



INDEPENDENT CUSTODY VISITING SCHEME GUIDELINES

1. INTRODUCTION

Independent custody visiting became statutory with effect from 1st April 2003 and the statutory instrument, related Codes of Practice and National Standards for the process are included in this handbook.

In order to assist Independent Custody Visitors to carry out their role within Greater Manchester, the Police Authority, following consultation with the Chief Constable, has produced these guidelines.

The purpose of these visiting arrangements is to enable members of the local community to observe, comment and report on the conditions under which persons are detained at police stations and the operation in practice of the statutory and other rules governing their welfare, with a view to securing greater understanding and confidence in these matters. These arrangements also provide an independent check on the way police officers carry out their duties with regard to detained persons.

These visiting arrangements are carried out with the consent of all parties involved. However in specific circumstances when detainees are unable to give their consent because of language, understanding or health difficulties, non-consensual checks will take place in the interests of the individual detainee, public openness and confidence.

2. ORGANISATION

Greater Manchester Police Authority has established this scheme in consultation with the Chief Constable. The operation of the scheme is the responsibility of the Police Authority's Volunteer Steering Sub Committee. The Police Authority, in consultation with the Chief Constable, has the final responsibility in all matters relating to the operation of the scheme.

The Police Authority has organised divisional groups of volunteers, each with its own Lead Visitor, to visit police stations within the Authority's area (see table at 5.2 for list of Divisions).

3. INFRASTRUCTURE

To achieve these objectives, the Police Authority sets, in conjunction with the Chief Constable a visiting frequency across Greater Manchester based on the number of

detainees processed within a custody facility, against which performance is monitored, measured and published annually.

The agreed visit frequency sets the minimum number of visits deemed appropriate to individual designated stations, but is not intended to stop additional visits in response to local activity, custody visitor concerns and special visits requested by the police (see 5.9)

The Independent Custody Visiting Scheme is managed on a daily basis by the Volunteer Schemes Co-ordinator who is appointed by the Police Authority.

Local support is available to the Volunteer Schemes Co-ordinator from Divisional Lead Visitors. Lead Visitors are experienced custody visitors appointed by the Police Authority following an agreed recruitment procedure.

4. INDEPENDENT CUSTODY VISITORS

4.1 Eligibility

Subject to the exceptions set out below, any person over 18 who works or resides within Greater Manchester may be appointed by the Police Authority as an Independent Custody Visitor. Independent Custody Visitors should be persons of good character who are able to make unbiased observations, in which the community can have confidence, and which the police will accept as fair criticism when it is justified. Anyone who has been convicted of an offence punishable with imprisonment within the last five years, or who has ever served a term of imprisonment or detention, may not be suitable for this reason. Applicants will therefore be asked to include on their application form details of any such convictions, including those which are spent by reason of the Rehabilitation of Offenders Act 1974, and to consent to police vetting enquiries and a Criminal Records Bureau check being made. Wherever information provided from the police differs from that provided by the applicant, the Police Authority will discuss the discrepancy with the person concerned before deciding whether or not to appoint.

In appointing Independent Custody Visitors, care must be taken to avoid any potential conflict of interest. For example, serving police officers and other serving members of police or Police Authority staff will be unsuitable for that reason. The same will apply to special constables, justices of the peace and members of the Police Authority. Other people may be excluded, after discussion with the individual applicant, if they have a direct involvement in the criminal justice system such as solicitors or probation officers.

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

4.2 Recruitment

The Police Authority must ensure that adequate numbers of suitably trained and vetted Independent Custody Visitors are available to carry out its statutory function. To do this, it recruits Independent Custody Visitors by inviting applications from the general public. This will be done by means of advertisements or other publicity in local newspapers, volunteer bureaux and Councils for Voluntary Service, and any other means, which the Police Authority may consider suitable. (Please refer to Section 8 of the GMPA Volunteer Policy for further information regarding recruitment).

4.3 Application Process

Interested parties will be sent an application pack containing; background information on Independent Custody Visiting, an application form, equal opportunities monitoring form, a role description, a person specification and a list of designated police stations.

The Police Authority's Volunteer Schemes Co-ordinator will identify suitable applicants based against the person specification. These applicants will be invited to attend an initial interview.

4.4 Selection

Suitable applicants will be invited to a formal interview conducted by the Volunteer Schemes Co-ordinator and the Recruitment Panel.

Selection will be based on an applicant's suitability as detailed in the person specification, and in line with equal opportunities. Information received from two referees will also be considered during this process. All reasonable adjustments must be made to accommodate those with disabilities and those who do not have English as their first language where they are considered suitable candidates.

Following the interviews, the Volunteer Schemes Co-ordinator and the Recruitment Panel will make a decision as to whether or not a candidate is suitable to attend the one-day training and information session. The applications 250 word submission will be taken into consideration at this point. An unsuccessful applicant may seek feedback, in broad terms, from the Volunteer Schemes Co-ordinator as to the reasons for their decision. However the decision of the Volunteer Schemes Co-ordinator is final.

An unsuccessful applicant may not re-apply to become an Independent Custody Visitor within two years of their last application.

4.5 Training and Information Session

Applicants identified at 4.4 will be invited to attend a one-day training and information session organised by the Police Authority in consultation with the Chief Constable (see 6.2 for content of this induction session).

This session forms of the selection process, and will also provide those who are subsequently appointed with the basic knowledge and skills they will need to make visits. Additional training and information sessions will be provided and Independent Custody Visitors will be expected to participate in such training.

4.6 Appointment and Accreditation

Successful applicants will be invited to become an Independent Custody Visitor and asked to sign and return to the Volunteer Schemes Co-ordinator a copy of the Custody Visiting Scheme Memorandum of Understanding and the Code of Conduct.

These agreements outline the main criteria of the Independent Custody Visiting Scheme and what the Police Authority expects from Independent Custody Visitors and what they can expect from the Police Authority, in terms of training and support.

Appointment as an ICV is also subject to satisfactory GMP Non Police Personnel Vetting and a CRB check.

