form and submitted to the Scheme Manager on at least a quarterly basis, who will arrange for payment to be made.

It is recognised that Co-ordinators potentially incur legitimate additional expenses undertaking their role (e.g. telephone calls, postage, paper etc.) and the provision of reimbursement for such costs is available in liaison with the Scheme Manager.

7.4 **Insurance**

The PCC has adequate insurance cover in place for ICVs in their usual duties (i.e. during a custody visit and travel to and from the PIC for a visit/panel meeting or training event at another facility).

The cover held by the PCC includes Public Liability insurance to indemnify ICVs against legal liability for damages in respect of injury or loss of their property due to negligence by Norfolk or Suffolk Constabulary/PCC. Negligence on the part of Norfolk or Suffolk Constabulary/PCC would need to be proven in the event of a claim. It should be noted that the policy does not hold an upper age limit.

Policy cover also includes Personal Accident insurance, covering the insured person sustaining accidental bodily injury whilst carrying out their duties. This element does, however, contain certain exclusions. The benefits of this element of the policy are reduced for all ICVs over the age of 75.

It should be noted that ICVs' personal motor insurance may require them to hold 'business' cover. This should be checked with individual insurers depending on how they class their business travel. The PCC is not responsible for ensuring the ICV has the appropriate level of motor insurance for their private vehicle. The PCC does not provide insurance cover for ICVs' vehicles or for any subsequent liability arising from a road traffic collision involving an ICV.

Failure of ICVs to ensure that they have valid insurance in place to cover their visits could result in their insurers declining to pay in the event of a claim. ICVs should also ensure their vehicle is kept in a roadworthy condition with valid tax and MOT. If it is found that these requirements have not been adhered to, this again, could affect insurance cover policies.

7.5 **Placement of Guidelines**

For ease of reference, a copy of these Guidelines will be issued to all ICVs, and also placed within the PICs in the ICV Custody Visiting file.

8. **PUBLICITY**

8.1 **General**

An essential purpose of custody visiting is to strengthen public confidence in procedures at PICs, which results in the need for publicity. Raising awareness is also vital to supporting effective recruitment.

Internally within the Constabulary, it is important to ensure that relevant police officers and associated staff have a knowledge and understanding of custody visiting, and that an appropriate level of information regarding the Scheme is provided to detained persons. It is the responsibility of the PCC to undertake activities pertaining to the promotion and recruitment of ICVs, including the publication of an Annual Report.

ICVs must not discuss the cases of individuals with whom they come into contact during visits to PIC and under no circumstances must individual contacts or

specific events be discussed, except in general, anonymous terms which support any explanation of the purpose of the Scheme.

Any invitation to speak to the press, or local groups or organisations about any aspect of custody visiting must be referred in the first instance to the PCC via the Scheme Manager.

8.2 **Data Protection**

The purpose of the Data Protection Act 1998 is to protect the rights of the individual about whom data is obtained, stored, processed or supplied rather than those of the people or organisations who control and use personal data. The Act applies to both computerised and paper records.

The names, addresses and telephone numbers of ICVs are made known to fellow ICVs for the purpose of making personal contact and for the co-ordination of visits. To preserve individual privacy, personal contact details must not be divulged to any other persons. Next of Kin details for ICVs are also held by the OPCC and Panel Co-ordinators for use in emergencies.

Please also cross refer paragraph 6.4 regarding confidentiality of detainee information.

**HOME OFFICE CODE OF PRACTICE ON INDEPENDENT CUSTODY VISITING –
MARCH 2013**

Introduction

1. This Code of Practice on independent custody visiting is issued in accordance with section 51 of the Police Reform Act 2002, as amended by section 117 of the Coroners and Justice Act 2009 and paragraph 299 of Schedule 16 to the Police Reform and Social Responsibility Act 2011. Local policing bodies and independent custody visitors (ICVs) shall have regard to the Code in carrying out their relevant functions. Throughout this Code, the term 'police and crime commissioners' includes the Mayor's Office for Policing and Crime (MOPAC) (in respect of the Metropolitan Police Service) and the Court of Common Council of the City of London Corporation (in respect of the City of London Police).

