



Agenda Item
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| Meeting | Policing Performance Committee |
| Date | 12 September 2023 |
| Location | Microsoft Teams |
| Title of Paper | ICVS Quarter 1 2023 Report |
| Presented By | Scott Ross, SPA Head of Change and Operational Scrutiny |
| Recommendation to Members | For Discussion |
| Appendix Attached | Yes – Appendix A - ICVS Q1 Report |

PURPOSE

This paper provides information on the Independent Custody Visiting Scheme for the period of April – June 2023. This paper is presented for **discussion**.

1. Introduction

- 1.1 Chapter 16 of the Police and Fire Reform Act states that the Independent Custody Visiting Scheme (ICVS) is to provide independent monitoring of Police Scotland custody to ensure that detainees are being treated fairly and in accordance with the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). OPCAT recognises that people who have been detained are particularly vulnerable and require nation states to set up a national body that can support efforts to prevent ill-treatment in custody settings. This national body is called the 'National Preventive Mechanism' (NPM).
- 1.2 The UK NPM was established in 2009 to deliver the UK's obligations under OPCAT and ensure regular visits to places of detention in order to prevent torture and other ill-treatment. It is made up of 21 independent public bodies that have a role to monitor places of detention across Scotland, England, Wales and Northern Ireland. Places of detention include police custody, prison, court custody, immigration and military detention, secure accommodation for children and places where people are detained under mental health legislation. NPM members have the power to enter places of detention and speak to detainees and staff in private.
- 1.3 Chapter 16 of the 2012 Police and Fire Reform Act (Scotland) sets out the Authority's requirement for the provision of an independent custody visiting service in order that visitors may:
- Visit detainees.
 - Access information relevant to the treatment of detainees and conditions in which they are detained.
 - Monitor the treatment of detainees and the conditions in which they are detained.

The act also states that the Authority's arrangements must:

- Provide appointment arrangements for suitable persons to become a visitor.
- Authorise Independent Custody Visitors (ICVs) to do anything which the Authority considers necessary to enable them to visit and monitor treatment of detainees and the conditions in which they are held.
- Provide for reporting on each visit.
- Keep the arrangements under review and revise them as it thinks fit; and

- Prepare and publish such reports on independent custody visiting as the Scottish Ministers may reasonably require.

1.4 The terms of reference for the Policing Performance Committee state that the Committee will ensure reporting from the Independent Custody Visiting in Scotland (ICVS) scheme is carried out publicly at least twice per year, including publication of the Authority's annual review of ICVS. This report seeks to fulfil this commitment and report a summary of the visits and the observations from the visitors within the ICVS Scheme for the period April – June 2023.

1 Review Findings

1.1. Key activity

During the reporting period the majority of the visits conducted were physical face to face visits to Police Scotland Custody Suites. Throughput during April - June 2023 was **27,897** (males 21,789, female 4,948, unknown 9 and 1,151 children).

| Region | Throughput | Visits | No of persons in custody at time of visit | Persons in custody not available | Persons in custody offered | Persons in custody seen |
|---------------|-------------------|---------------|--|---|-----------------------------------|--------------------------------|
| North | 5945 | 65 | 192 | 28 | 103 | 69 |
| East | 10,351 | 86 | 380 | 97 | 171 | 120 |
| West | 11,601 | 106 | 649 | 72 | 271 | 202 |
| Total | 27,897 | 257 | 1221 | 197 | 545 | 391 |

*Cluster 11 (West) sits within the East visit stats above

- A total of 257 visits were attempted with 1221 persons being detained in custody at the time of these visits.
- 19 of these visits were carried out via telephone monitoring.
- Of the 1221 persons in custody at the time of visit 545 (45%) were offered a visit. (108 females, 426 males and 1 older child (f), 7 older children (m) and 3 younger children (m))
- 391 persons in custody were seen by an ICV (32%) (67 females and 314 males, 1 older child (f), 6 older children (m) and 3 younger children).
- 197 (16%) persons in custody were not available at the time of visit.
- 154 (12%) persons in custody declined the offer of a visit.
- 9 visits had to be abandoned, all of which were face to face visits and 2 were marked as unsatisfactory.

- Out of the 257 visits 237 (92%) were recorded by ICVs as positive regarding custody staff/ officers.
- 1 Legalised Police Cell activation was reported and recorded.