The GMP Vetting identity card will authorise the holder to visit any designated police station within Greater Manchester. In practice, visits will normally be confined to the police Division for which the Independent Custody Visitor was appointed, or another previously agreed area. This will be confirmed to each individual on appointment. Custody visits outside these areas will only take place with prior approval of the Lead Visitor appointed by the Police Authority and the Volunteer Schemes Co-ordinator, or when a special visit is requested by Greater Manchester Police.

Independent Custody Visitor GMP vetting identity cards must be used only for the purpose of making custody visits. If anyone is found to be using their card for any other purpose, it will be withdrawn and that persons' appointment as an Independent Custody Visitor may be terminated.

4.7 Probation Period

On appointment, Independent Custody Visitors must serve a six-month probation period. During the probation period the Independent Custody Visitor must, without reasonable cause, complete a minimum of six custody visits with either the Lead Visitor of the Division or other experienced visitors.

The Lead Visitor will arrange to accompany newly appointed Independent Custody Visitors on their first custody visit and to include the new visitor in the Division's roster, thus enabling the individual to complete their probationary visits.

At the end of the probation period, the Volunteer Schemes Co-ordinator will arrange a probation review meeting. This meeting will involve the individual Independent Custody Visitor and the Volunteer Schemes Co-ordinator.

4.8 Probation Review Meeting

The purpose of this meeting is to discuss the performance of the probationer, and in doing so identify any specific training needs. Following the meeting the appointment will be confirmed in writing where appropriate, and will subsequently be renewable subject to formal review after a period of three years.

4.9 9 Month Supervision Sessions

The volunteer will have supervision on a one-to-one basis every 9 months with the responsible officer. During these sessions, both parties will reflect on performance and experiences over the last few months and will have a discussion around training needs for the future. Notes from the meeting will be taken and signed and dated by both parties to show that it is an accurate record of what was discussed.

4.10 Monitoring And Review of Custody Visiting Performance

It is important that the performance of the Independent Custody Visiting process is reviewed on a 3 year basis and each Independent Custody Visitor has an important part to play in this process. Therefore, following the successful completion of their probation period, the Volunteer Schemes Co-ordinator and/or Volunteer Schemes Assistant, will arrange an opportunity for all individual Independent Custody Visitors to review their performance. Independent Custody Visitors who are re-appointed after three years will be offered the same opportunity at 9 monthly intervals. A key factor in maintaining an appointment will be the continuing ability and willingness of an individual to carry out the role effectively.

To ensure that this is a meaningful process, the Volunteer Schemes Co-ordinator will also seek feedback from the relevant Lead Visitor and will bring to the discussion any comments received from GMP.

Consideration will also be given to the following criteria:

- the number of visits made
- the number of mandatory training sessions attended
- the number of support meetings attended

This will enable all parties to identify and discuss any difficulties or problems and to identify any training needs.

The Volunteer Schemes Co-ordinator will record the review discussions and provide any feedback required to individual Independent Custody Visitors.

4.11 Termination of Appointment of Independent Custody Visitors

Although the work is entirely voluntary, the Police Authority has the right to terminate the appointment of any Independent Custody Visitor whose conduct or performance does not meet the required standard as set out below.

In the event of misconduct, the Volunteer Review Panel of the Police Authority will consider whether it is appropriate to terminate the appointment of that Independent Custody Visitor. Misconduct will encompass matters such as misuse of the identity card, conviction of a criminal offence, abusing ones position as an Independent Custody Visitor, for example, by consistently flouting the guidelines and Code of Conduct covering the role of Independent Custody Visitors during visits.

Independent Custody Visitors must notify the Police Authority if they are arrested, cautioned or charged with a criminal offence. In the case of any offences committed within the Greater Manchester Police area, details of the offence will be notified to the Volunteer Schemes Co-ordinator by Greater Manchester Police. In such circumstances, the Police Authority will suspend the appointment of that Independent Custody Visitor until the outcome of any criminal proceedings is known. If the Independent Custody Visitor is subsequently found to be not guilty, they may be reinstated. In the case of a caution the Volunteer Review Panel will review the appointment of the Independent Custody Visitor with regard to the nature of the offence.

Where a visitor fails to make a visit within a six-month period, the Volunteer Schemes Co-ordinator/Volunteer Schemes Assistant will write to the person concerned to establish whether this is simply an oversight (e.g. because report forms have not been submitted), or to seek an explanation.

Where an individual has not made any visits within the six month period, and no good reason for this has been notified to the Volunteer Team, the Volunteer Schemes Co-ordinator/Volunteer Schemes Assistant will notify the individual in writing that their appointment is to be referred to the Volunteer Schemes Co-ordinator for consideration.

Where a visitor fails to make a minimum of twelve custody visits during the year, and no good reason for this has been notified to the Volunteer Team, the Volunteer Schemes Co-ordinator will notify the individual in writing that their continuing appointment is to be referred to the Volunteer Review Panel of the Police Authority for consideration.

The Police Authority will arrange mandatory training and provide links to further associated learning topics throughout the year. If an individual fails to attend the mandatory training sessions within each three year period, the Volunteer Schemes Co-ordinator will notify the individual in writing that their continuing appointment is to be referred to the Volunteer Review Panel for consideration.

4.12 Grievance Procedure

All grievances will be resolved openly, fairly and quickly to:-

- Protect our volunteers
- Minimise any disruption to staff and other volunteers
- Demonstrate that our organisation respects volunteers
- Protect the reputation of GMPA

A volunteer has a right to complain if they feel they have been treated unfairly. If the grievance is with a member of staff, another volunteer or a representative from a partner agency, their first point of contact should be the Volunteer Schemes Development Officer.

If a volunteer has a grievance against the Volunteer Schemes Development Officer, their first point of contact is with the Engagement Manager.

At the first stage, the aim should be to resolve the issue through informal discussion. If this is not successful, the second stage involves the volunteer putting their concerns in writing. This will be acknowledged by GMPA within two working days and will be responded to within twenty working days. If the volunteer is not satisfied with the outcome, the third stage will be for them to appeal to the Executive Director. The decision of the Executive Director is final.

If a complaint is received about a volunteer, they have the right to be told why they are being investigated, the right to state their case, and the right to appeal. The person who made the complaint should be kept informed of progress.