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

3. The Coroners and Justice Act 2009 extends independent custody visitors' remit to terrorist suspects in detention. This Code of Practice has been amended to set out how this would operate in practice - given the differences between terrorist and non-terrorist investigations and statutory frameworks, there are differences in how independent custody visiting operates in relation to terrorist suspects in detention.

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

Legislation

5. Section 51 of the Police Reform Act 2002 (as amended) requires Police and Crime Commissioners in England and Wales to make arrangements for detainees to be visited by ICVs. Such arrangements may make provision for access to detainees by ICVs, examination of records, inspection of detention facilities and provision of a Code of Practice.

6. Section 117 of the Coroners and Justice Act 2009 introduces two changes to legislation which are intended to strengthen the independent monitoring of the detention and treatment of suspected terrorist detainees. These two changes amend:

(a) Section 51 of the Police Reform Act 2002 to ensure that the arrangements made by PCCs for ICVs include a requirement that reports about visits made to suspected terrorist detainees are submitted to the Independent Reviewer of Terrorism Legislation (IRTL) as well as to the PCC. The amendments also allow ICVs to listen and view audio and video recordings of interviews with suspected terrorist detainees, subject to any restrictions on such access, which must be specified in this Code of Practice (please see paragraphs 66-72 for further information).

(b) Section 36 of the Terrorism Act 2006 (review of terrorism legislation) under which the IRTL is appointed and tasked with the annual review of the operation of the Terrorism Act 2000 (TACT) and the Terrorism Act 2006, Part 1. As amended, that provision states that the IRTL may in particular consider the treatment of terrorist suspects detained under a warrant of further detention under Schedule 8 to TACT.

7. While the provisions of the Police Reform Act 2002 cover only England and Wales, the remit of the IRTL covers the entire UK. Therefore, in this regard his remit to examine compliance with Schedule 8 and the relevant PACE (and PACE NI) Codes cover Great Britain and Northern Ireland and similarly to review the operation of equivalent terrorism legislation in Scotland. This Code of Practice applies to England and Wales only. However, in order for the IRTL to fulfil his duties under section 117, equivalent arrangements will be put in place in Northern Ireland and Scotland to ensure a consistent approach is taken throughout the UK.

Organisation and Infrastructure

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

9. Overall responsibility for the central administration of the scheme must be given to a nominated officer on the PCC staff, supported as necessary by other personnel and resources.

10. At police area level, groups or panels of volunteers must be organised to visit police stations in the area. Every group needs to have its own co-ordinator locally, supported by the PCC's staff. Paragraphs 23-24 below explain the arrangements for ICVs who are accredited to visit TACT detainees.

Recruitment and Conditions of Service

Organising Recruitment

11. PCCs are responsible for recruiting, selecting and appointing ICVs and must ensure these functions are adequately resourced.

12. Adequate numbers of suitably trained and accredited ICVs must be available at all times. Paragraphs 23-24 explain the arrangements for ICVs who are accredited to visit TACT detainees.

The Recruitment Process

13. Recruitment must be based on clear role descriptions, as well as person specifications setting out the qualities ICVs require to carry out their role effectively.

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

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

16. No person shall be appointed as an ICV without an interview taking place. The selection panel must record the reasons for decisions about appointment or non-appointment. Any appointment must be made solely on merit. Any appointment is subject to vetting or security clearance for all custody visitors to an appropriate level as determined by the Home Office.

ICVs who visit TACT detainees must have Security Check (SC) level clearance and have undertaken the specific training provided for visiting TACT detainees (see paragraphs 37-38 for details of the training). Before renewing the appointment of an individual ICV, PCCs must ensure that appropriate vetting or security clearance remains valid until the end of the period of appointment (see paragraph 29 below).

17. All ICVs must be at least 18 years old and must be living or working within the police area, having been resident in the UK for at least 3 years prior to the date of application. ICVs accredited to visit TACT detainees will need to have completed the I training and is a condition of selection for this role. ICVs must have successfully completed 18 months of PACE custody visits before they can be considered for TACT detainee visits. Paragraphs 37-38 provide more detail on the training for these roles.

Who should be selected?

18. The PCC must seek to ensure that the overall panel of ICVs is representative of the local community and provides a suitable balance in terms of age, gender and ethnicity.