1.2. OPCAT concerns

During the 255 successful visits there were no recorded concerns relating to torture and inhumane treatment. However there still remains a significant issue with regards to offering and providing persons in custody with suitable washing or shower facilities. Out of 31 issues raised relating to washing and showering, 8 remained outstanding as officers and staff were unable to accommodate the requests.

One case was highlighted where ICVs had noted an individual with obvious issues relating to hygiene and a wash or shower was not offered or facilitated.

For noting: *The Care and Welfare SOP section 35 washing/ shaving – where an arrested person is to be detained in custody for more than a full day, they must be offered facilities to wash and/or shave at least once per day.*

2 FINANCIAL IMPLICATIONS

- 2.1. There are no financial implications in this report.

3 PERSONNEL IMPLICATIONS

- 3.1. There are no personnel implications in this report.

4 LEGAL IMPLICATIONS

- 4.1. There are no legal implications in this report.

5 REPUTATIONAL IMPLICATIONS

- 5.1 There is a potential for adverse reputational implications in this report. Public confidence should be enhanced by the ICVS recording no OPCAT issues in the period, however some key concerns require to be addressed.

6 SOCIAL IMPLICATIONS

6.1. There are no social implications in this report.

7 COMMUNITY IMPACT

7.1. There are no community implications in this report.

8 EQUALITIES IMPLICATIONS

8.1 Independent custody visiting is a key element of community scrutiny of policing and ICVS consider its findings and confronts areas for improvement and the scheme ensures volunteers represent their local communities. Equality data is provided where appropriate and available.

9 ENVIRONMENT IMPLICATIONS

9.1. There are no environmental implications in this report.

RECOMMENDATIONS

Members are invited to discuss the contents of this report.



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INDEPENDENT CUSTODY VISITING SCHEME QUARTER 1 REPORT

September 2023

1 INTRODUCTION

Independent Custody Visitors (ICVs) are members of the local community who volunteer to visit police stations unannounced to check on the treatment and welfare of people held in police custody in Scotland.

ICV visits and recommendations can require the police to make improvements for the welfare of persons in custody. Working as part of the oversight of police custody they play a valuable role in maintaining public confidence in this high-risk area of policing by making sure detainees are treated with the appropriate care and welfare provision.

The Scotland ICV scheme is a member of the Independent Custody Visiting Association (ICVA).

ICV visits are conducted in accordance with Chapter 16 of the 2012 Police and Fire Reform Act (Scotland) which sets out the Authority's requirement for the provision of an independent custody visiting scheme.

1.1 Review Purpose

The purpose of this report is to provide SPA Policing Performance Committee with a quarter one report for the visits carried out during April – June 2023. To support this review the ICVS National Manager reviewed the report forms submitted by visitors which are stored on the ICVS database for North, East and West for the reporting period to ensure accuracy of information.

The examination of the reports focused on a number of key elements to support the collation of this report.

- Whether the visit had been successful.
- Visit details, including date, custody suite and number of detainees.
- Whether any OPCAT related concerns were identified.
- Actions of the custody staff or access issues.
- Facility improvements advised or defects identified; and
- Issues identified and whether these had been addressed during the visit or are still unresolved.

2 Review Findings

2.1 Key Activity

During the reporting period the majority of the visits conducted were physical face to face visits to Police Scotland Custody Suites. Throughput during April - June 2023 was **27,897** (males 21,789, female 4,948, unknown 9 and 1,151 children).

| Region | Throughput | Visits | No of persons in custody at time of visit | Persons in custody not available | Persons in custody offered | Persons in custody seen |
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| Total | 27,897 | 257 | 1221 | 197 | 545 | 391 |

*Cluster 11 (West) sits within the East visit stats above

- A total of 257 visits were attempted with 1221 persons being detained in custody at the time of these visits.
- 19 of these visits were carried out via telephone monitoring.
- Of the 1221 persons in custody at the time of visit 545 (45%) were offered a visit. (108 females, 426 males and 1 older child (f), 7 older children (m) and 3 younger children (m))
- 391 persons in custody were seen by an ICV (32%) (67 female and 314 male, 1 older child (f), 6 older children (m) and 3 younger children).
- 197 (16%) persons in custody were not available at the time of visit.
- 154 (12%) persons in custody declined the offer of a visit.
- 9 visits had to be abandoned, all of which were face to face visits and 2 were marked as unsatisfactory.
- Out of the 257 visits 237 (92%) were recorded by ICV's as positive feedback regarding custody staff/ officers.
- 1 Legalised Police Cell activation was reported and recorded.