The aim should be to resolve the complaint informally through discussion. Wherever possible, options such as additional support, supervision and training should be offered, and where appropriate, clear objectives for improvement along with a review date, should be set. If the complaint cannot be resolved through discussion, this will be referred to the GMPA Volunteer Review Panel, consisting of the Head of Scrutiny and Engagement, the Engagement Manager, the Volunteer Schemes Development Officer, the Volunteer Schemes Co-ordinator and the Human Resources Officer. The Panel can

issue the volunteer with a written warning outlining the reason for the complaint, along with clear objectives for improvement, where appropriate.

The decision to dismiss a volunteer should be a last resort. If the volunteer chooses to appeal, this should be made to the Executive Director. The decision of the Executive Director is final.

If a volunteering relationship is agreed to be exhausted, or there has been a breakdown of trust, all efforts will be made to signpost the volunteer to other opportunities outside GMPA.

- GMPA will try to resolve any problems at the earliest possible stage.
- Partners are able to complain about paid staff, volunteers, or the service.
- Service users are able to complaint about paid staff, volunteers or the service.

5. INDEPENDENT CUSTODY VISITING ARRANGEMENTS

5.1 Number of Independent Custody Visitors

The Police Authority in consultation with the Chief Constable will appoint sufficient Independent Custody Visitors to ensure that visits in accordance with agreed rosters and in line with the laid down visiting frequency are made.

5.2 Visiting Frequency

The visiting frequency will be set in consultation with the Chief Constable based on throughput of detainees over a 12-month period of time.

All custody suites should be visited on a weekly basis with the exception of BTP and Manchester Airport, which should be visited monthly.

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

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

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.

5.3 Support Meetings

The Volunteer Team will call 6 monthly support meetings of Independent Custody Visitors which will facilitate the discussion of visiting arrangements locally. A Police Representative should be in attendance, and any concerns should be brought to their immediate attention. If there is no police representative present, any issues of concern will be pursued at the earliest opportunity by the Volunteer Schemes Co-ordinator.

5.4 Visiting Rosters

The Lead Visitor, in conjunction with the Volunteer Schemes Co-ordinator, is responsible for drawing up visiting rosters quarterly in advance.

Visiting rosters will randomly pair custody visitors together who will be responsible for visiting identified designated stations during an identified time period.

The time period will reflect the agreed visiting frequency for each designated police station.

The Lead Visitor will be responsible for monitoring the number of visits against the roster and advising the Volunteer Schemes Co-ordinator of any problems.

5.5 Visiting in Pairs

Independent Custody Visitors are required to visit in pairs at all times. Any Independent Custody Visitor arriving at a police station on their own will not be granted access to the custody area to make a custody visit. No more than two Independent Custody Visitors should visit together, as larger parties could constitute an additional burden on the staff at the police station.

Independent Custody Visitors must not be accompanied by any unauthorised persons. Custody visits can only be made when accompanied by another accredited Greater Manchester Independent Custody Visitor.

5.6 Lead Visitors

The Police Authority will seek to appoint an Independent Custody Visitor on each Division to act as Lead Visitor for the Division. The Lead Visitor on each police Division, in conjunction with the Volunteer Schemes Co-ordinator, will be responsible for drawing up a visiting roster which will randomly pair visitors to make an agreed number of visits to allocated stations within a fixed time period. The Volunteer Schemes Co-ordinator will ensure that visit rosters are circulated to all custody visitors on a Division. The Lead Visitor will inform the Volunteer Schemes Co-ordinator of any shortfall against the roster, of which they are aware. Contact details of other Independent Custody Visitors will be provided for this purpose.

Independent Custody Visitors wishing to make visits in other than their designated area within Greater Manchester must contact the Volunteer Schemes Co-ordinator. If the permission of the Volunteer Schemes Co-ordinator cannot be sought, then the visit cannot be undertaken. This will ensure that custody visits are not made simultaneously at the same police station.

Lead Visitors will be invited to sit on the Volunteer Recruitment Panel to assist in interviews for new volunteers and at induction training. This will enable the observations of the Lead Visitors to be included in the recruitment process.

Lead Visitors are expected to take new volunteers on their visit to the relevant police stations, and observe and comment on their performance on the relevant form (ICV/9). Some new volunteers may require further visits to be undertaken with the Lead Visitor, and this is for discussion between the relevant volunteer and Lead Visitor.

The performance of Lead Visitors will be monitored as part of the process outlined in 4.10.

5.7 Frequency and Timing of Visits

The frequency and timing of a custody visit is a matter for the individuals, within the framework of the roster for their area. However, Independent Custody Visitors will be expected to make an agreed number of custody visits per year in accordance with the needs of the Scheme. Care will need to be taken that custody visits, whilst sufficiently frequent to meet the agreed visiting frequency, do not take place so frequently that they impair the efficiency of the administration of the police station concerned, or the operational work of the officers attached to it. Independent Custody Visitors should bear in mind that custody visits impose an unexpected responsibility on Custody Officers and they should also be aware of possible delays during Custody Officer change over periods.

Independent Custody Visitors should arrive at the police station without prior notice, and should avoid making custody visits at regular or predictable times.

5.8 Attendance at the Police Station

Custody Officers will only respond to Independent Custody Visitors attending in person at a police station. Telephone enquiries as to the custodial situation at a police station will not be responded to.

To emphasise their impartiality, Independent Custody Visitors should not combine the making of a custody visit with the conduct of any other business at a police station.

5.9 Custody Visits at the Request of the Police

While custody visits should normally be unscheduled, there may be instances when there is particular tension within the local community about the treatment or well being of one or more persons being detained at a police station. In such circumstances, the Duty Officer at the police station may invite Independent Custody Visitors to attend, to allay myth and rumour.

It is recommended that police officers initially contact the Volunteer Schemes Co-ordinator at GMPA, who will know local visiting arrangements for that Division. This procedure will also apply when 'high profile' detainees are in custody.

5.10 Effective Working Relationships

For the Independent Custody Visiting Scheme to be effective, it is essential that Independent Custody Visitors and police staff develop and maintain professional working relationships based on mutual respect and understanding of each other's legitimate roles.