19. All reasonable adjustments, as defined in the Equality Act 2010, must be made to accommodate those with a disability. Where it is proposed to appoint as an ICV an individual who does not have English as their first language, but who is able to communicate effectively so as to be understood, and is otherwise considered to be a suitable candidate, he/she must be informed that visits with detainees are carried out in English as is all documentation relating to detainees.

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

21. Where an applicant has one or more convictions for criminal offences, or has received any formal caution, warning or reprimand, or has failed to disclose any such finding, the specific circumstances must be considered in assessing suitability to become an ICV. However, past offending is not an automatic barrier to acceptance. The chief officer should provide advice to enable the PCC to make a decision with regard to the suitability of each applicant. The PCC should be informed by the chief officer as to the reason(s) for recommending that a volunteer should not be appointed. Ultimately, the PCC is responsible for all appointments of ICVs – subject to meeting the requirements (for example vetting) set out in this guidance.

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

ICVs visiting TACT detainees

23. The selection of ICVs for TACT detainee visits will draw on the existing structures whereby ICVs are associated with schemes administered by individual PCCs and carry out visits only in that police area.

24. ICVs for TACT detainee visits will be drawn from those areas where terrorism detention takes place.

Other Possible Roles for Custody Visitors

25. ICVs may also act as appropriate adults. However, individuals must not switch between those roles during the course of a visit to the same police station and must declare if they have previously carried out either role with the same detainee. An individual cannot perform both roles (i.e. acting as an appropriate adult and an ICV) simultaneously for the same detainee. *Section 3.2 of these guidelines confirm that ICVs for Norfolk and Suffolk will not be permitted to act as Appropriate Adults.*

26. ICVs may also act as lay observers appointed under section 81 of the Criminal Justice Act 1991 to inspect the conditions under which prisoners are transported and held. *Section 3.2 of these guidelines confirm that ICVs for Norfolk and Suffolk will not be permitted to act as Lay Observers.*

Basis of Service

27. The PCC must provide each ICV with a written memorandum of understanding summarising their agreed responsibilities and the legitimate expectations of both parties.

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

Tenure

29. Appointments as an ICV must initially be for three years and must not be confirmed until a six-month probationary period has been satisfactorily completed. Full re-assessments of suitability must take place at regular intervals but no longer than three years apart. The key factors in renewing appointments for further periods must be the continuing ability and willingness of the individuals involved to do the job effectively. Any decision not to renew the appointment must follow the principles of natural justice and must be publicised in the scheme's memorandum of understanding or guidance. There are additional training and selection requirements for TACT ICVs as set out in paragraphs 37-38.

Removal

30. A PCC can terminate an ICV's appointment because of misconduct or poor performance.

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

Complaints Procedures

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

Payment

33. ICVs are entitled to be reimbursed for their legitimate expenses incurred in carrying out their role.

Insurance

34. The PCC must ensure adequate cover and provision for claims arising from an ICV's role.

Training

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

36. The PCC must evaluate the effectiveness of training and the extent to which it is achieving its objectives.

Training, selection and guidance for ICVs visiting TACT detainees

37. The Independent Custody Visiting Association (ICVA), with Home Office support, is responsible for developing and keeping under review an additional training package for ICVs visiting TACT detainees. Training will cover an explanation of the legal framework, review process, arrangements for visits, the role of the IRTL and how ICVs will work with the IRTL in carrying out their functions, and the conduct and reporting of visits.

38. Training for ICVs visiting suspected TACT detainees is part of the selection process, and successful completion of training is a condition of selection for this role. ICVs must have successfully completed eighteen months of PACE custody visits before they can be considered for TACT detainee visits. Selection, performance management and de-selection of ICVs is the responsibility of the relevant PCC.

Frequency and Coverage

39. The PCC should liaise with the chief officer about the frequency with which visits should be carried out.

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

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

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

Visiting TACT detainees

43. In respect of PACE detention, ICVs regularly conduct unannounced visits to police stations. This element of “spot-checking” is an important tool in ensuring ICVs are able to provide an accurate “snapshot” account of detention conditions. Appropriately trained and security cleared ICVs may still undertake unannounced visits to terrorism detention suites, but given the low number of TACT arrests in comparison to PACE arrests, it is unlikely that a terrorist suspect will be in detention during visits which are conducted on an ad-hoc basis. For this reason, the relevant ICV Scheme Manager will be notified when terrorist arrests take place and where those arrested are being detained.