2.2 OPCAT concerns

During the 257 successful visits there was no recorded concerns relating to torture and inhumane treatment. However there still remains a significant issue with regards to offering and providing persons in custody with suitable access to washing or shower facilities. Out of the 31 issues raised relating to a washing and showering 8 remained outstanding as officers and staff were unable to accommodate the requests.

One case was highlighted where ICVs had noted an individual with obvious issues relating to hygiene and a wash or shower was not offered or facilitated.

For noting: *The Care and Welfare SOP section 35 washing/ shaving – where an arrested person is to be detained in custody for more than a full day, they must be offered facilities to wash and/or shave at least once per day.*

2.3 Children in Custody

During the reporting period **1,151** children were processed through police custody (393 younger children, 639 older children, 119 16/17-year-olds under supervision) the below table is broken down into East, North and West.

| | East | North | West |
|----------------------|------|-------|------|
| Younger *Children | 59 | 97 | 237 |
| *16/17 Und Sup | 21 | 28 | 70 |
| *Older Children | 176 | 121 | 342 |

*Currently the definition of a child as per relevant legislation is those aged under 16 years, those aged 16 and 17 years who are subject to Compulsory Measures of Supervision under Section 199 of the Children Hearing (Scotland) Act 20122 and: Older child are those aged 16 and 17 years of age who are not subject to Compulsory Measures of Supervision. A child under 12 cannot be arrested by the police under new legislation.

ICVs visited/observed 7 older children (1 female and 6 male) and 3 younger children (M).

One older child (M) advised ICVs that he was unsure why he was in custody and ICVs were able to raise this with officers and staff and have police attend to explain.

Of the 3 younger children visited by ICVs, all were reported to have been given appropriate attention and all rights and wellbeing met and signposted to relevant agencies where necessary.

2.4 Access Issues

The number of instances where ICVs have raised issues regarding accessing police custody facilities has doubled this quarter from four to eight.

The issues with access in the North differ from those experienced at other custody centres. Owing to its remoteness and serving a small population, some custody facilities in the North are resourced by trained local police officers rather than CJSD officers and staff. In this instance it appears that access issues arose because local police officers were not fully aware of the role of ICVS and the requirement for visitors to be granted access to visit detainees. The North regional coordinator met with local area commander, where it was agreed that communications between staff and visitors need to improve, and staff should keep visitors updated regularly regarding any delays. This is being closely monitored by the ICVS Regional Coordinator and National Manager.

In all other instances where an access issue arose the ICVS coordinator flagged this with the duty Inspector and staff have been reminded of their obligation when visitors attend at a custody centre.

2.5 Custody Estate and Facilities

68 facility concerns were raised in the East region, this is an increase from 26 in the last quarter. A breakdown of these issues are detailed below:

| Facility Concern Des | Number of facility concerns |
|----------------------|-----------------------------|
| Cells | 22 |
| Other | 20 |
| Stores/supplies | 11 |
| Washing facilities | 6 |
| CCTV | 3 |
| Temperature | 3 |
| Alarm | 2 |
| Doctors room | 1 |

The below bullet points summarise some of the estate related observations made by visitors for the East region.

- There was an issue raised with anti-ligature clothing, specifically the amount of stock and the availability in various sizes. Despite having the clothing having a Velcro fastener to adjust the size these were found to be too big and not fit for purpose. These issues have been raised with Police Scotland and their supplier is looking to rectify this in September.
- ICVs noted that the shower area looked unused in one of the centres as there were cups and books left on shelves at the showers and the general area did not look particularly clean.
- In another centre it was noted that there was a need for more anti-ligature clothing in all sizes to be available.