Such relationships can only exist where there is politeness and consideration on both sides.

Certain types of behaviour have the potential to create tension and conflict. Some examples of how custody visitors may cause difficulties are explained in the ICV Code of Conduct.

6. TRAINING

6.1 Responsibility

The basic responsibility for training lies with the Police Authority and a structured plan with clear objectives has been developed in consultation with the police service and the local Independent Custody Visiting community.

6.2 Induction Training

This should cover the basic knowledge and skills required to effectively carry out independent custody visits. It is likely to require a minimum of one whole day, supported by appropriate reading. Key contents should include:

- The purpose of and background to Independent Custody Visiting
- The relevant aspects of the Police and Criminal Evidence Act 1984 and of its associated Code C covering Detention, Treatment and Questioning
- National Standards
- The basic practicalities of conducting independent custody visits
- Communication skills to assist effective contact with detainees and custody staff
- Boundaries
- Equal opportunities and race awareness issues
- Risk Assessments
- Data protection considerations
- The Police Complaints System
- Paperwork
- Evacuations procedures from police custody suites
- Familiarisation visit to police custody suite

The memorandum of understanding agreed between the Police Authority and new Independent Custody Visitors will include references to training arrangements and to a six-month probationary period during which experience will be acquired in a supportive environment. Observation sheets completed by the Lead Visitor will form part of this process. Only once that initial period has been successfully completed should full Independent Custody Visitor status be granted.

6.3 Mandatory Training

Independent Custody Visitors, must, complete the following mandatory training sessions in order to ensure that their skills and knowledge base are of the highest standard:

- Safeguarding Vulnerable Adults
- Basic Child Protection Awareness
- Dealing With Conflict Within Your Role
- Equality and Diversity
- Mental Health Awareness

6.4 Evaluating Training

The Police Authority must evaluate the effectiveness of training and the extent to which it is achieving its objectives. This will be done on a yearly basis by staff of GMPA, taking into account feedback at training from volunteers.

7. INDEPENDENT CUSTODY VISITING PROCEDURES AT POLICE STATIONS

7.1 Immediate Access to the Custody Area

Upon arriving at the public enquiry counter, Independent Custody Visitors must identify themselves and explain the purpose of their visit. At this point and after signing in at the front desk, they must be admitted immediately to the custody area. Independent Custody Visitors must accept that they may have to wait their turn to receive attention by the Front Desk Clerk.

However, if access is delayed at the point of request, this will affect the credibility of the Independent Custody Visiting Scheme.

It is inappropriate for access to be delayed because the Custody Sergeant is busy. In such circumstances, the Independent Custody Visitors must be admitted to the custody area and invited to wait until the Custody Sergeant, or another officer who has been authorised by the Custody Officer, is available to escort them on the custody visit. It is recommended that access should be delayed only where the Independent Custody Visitors may be placed in danger, for example if there is a disturbance in progress in the custody area. A full explanation must be given to the Independent Custody Visitors and included in their report and endorsed by the Custody Officer as appropriate.

7.2 Access to the Custody Area

Independent Custody Visitors must be allowed to inspect all parts of the custody area where access is required for detainees e.g., cells, detention rooms, charging areas and medical room (this does not include access to locked drug cabinets). Independent Custody Visitors will need to check that any CCTV systems installed to observe the custody area or individual cells are operating properly (see 7.15). Independent Custody Visitors will wish to satisfy themselves that these areas are clean, tidy and in reasonable state of repair and decoration, and that bedding in cells, when appropriate, is clean and adequate. It is not always necessary to inspect stores, but visitors should establish that suitable arrangements exist for adequate stocks of mattresses and blankets, and for the cleaning of such items, and for regular replacement of necessary furnishings and equipment. They may inspect empty cells and detention rooms to check heating/ventilation systems, and that cell alarms and toilet flushing mechanisms are working properly. They may visit interview rooms in the custody area if unoccupied. Independent Custody Visitors may not visit CID rooms or other operational parts of the station.

7.3 Security and Safety

In the interests of security and the safety of Independent Custody Visitors, police staff must accompany them from the public enquiry counter to the custody area and must accompany them at all times during custody visits.

The Custody Sergeant, or another officer authorised by the Custody Sergeant, must ensure at the onset of a visit that both Independent Custody Visitors are familiar with emergency alarms, routes and exits, and how accidents should be reported and recorded, in accordance with the appropriate risk assessment for any particular station. Further information relating to health and safety can be found in the GMPA Volunteering Policy and also on the RA/ICV Risk Assessment form.

7.4 Access to Detainees

Subject to the exceptions referred to below, Independent Custody Visitors must be allowed access to any person detained at the station. However, detainees may only be spoken to with their consent and the escorting officer is responsible for establishing whether they wish to speak to the Independent Custody Visitors. Detainees will fall into the following categories:

- **PACE Prisoners** – These will constitute the vast majority and are held under the provisions of the Police and Criminal Evidence Act.
- **Home Office Prisoners** – These are remanded or sentenced prisoners who would normally be held in prison.
- **Immigration Detainees** – These are persons held under the Immigration Act 1971 and Immigration and Asylum Act 1999 who are subject to deportation proceedings or who are waiting to be removed from the UK as illegal entrants.
- **People At Risk** – These may be persons held under the Mental Health Act 1983 for their own protection or children taken into police protection under the Children Act 1989.
- **High Profile Detainees** – These may be persons held under the Terrorism Act 2000. Such detainees are visited by volunteers who have received extra training around this issue and a separate rota is used for such purposes.

7.5 Consent to Custody Visits by Detainees

Detained persons are not obliged to see Independent Custody Visitors or to answer questions. The officer who is escorting the Independent Custody Visitors is responsible for establishing whether or not each detainee wishes to see the Independent Custody Visitors, and will present to each detainee the printed cards explaining the purpose of the Independent Custody Visiting Scheme, and which shows the name and photograph of each Independent Custody Visitor. The card is printed in several other languages on the reverse, for the benefit of any detainee whose first language is not English.

Where detainees are unable to read, the Custody Officer will read out what is printed on the card. Where practical and in order to preserve the privacy of detainees who may not wish to be visited, detainees will be asked by the Custody Officer within earshot, but out of sight of Independent Custody Visitors, whether or not they wish to receive a visit.