44. This notification will be made by the police custody officer as soon as practicable after the detainee has arrived at the detention suite.

45. The ICV Scheme Manager will inform appropriately trained and security cleared ICVs that an individual has been arrested under TACT and of the detention facility at which they are, or will be, held.

46. One of the nominated ICVs will make contact with the police custody detention suite to inform them of their intention to visit. The selected pair of ICVs may visit unannounced but a police officer of at least Inspector rank may delay access until such a time as is practicable (as set out in Section 51(4)(a) of the Police Reform Act 2002 and in paragraphs 49 and 55 of this Code). The police will accommodate an initial visit as early as possible, although visits may need to be delayed where multiple arrests take place simultaneously in order to allow suspects to be “booked in”. This ensures that suspects are able to receive notice of their statutory rights, and to exercise their right to inform someone of their arrest and receive legal advice. The process also ensures that the police are able to collect any necessary physical evidence from a person for analysis (e.g. forensic samples, DNA profiles, fingerprints etc). However, ICVs should be able to conduct an initial visit as soon as is practicable after the detainee has arrived at the detention suite.

47. Pre-charge detention under TACT can continue up to a maximum of 14 days. Therefore, subsequent visits by appropriately trained ICVs may be appropriate but this will depend on the length of the detention. Subsequent visits may take place until the detainee is charged or released. As a matter of good practice, different pairs of ICVs should visit the same detainee in the same pre-charge detention period. The police cannot direct when ICVs should conduct their visits; ICVs can visit a detainee whenever they wish – subject to the detainee’s consent (see paragraphs 64 and 72).

Working arrangements

Conducting visits

48. To ensure the safety and wellbeing of volunteers, visits must be undertaken by pairs of ICVs working together.

Visiting Procedures at Stations

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

50. ICVs must have access to all parts of the custody area and to associated facilities, such as cell accommodation, washing and toilet facilities, facilities for the provision of food and medical rooms (which in some cases, may only be accessible when the force's healthcare practitioner is present) for the purposes of inspection. However, it is not part of their role to attend police interviews with detainees. Custody visitors will be allowed access to CCTV cameras and systems (in PACE detention facilities) to ensure that they are operational.

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

52. The custody officer or a member of custody staff must accompany ICVs during visits (subject to paragraph 58).

Access to Detainees

53. Subject to the exceptions referred to in paragraph 55, ICVs must be allowed access to any person detained at the police station. However, only ICVs who have undergone the appropriate security vetting and training will be permitted access to TACT detainees, irrespective of where they are being held. Detainees may only be interviewed with their consent which will be established either by:

i) self-introduction – the ICVs will introduce themselves and their purpose and seek permission to speak to the detainee

ii) the escorting officer explaining the purpose of the ICV visit and asking the detainee whether they are willing to speak with the visitors.

54. Juveniles may be spoken to with their own consent. If, for whatever reason, a detainee is not in a position to give consent, the escorting officer must allow the visit unless any of the circumstances set out in paragraph 55 apply.

55. In accordance with section 51(4) of the Police Reform Act 2002, the custody officer may limit or deny ICVs access to a specific detainee only if authorised by an officer of, or above, the rank of Inspector and where either of the following specified grounds apply:

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

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

56. Where any of the circumstances referred to in paragraph 55 apply, consideration should be given to allowing the visitors some limited form of access to the detainee, such as speaking through the cell hatch or seeking consent to view the custody record.

Such a delay under the specified ground at paragraph 55 would not prevent the ICVs from inspecting the rest of the detention facility.

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

Discussions with Detainees

58. Discussions between detainees and ICVs must, wherever practicable, take place in the sight, but out of the hearing, of the escorting police officer. Where this is not possible, the police officer will not take any active part in the conversation. Police officers should not actively listen to conversations between ICVs and detainees. For TACT detainees, discussions may take place in either the interview room, the solicitor's consulting room or some other convenient place.

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

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

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

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

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

64. Subject to obtaining the detainee's consent to examine their custody record, the ICVs should check its contents against what they have been told by the detainee. This will provide ICVs with an overview as to how the detention has been carried out. ICVs may also have access to other relevant documentation, which relates to a detainee e.g. risk assessment. All such information must be treated confidentially.