Each detainee will then be asked to sign the custody record, indicating whether or not they consent to a custody visit. Whether or not detainees agree to see the Independent Custody Visitors, the escorting officer should seek permission from each detainee for the Independent Custody Visitors to have access to their custody record. Any agreement will be written into the custody record and signed by the detainee.

The police officer must be out of hearing during the visit, but must remain in sight of Independent Custody Visitors.

7.6 Detainees Who Are Unable To Consent to a Custody Visit

If a detainee is under the influence of drink or drugs to such an extent that they are unable to give consent or otherwise, or is for some other reason unable to indicate willingness or otherwise to be seen, the escorting officer must, if the Independent Custody Visitors so desire, allow them access unless it is considered that their safety could be at risk. If the detainee is comatose, the escorting officer must allow access if the Independent Custody Visitors wish to satisfy themselves of the detainees well-being.

7.7 Detainees Who Are Asleep or Resting

Sleeping detainees can be woken at the discretion of the escorting officer to seek consent to visit. However, where that would involve interrupting the continuous period of eight hours rest provided under PACE, the normal procedure should be not to wake the person but to observe them through the cell hatch.

When an escorting officer applies their discretion for sleeping detainees not in a period of eight hours rest to be woken, they will take into account the potential for detainee to become violent.

7.8 Access to Vulnerable Persons

Vulnerable persons include:

Juveniles (persons under 17 years of age): They may be visited with their own consent. It is not necessary to obtain the additional consent of a parent or guardian. If an appropriate adult is in attendance to support a juvenile or vulnerable person, the detained person's wishes should be sought and respected as to whether the appropriate adult should attend any custody visit.

Vulnerable adult: Has been defined as "A person who is 18 years of age or over, and who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him/herself, or unable to protect him/herself against significant harm or serious exploitation" (*Law Commission – Who Decides? Making decisions on behalf of mentally incapacitated adults 1997.*)

Vulnerable adults include: People with learning disabilities, mental health problems, older people and disabled people may fall within this definition, particularly when their situation is complicated by additional factors such as:

- Physical frailty
- Chronic illness
- Sensory impairment
- Challenging behaviour
- Social problems
- Emotional problems
- Poverty
- Homelessness
- Substance abuse

7.9 Access to Custody Record

If any detainee, including a juvenile, refuses access to the custody record, Independent Custody Visitors will not be allowed to see it. If a person is incapable of giving consent by virtue of mental illness or disability, being comatose, or incapacitated through the influence of drugs or alcohol, access to the custody records must be allowed if the Independent Custody Visitors so desire. Except where a detainee objects, the Independent Custody Visitors will be shown the parts of the custody record relating to the provision of welfare whilst within police detention.

7.10 Detainees Who Are Being Interviewed

If a person is being interviewed, the interview will not be interrupted. If the Independent Custody Visitors wish to see the person later in the visit after the interview has been completed they may do so, but may, if necessary, have to wait for this purpose.

7.11 Restrictions on Access to Detainees

In exceptional circumstances the police may judge that it is not in the public interest for a detained person to be seen by Independent Custody Visitors. Any decision to deny Independent Custody Visitor's access to a detained person should be taken only by an officer of Inspector rank or above. An explanation of the reason for refusal should be given to the Independent Custody Visitors on each occasion and recorded on the 708B report form and in the custody record of the detainee. The decision to deny access should be taken in each case in the light of all relevant circumstances. Access by Independent Custody Visitors must not necessarily be denied to any particular category of detainee, or where a decision has been made that a person should be held *incommunicado*.

7.12 Conversations between Detainee and Independent Custody Visitors

Where practical, police officers will be out of hearing of the visit, but must remain within sight of both Independent Custody Visitors and detainees. If for some reason the police decide that the escorting officer should remain within hearing, this decision must be taken by the Custody Officer. Independent Custody Visitors should bear in mind, however, that some detained persons may be violent or under the influence of drink or drugs and that the presence of the police officer may deter or frustrate assaults on the Independent Custody Visitors.

Independent Custody Visitors must not involve themselves in individual cases to the extent of offering advice about whether or not a detainee should make a statement or otherwise co-operate with police enquiries. Independent Custody Visitors must also decline to convey messages from detained persons, however innocuous they may seem. Independent Custody Visitors must take care, in conversation with the detainee, not to invite comments on matters related to the circumstances of his/her arrest or other aspects of the investigation and in particular should avoid any suggestion that you are soliciting complaints about such matters. All questions should relate to the detainee's welfare and the conditions in which they have been detained.

Independent Custody Visitors should constantly be aware of the likelihood of their subsequent evidential involvement, should the detainee make spontaneous comment, which has evidential value, either for the prosecution or defence. Questions likely to elicit such comment should be avoided where possible. If an Independent Custody Visitor witnesses such evidential comment, they will be invited to make a statement on the matter for subsequent submission in evidence (see Appendix 1 AA/ICV Acting as a Witness in Court).

7.13 Documentation

The proper maintenance of contemporaneous records plays an important part in the application of rules governing the treatment of detained persons, and the process of supervision. Independent Custody Visitors will therefore wish to satisfy themselves that the custody record fully and properly records the action taken in connection with

detainees whilst in police custody. Independent Custody Visitors may not see other police documents concerning the detainee or medical forms 708(E) – diagnosis form and 708(F) – prescribing medication form. The custody record and forms 708(E) and 708(F) should include all relevant information about necessary medication for a detainee and the frequency of administering it. Custody Officers are responsible for ensuring that medication is given at appropriate times.

7.14 Medical Conditions

Independent Custody Visitors will wish to pay particular attention to detained persons who are suffering from any form of illness, injury or disability. They should satisfy themselves that, if appropriate, a medical examiner has been called and establish from the Custody Officer what instructions for medical treatment have been given, and confirm by consulting the custody record that these instructions have been carried out. Independent Custody Visitors have no right to see a detainee's medical record, even when attached to the custody record.

7.15 CCTV

Custody visits must be carried out in person and not by viewing either live CCTV footage or recorded footage. The role is fundamentally interactive with both detainees and police staff and cannot be discharged remotely. There may also be issues about infringing the privacy of detainees who have not consented to Independent Custody Visitors observing them using CCTV. However, where specific incidents or circumstances arise and have been captured on CCTV, Independent Custody Visitors might reasonably be allowed access where both the police and the detainee(s) concerned, consent. Independent Custody Visitors may also ask the Custody Officer whether the CCTV is working and be given a demonstration if necessary and this check should be undertaken on a frequent basis/

7.16 Deaths in Custody

All deaths in custody are the subject of a coroner's inquest to which the police will report formally. Where a death in police custody occurs, the Divisional Commander or officer in charge of the police station will notify the Assistant Chief Constable, Professional Standards Branch, of such a death, who will in turn notify the Volunteer Schemes Co-ordinator of the Police Authority with such information as they consider appropriate. The Police Authority's Volunteer Schemes Co-ordinator will then notify the Lead Visitor for that area - **for information only. Consideration does need to be given with regard to the reassurance of detainees who may have been in the proximity of where the death in custody occurred.**

7.17 Juveniles

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

7.18 Appropriate Adults

Independent Custody Visitors may also act as appropriate adults, in accordance with the GMPA Scheme. However, individuals must not switch between those roles during the course of a visit to the same police station. Changing roles in this way can blur responsibilities and create confusion for all concerned. However, those fulfilling the role of an Independent Custody Visitor are not prevented from acting as Appropriate Adults on separate and distinct occasions.

If, in a private capacity, a custody visitor acts as an appropriate adult for family or friends, they must not then make a custody visit to the same individuals during that period of detention.

7.19 Treatment of Detainees

Independent Custody Visitors must satisfy themselves that their statutory rights have been explained to detainees and they have been given the written notice of those rights. They should also be satisfied that detainees have received those rights and entitlements to which they are entitled under Code C of PACE Codes of Practice.

7.20 Dealing with Issues Raised By Detainees

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

7.21 Dealing with Complaints of Misconduct

If a detainee makes a complaint of misconduct by a police officer, he or she must be advised to address it to the Duty Inspector. With the detainee's consent, it may be appropriate for Independent Custody Visitors to notify the Duty Inspector that the detainee wishes to make a complaint. In addition, Independent Custody Visitors may want to remind them that they can seek legal advice in relation to the complaint or ask to see a doctor if an alleged assault is involved. However, such complaints must be dealt with through the formal procedures, which are laid down and there is no broader role for Independent Custody Visitors. They must not involve themselves in individual cases or make representations on a detainees' behalf.

7.22 Remand and Sentenced Prisoners

Remand and sentenced prisoners held in police stations may seek to complain about conditions in prisons or the treatment they have received there. Independent Custody Visitors 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 contractor for the court escort services also has their own procedures for recording complaints about their staff. Any complaint alleging a criminal offence will be reported to the police and the HM Prison Monitor Service immediately.

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

7.23 Procedures at Custody Suites

The Independent Custody Visitors will be advised how many persons are in custody at the complex and be invited to choose which cell numbers should be approached to see if they wish to receive a custody visit. Independent Custody Visitors are recommended to identify between 6 and 12 detainees to be visited, which should include a selection of juveniles, vulnerable persons and male and female detainees. If the majority of the first selection of detainees do not wish to receive a visit, Independent Custody Visitors may wish to return to the custody desk and select further detainees to visit or inspect other facilities within the custody suite (see 7.2)

It is suggested that between six and 12 persons in custody would be a reasonable sample to approach as indicated by the Independent Custody Visitors.

7.24 Detainees Who Have Been Subjected To CS Spray

Independent Custody Visitors may, in the course of their visits, encounter detainees who have been sprayed with CS spray during their arrest. Independent Custody Visitors may wish to assure themselves of the health and well-being of such persons, however, they should bear in mind the advice contained in Appendix 2 of these guidelines. If Independent Custody Visitors believe that the detained person is suffering due to the after effects of CS spray, they should immediately bring this to the notice of the Custody Officer who has responsibility for seeking medical assistance.

7.25 Persons Detained Under Section 136 of the Mental Health Act 1983

Greater Manchester Police has a policy with regard to persons detained under section 136 of the Mental Health Act 1983. The Act states that persons who appear to be suffering from mental disorder and to be in immediate need of care or control can be held for up to 72 hours in a place of safety, one of which is a designated police station. The force policy is for those persons to be assessed by a doctor and an approved social worker as soon as possible after arrival at the place of safety. Every effort will be made for assessment to be carried out as expediently as possible.

8. IMPARTIALITY AND CONFIDENTIALITY

8.1 Advice

Independent Custody Visitors must not involve themselves in individual cases to the extent of offering advice about whether or not detainees should make a statement or otherwise co-operate with police inquiries.

8.2 Detainees Who Are Known To Independent Custody Visitors

If an Independent Custody Visitor realises they know or are known by a detainee, they must declare this and consider whether to withdraw from the visit. In the interests of impartiality, Independent Custody Visitors must not visit friends or relations who are in custody.

8.3 Contact with Persons outside the Police Station

Independent Custody Visitors must not agree to make contact with any person outside the police station at the request of a detainee. Neither must they agree to pass on a

message to any other detainee within the police station and must immediately notify the Custody Officer of such a request. Such a request must be recorded on the 708B visit report form.

8.4 Independent Custody Visitors Giving Evidence in Criminal Proceedings

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

Independent Custody Visitors are under no obligation to give evidence or produce documents otherwise than in response to a court order, but would be obliged to respond to such an order.

8.5 Confidentiality

Independent Custody Visitors will acquire considerable personal information about persons in police custody. The great majority will not yet have appeared before a court, and many never will. Personal information relating to detainees must be protected against improper or unnecessary disclosure. Independent Custody Visitors will therefore be asked to give an undertaking (included on the custody visit report form) not to release the identity of/or information capable of identifying any person in police custody (except where a visit has exceptionally been arranged in connection with the treatment of a particular person). It is in the interests of the strict application of the principles of confidentiality that Independent Custody Visitors do not name or otherwise identify persons in custody even in reports to or in discussion with fellow Independent Custody Visitors or the Police Authority.