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

Audio and video recording of TACT interviews

66. ICVs visiting TACT detainees may request that they are given access to audio or video recordings of interviews. ICVs may only request access to the whole or part of the audio or video recordings of any interview that has been conducted during the period of detention:

a) at the request of the detainee; or

b) where the ICVs have particular concerns about the conduct of an interview (the consent of the detainee will still be required).

Such a request will only be in order to:

- a) ensure that the detainee has been offered their rights and entitlements under TACT;
- b) that their health and wellbeing has been ensured throughout; and
- c) that the relevant statutory code of practice has been followed.

67. Given the interests of the detainee will be protected by their legal representative and, if relevant, an appropriate adult, during the interview, the ICV will not routinely need to access audio or video recordings of TACT interviews. Should the ICV continue to have concerns after viewing the recording, they should take this up as soon as possible with the custody officer in order to seek a resolution and follow the complaints procedures set out in the PCC arrangements.

68. Access to the whole or part of an audio or video recording of an interview may only be denied to ICVs if:

- (a) it appears to an officer of, or above, the rank of inspector that there are grounds for denying access (as set out in paragraph 69) at the time it is requested; and
- (b) the procedural requirements imposed by the arrangements in relation to a denial of access to such recordings are complied with.

69. The only permitted grounds for denying access to the whole or part of an audio or video recording of an interview under paragraph 68 (a) above are:

- a) if the officer reasonably believes that it is not practicable to provide access at the time it is requested; or
- b) if the officer reasonably believes that such access could interfere with the process of justice.

70. In the case of access being denied to audio or video recordings, an explanation must be given to the ICVs and this must be recorded on both the visit report form and the custody record.

71. ICVs will not be permitted to watch or attend live interviews of terrorist suspects.

72. ICV access to audio or video recordings of interviews must always be subject to obtaining the consent of the detainee. Consent will need to be obtained at each separate visit.

Medical Issues

73. ICVs have no right to see the detainee's medical records, even where these are attached to the custody record. However, key points relevant to medical treatment required while in custody should be recorded in the custody record itself and may be viewed.

Dealing with Issues and Complaints

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

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

Effective Working Relationships

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

Reporting on a Visit

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

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

TACT detainees

79. Reports of visits should be submitted to the IRTL and to the PCC for both the police station where the suspect was held and also the police area in which the arrest was made. Co-ordination of reports will be done via the PCC and the ICV Scheme Manager.

Feedback

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

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

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

83. In addition, for TACT detainees the IRTL may choose to follow up issues separately.

Sharing Experience

84. The PCC must ensure that ICVs have regular opportunities to meet together to discuss their work.

Reviewing Performance

85. PCCs must take steps to assess how effectively their independent custody visiting arrangements are working. Key aspects of that process will be having regard to the National Standards, including quality assurance in respect of reports, remedial actions taken by the police in response to issues raised, the frequency with which visits take place and the number of occasions on which detainees refuse to speak to visitors.

ROLE PROFILE – INDEPENDENT CUSTODY VISITOR

General

To arrange visits to police custody with fellow Independent Custody Visitors, in line with agreed rosters.

To fulfil the minimum requirements of an Independent Custody Visitor as follows:

- Undertaking a minimum of 8 visits per year;
- Attending a minimum of 2 Panel meetings per year;
- Attending any ongoing ad-hoc training as deemed appropriate by the Office of the Police & Crime Commissioner.

To keep the Co-ordinator and fellow Independent Custody Visitors informed of any problems with rostered custody visits.

To complete and submit expense claims in line with the Independent Custody Visiting Scheme Guidelines.

To have due regard to the Custody Visiting Scheme Guidelines when undertaking duties associated with Custody Visiting.

Conducting Visits

To carry out visits to designated police custody in line with the Independent Custody Visiting Scheme Guidelines.

To visually inspect the conditions under which a detained person is held, and his/her health and wellbeing.

To ensure that his/her legal rights and entitlements, with reference to Code C of the Police and Criminal Evidence Act 1984 and other associated legislation, have been upheld.

Where appropriate, consult with the detained person's custody record to clarify and check any concerns raised by the detained person.

To discuss with the custody officer any concerns and requests arising from the custody visit, and bring to the custody officer's attention any issue(s) to be addressed.

To complete the Independent Custody Visiting report form, ensuring that all information is recorded correctly, clearly and concisely.