8.6 Breach of Confidentiality

Breach of this undertaking may make Independent Custody Visitors liable to civil proceedings by the detained person concerned. Independent Custody Visitors will also need to be aware that the unauthorised disclosure of the facts concerning police operations or the security of police stations may constitute an offence under section 5 of the Official Secrets Act 1989.

9. INDEPENDENT CUSTODY VISITOR REPORTS AND FOLLOW-UP ACTION

9.1 Completion of Independent Custody Visitor Reports

On completion of a visit the Independent Custody Visitors complete the independent custody visiting report (708B form), recording their observations. At this point the Custody Officer or other custody staff should enter a response on the form outlining any action taken or to be taken.

The top copy of the Independent Custody Visitor report must be sent, within 48 hours, to the Police Authority using an appropriated addressed envelope. The second copy should be forwarded by the Custody Office to the Custody Inspector for inspection before being forwarded onto the Criminal Justice Department. The final copy will remain in the Independent Custody Visiting report book for reference both by custody staff and subsequent Independent Custody Visitors.

9.2 Reports on Unsatisfactory Treatment and Conditions

If Independent Custody Visitors discover any aspect of the treatment of detainees or conditions at the station, which are unsatisfactory, they must be included on the report and raised with the Custody Officer at the time. Any action that the Custody Officer takes or any information provided must also be recorded. If necessary, Independent Custody Visitors may wish to speak with the Custody Inspector on duty to discuss any immediate issues and concerns. They should also contact the Volunteer Schemes Co-ordinator at the earliest opportunity to inform them of such issues.

9.3 Serious Concerns Outside of Usual Office Hours

The following procedure has been developed to ensure that our of usual office hours, serious concerns are effectively addressed:-

- Where an incident occurs as a result of a visit and is of a routine nature, Independent Custody Visitors should note the issue on the 708B form and forward to the Authority in the usual manner.
- Where an incident occurs and immediate resolution is desirable, the Independent Custody Visitors should raise the issue with the Custody Inspector, if it cannot be resolved by the Custody Sergeant in the first instance.
- Where an incident occurs that requires urgent resolution, but no actual risk to an individual is suspected and the matter has been raised with the Custody Inspector but there is no satisfactory resolution, then this should be raised the next working day with the Custody Chief Inspector via the Police Authority.
- If the matter cannot be resolved with the Custody Inspector and the Independent Custody Visitors consider the matter is urgent and there is a serious risk to an individual, the Force Duty Officer should be contacted on 0161 856 6321.
- Independent Custody Visitors should also advise the Volunteer Schemes Co-ordinator of any unresolved issues to ensure that the most appropriate course of action is being taken.
- References in reports to individual detainees must be by their Custody Number in order to preserve anonymity.

9.4 Expenses

The work is entirely voluntary, but travelling expenses will be payable to all Independent Custody Visitors when travelling on authority business. Only public transport fares, or private car mileage at the agreed rate will be paid. **Independent Custody Visitors using their own motor vehicles to and from their visits are advised to inform their insurers about their duties.** Expenses can also be claimed for attending training sessions, supervision sessions, and Independent Custody Visitor meetings. Claims must be made on the appropriate forms within a three-month period of the month in which they were incurred. Please refer to the GMPA Volunteer Expenses Policy for further information regarding expenses.

9.5 Insurance

The Police Authority has arranged appropriate insurance for all Independent Custody Visitors to protect them against violent or criminal assault during a custody visit to a police station.

All ICV's will be required to complete a Volunteer Car User form on an annual basis.

9.6 Guidelines

A copy of these guidelines will be placed within the custody area of every designated police station within Greater Manchester, for the information of custody staff, and so that they may be referred to by Independent Custody Visitors and police officers alike. They are also contained on the GMP intranet.

10. **PUBLICITY GUIDELINES**

10.1 Publicity

It is generally desirable that the role and aims of the scheme should be promoted to the public. Independent Custody Visitors must, however, bear in mind that the purpose of publicity is to inform the public about the scheme and not to draw attention to individual cases or to themselves. Independent Custody Visitors should not discuss the cases of individuals with whom they come into contact during visits to a police station and under no circumstances should individual contacts or specific events be discussed except in general, anonymous, terms which support any explanation of the purpose of the Independent Custody Visiting Scheme. Any invitation to speak to the press, or local groups or organisations about any aspect of independent custody visiting must be referred to the Police Authority and should not be undertaken by individual Independent Custody Visitors except at the request of the Police Authority, who will in normal circumstances have consulted with the Chief Constable.

Independent Custody Visitors should remember that they are accountable to the Police Authority and not to the press or individual members of the public.

10.2 Volunteer Contact Details

The Police Authority provides Independent Custody Visitor's names and telephone numbers to other volunteers in the strictest confidence, purely for convenience in making contact. Such details must not be disclosed to any other person.

For any further information, please contact the Volunteer Schemes Team:

*Volunteer Schemes Team
Greater Manchester Police Authority,
Civic Centre,
Chorley Road,
Swinton,
Salford, M27 5DA.*

*Tel: 0161-793-2920
gmpa.volunteers@gmpa.gov.uk*

APPENDIX 1



VOLUNTEERS

Making a Difference in the Community

Appropriate Adults and Independent Custody Visitors as Witnesses in Court Cases

It is possible, though very unlikely, for appropriate adults (AAs) and Independent Custody Visitors (ICVs) to be asked to give statements by either the defence or the prosecution or to be called as witnesses in court.

Witness statements

AAs and in some instances ICVs, are, in effect, witnesses to events at the police station and like any witnesses can be asked to make a statement about what they witnessed. Requests from the prosecution should come via the Crown Prosecution Service (or occasionally other prosecuting authorities), not the police. Requests from the defence will come from the defence solicitors.

The prosecution might request, for example, a statement that the detainee appeared to understand what was going on, and was not subjected (in the presence of the AA) to any undue pressure.

Requests from the defence usually come in when the detainee did not request legal advice. The AA may be asked to explain why he or she did not insist on legal advice on behalf of the detainee. However, requests from the defence can also be made when a legal advisor was present at the police station.