To distribute copies of the custody visit report form to the appropriate people and leave the police investigation centre.

PERSON SPECIFICATION – INDEPENDENT CUSTODY VISITOR**Essential criteria****Measured by**

Over the age of 18.	Application
No conflicts of interest (those ineligible include serving police officers and staff, special constables, justices of the peace and Police and Crime Panel members).	Application
Must live (or work) within the relevant policing area.	Application
A good understanding of the English language.	Application / Interview
Effective communication skills.	Application / Interview
Sufficient time and flexibility to carry out the role of Independent Custody Visitor.	Application / Interview
Prepared to visit any location as required.	Application / Interview
Ability to demonstrate an independent and impartial view in relation to all parties involved in the custody visiting process.	Interview
Ability to work with colleagues as part of a team to meet the PCC's visiting programme.	Interview
Respectful and understanding towards others.	Interview
Ability to maintain confidentiality.	Interview
Observational skills given the ability to conduct visual inspections	Interview

Desirable criteria

Some background knowledge of independent custody visiting and the role of the Police & Crime Commissioner for Norfolk or Suffolk.	Application / Interview
Some IT Skills e.g. Use of basic documents in Microsoft Word & Excel, scanning and emailing of documents, use of PC/Laptop/Tablet and video conferencing.	Application / Interview

ROLE PROFILE – CUSTODY VISITING PANEL CO-ORDINATOR

To arrange a rota of the appropriate number of visits to be undertaken (in pairs) in the respective Area in accordance with the Scheme requirements.

In consultation with the Scheme Manager, arrange Panel meetings in the respective Area, and ensure that a record of the discussion is kept and distributed as necessary.

To bring to the attention of the Scheme Manager any problems arising from the rota, including missed custody visits.

To bring to the attention of the Scheme Manager issues arising from custody visits undertaken.

To oversee the work of the designated Custody Visitor Panel and ensure its smooth running.

To identify any training needs arising from the Panel, and bring these to the attention of the Scheme Manager.

To ensure that newly appointed Custody Visitors are supported by the Panel.

To attend meetings with respective Co-ordinators in other Areas, together with Office of the Police and Crime Commissioner and Constabulary staff as necessary.

PROCEDURE FOR COMPLAINTS AGAINST INDIVIDUAL CUSTODY VISITORS:

For Norfolk ICVs

If you wish to complain about the way that a Norfolk Independent Custody Visitor conducts themselves please contact the Chief Executive either in writing, by email or by telephone:

Chief Executive
Office of the Police and Crime Commissioner for Norfolk
Jubilee House
Falconers Chase
Wymondham
NR18 0WW

Email: OPCCN@norfolk.pnn.police.uk

Telephone: (01953) 424455

When making a complaint by phone, it will be necessary to make an appointment to either have the details of your complaint transcribed, or you could attend Jubilee House and outline your complaint in person.

An acknowledgement of your formal complaint will be provided within 10 working days and, once investigated, you will be contacted with details of the results of the investigation and what action, if any, will be taken.

For Suffolk ICVs:

If you wish to complain about the conduct of a Suffolk Independent Custody Visitor, please contact the Chief Executive either in writing, by email, or by telephone:

Chief Executive
The Office of the Police & Crime Commissioner for Suffolk
Police Headquarters
Portal Avenue
Martlesham Heath
Ipswich
IP5 3QS

Email: SPCC@suffolk.pnn.police.uk

Telephone: (01473) 782773

PROCEDURE FOR COMPLAINTS AGAINST EITHER THE OFFICE OF THE POLICE & CRIME COMMISSIONER FOR NORFOLK OR SUFFOLK

As a public authority, it is important that the Office's of the Police & Crime Commissioner are an efficient and effective organisation. If we do not get things right we would like the public to tell us. Equally, we are always appreciative of any complimentary comments when our staff have done something particularly well. When we get something wrong we will apologise and try to put things right.

The process for dealing with complaints varies dependent on complaint type.

For further details regarding how to complain in Norfolk, please visit the Police & Crime Commissioner for Norfolk's website:

www.norfolk-pcc.gov.uk/complaints

For details regarding how to complain in Suffolk, please visit the Suffolk Police & Crime Commissioner's website:

www.suffolk-pcc.gov.uk/complaints