Either party could also ask to seek any notes taken by the AA.

In the event that an AA or ICV is asked to provide a statement or appear as a witness, it is advised that the following takes place:

- All requests are received in writing direct to Greater Manchester Police Authority for the attention of GMPA Executive Director, Russell Bernstein russell.bernstein@gmpa.gov.uk and GMPA Solicitor, Nigel Battersby nigel.battersby@gmpa.gov.uk **and not direct to the AA or ICV**
- If an AA/ ICV is approached directly by the police to provide a statement the AA/ICV should consult with the Volunteer Schemes Development Officer before agreeing to do so
- Legal advice shall be sought from GMPA Solicitor
- Any decision made with regard to making a statement shall be made by GMPA within 2 working days and not by the individual AA or ICV

It is important for AAs/ICVs to be, and be seen to be impartial and not on the side of either the defence or prosecution. In the event that the Authority chooses that the AA/ICV should not make a statement, the AAs may then be required to appear in court (see below). Making a short written statement may sometimes be the better option,

though this does not necessarily preclude a later request to appear in court as a witness.

If a statement is made, AAs/ICVs should not answer questions that are outside their area of competence. A solicitor might ask, for example, for the AA to confirm (or deny) that the detainee was 'fit to be interviewed'. This is a judgement made by the Force Medical Examiner (FME), not the AA. The AA can only give a lay person's view of the detainee's behaviour or appearance. Similarly, the AA should avoid any reference to 'mental capacity' as this has a particular legal meaning under the Mental Capacity Act.

GMPA Appropriate Adult Schemes insist on legal advice for all vulnerable persons. However, the Police and Criminal Evidence Act 1984 (PACE) Code C, Section 6.5A, provides, in the case of a juvenile detainee, that if the juvenile indicates that they do not want legal advice, he cannot be forced to see the solicitor requested by the AA if he is adamant that he does not wish to do so. If the AA decides not to request legal advice on the part of the detainee, it is important to record the reasons for this, and to make clear that the AA strongly advised the detainee to seek legal advice, as this issue may be raised by defence lawyers.

Court appearances

If the Authority decides that the AA/ICV should not make a statement, they may be asked to attend court to give evidence on behalf of the prosecution or the defence. Most requests will come via the Crown Prosecution Service (CPS) or defence solicitor in the form of a 'witness warning' or 'witness call'.

This may be in writing, by email or by phone. GMPA would strongly advise a request in writing (as above). The Executive Director and Volunteer Team representative, in consultation with GMPA Solicitor, should then consider, within 2 working days, whether or not to agree to this request. In making this decision, it is reasonable to ask for clarification as to why the AA/ICV is being called and on behalf of which party, so that the possible line of questioning is made clear from the start.

If it is agreed that the AA/ICV should attend it is advisable for the GMPA Solicitor, to run through the court procedures, and possible lines of questioning with them beforehand. The AA/ICV may need to be briefed for example, that if they are questioned about their qualifications or experience, they try and remind the Court that no such experience is required under PACE. It is advisable that the AA/ICV is supported in court and throughout the process by a senior officer from GMPA.

If it is agreed that the AA/ICV will attend, the Court pays any necessary expenses for the witness's attendance.

If for any reason the AA/ICV (supported by GMPA) declines to attend as requested, the judge/magistrate may decide to issue a witness summons. If an AA/ICV receives such a summons, they are legally obliged to attend and give evidence. A failure to do so can result in a warrant of arrest being issued. However again, it is reasonable to ask for clarification as to why the AA/ICV is being called and on behalf of which party, so that due preparation can be made. **Support for the AA/ICV during the whole process is essential, and will be provided by GMPA.**

Any witness can visit the court before giving evidence, for familiarisation and can obtain advice and support from the witness care units (if called as witnesses by the

prosecution) and the witness care team at the court (for witnesses called by either the prosecution or defence).

Guidance on the treatment of witnesses and the Witness Charter can be found through this link: <http://frontline.cjsonline.gov.uk/guidance/victims-and-witnesses>

AA notes

It is important that the AA ensures that any significant concerns or issues are recorded on the custody record as well as on the GMPA AA2 PACE recording form and separately on the AA8 issues and concerns form. They should record their advice to the detainee to have legal advice and, if they proceed without legal advice, the reasons for this.

If the AA is prevented by the legal advisor from interrupting or querying anything in the interview, it is advisable for her or him to ask for this to be recorded on the custody record. They should also record this on the GMPA AA2 PACE recording form.

Notes should be brief, factual and relevant, and written in the knowledge that they could be seen by third parties.

Complaints about solicitors

At any stage in the process, an AA is unhappy with the way they have been dealt with by the defence or prosecution solicitor, they have a right to complain. Solicitors are regulated by the Solicitors Regulation Authority (www.sra.org.uk). If an approach to the senior partner of the firm in question (or the Chief Crown Prosecutor) does not resolve the issue, organisations can contact the SRA through the Legal Complaints Service. Full details are obtainable from their website: www.legalcomplaints.org.uk. Further information can also be found on the Crown Prosecution website: www.cps.gov.uk/victims_witnesses.

Finally, it is important to remember that a request for a witness statement or court appearance should not be seen as a criticism of the AA/ICV or the AA/ICV service. If the AA/ICV understands the procedures and the possible reasons for such requests, and is well supported throughout, the experience need not be too difficult or stressful.

It is to be noted that an awareness session will be undertaken by the witness support team for AAs/ICVs at various intervals.

FINAL: 08.09.10 LKH
APPROVED: 13.04.11 VSG

APPENDIX 2

CS SPRAY - Advice to Independent Custody Visitors

1. The police service has advised that you do not enter the cells of contaminated detainees until such time as decontamination has been carried out.
2. You should be advised by the Custody Officer if a detainee has been in contact with CS spray and that there is a possibility of cross contamination. If you wear contact lenses, suffer from asthma or a heart condition, you may be more susceptible.
3. If you do become cross contaminated you should go to an outside area and await the process of natural ventilation.
4. If you feel unwell or are concerned regarding your well being you should seek medical advice.

Reviewed by: Amy Davies/Michelle Waugh
Date: August 2011