In the west there were 44 facility concerns raised, this represents a small increase from 39 raised in the last quarter. A breakdown of these can be found below:

| Facility Concern Desc | Number of facility concerns |
|-----------------------|-----------------------------|
| Cells | 15 |
| Other | 15 |
| Stores/supplies | 5 |
| Washing facilities | 3 |
| Cleanliness | 2 |
| Temperature | 2 |
| CCTV | 1 |
| Alarm | 1 |

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- Cells still remain out of use at two centres due to faulty buzzers and plaster around the toilet areas. Repairs have been reported however these are still outstanding. At another centre some cells are not being used due to peeling paint.
- Short supply of Anti ligature clothing remains an issue in the West, and it was noted that one centre did not have any shaving kits available.
- At one custody centre ICVs reported that the wash area used for persons in custody was full of empty laundry bags and one of the two sinks was full of tags and plastic bags.

In the North there were 72 facility concerns raised by ICVs, this is an increase since last reporting period where 65 concerns were raised.

| Facility Concern Desc | Number of facility concerns |
|-----------------------|-----------------------------|
| Cells | 23 |
| Stores/supplies | 23 |
| Washing facilities | 7 |
| Toilet facilities | 6 |
| Other | 5 |
| Lighting | 4 |
| CCTV | 2 |
| Temperature | 2 |

- 23 issues were recorded that related to custody cells. The majority of these issues were observed at seven custody facilities. ICVs have noted instances of toilets not working, paint flaking off walls, issues with plaster and general wear and tear.
- 23 issues relating to stock and supplies were identified. In particular ICVs observed issues with the supply of anti-harm clothing and a lack of suitable sizes being available. Three centres all had reports where it was noted issues with size small not being available. The use of Velcro straps in larger sizes are not fit for purpose for someone of smaller stature. These issues have been raised with Police Scotland and their supplier is looking to rectify this in September.
- Six issues relating to toilet facilities were identified. At one centre in the North there is leaking water due to a loose tap. This specific incident has been ongoing since April 2023 when it was first reported.

2.6 Detainee Rights Issues

The below table details detainee concerns that were highlighted to the ICVs during April – June 2023:

| Detainee Concern Description | Number of detainee concerns |
|------------------------------|-----------------------------|
| Letter of Rights | 53 |
| Medical | 48 |
| Named person | 48 |
| Solicitor | 45 |
| Reading/writing | 38 |
| Wash | 31 |
| Other | 21 |
| Bedding/blanket | 19 |
| Clothing | 18 |
| Reason for Detention | 17 |
| Food/Drink | 16 |
| Terminated | 7 |
| Comfort | 4 |
| Home Office Immigration | 3 |
| OPCAT | 2 |
| Toilet Facilities | 2 |
| Complaint Against Police | 1 |
| Complaint/Allegation | 1 |
| Interpreter | 1 |
| Religious | 1 |

Only those issues or concerns that are outstanding and had not been addressed at the time of a visit or where it had to be followed up by the regional coordinator are now highlighted as an issue or concern below.

OPCAT

ICVs raised two issues regarding OPCAT. Upon assessment by the National Manager these were not considered to be in contravention with OPACT and were resolved at the time of the visit. One report referred to a female person in custody with noticeable bruising on both her wrists. On further discussion with the person in custody ICVs were able to establish that this person was aggressive on arrest and had no issues/complaints regarding her treatment.

The other incident related to a person in custody who had not been offered access to suitable washing or shower facilities despite hygiene concerns. Access to washing and showering facilities is a right that needs to be offered to all detainees.

Letter of Rights (LoR)

Persons in custody are provided with a copy of their LoR during the first stage of the custody process/ booking in. However, despite this process ICVs are regularly recording instances where the person in custody does not recall receiving or understanding and ICVs are having to ask staff/officers to explain or provide another copy. This is an area where there is room for improvement and potentially additional process put in place.

Medical

Access to medical help continues to be a key area of focus. On some occasions a person in custody may not disclose information at the time of being booked in and only raise the issue with ICVs.

One example was where a person in custody advised ICVs that they were not feeling well and that they were not happy with the medication given. On follow up the person in custody had arrived at custody with expired and no longer prescribed medication and therefore the nurse was unable to authorise these.

Named Person

ICVs are reporting an issue with contacting a named person whereby police are not informing the person in custody if contact has been made or providing them with an update. This is an area that ICVs will closely monitor this year.

Reading/writing

ICVs are seeing issues where persons in custody are not necessarily aware that they can ask for reading material or that reading material is available. Out of the 38 issues relating to reading material 12 remain outstanding. One person in custody in the East had requested a bible however there were none available.

Access to Washing and Showering Facilities

Reports are still being received where there is still room for improvement regarding being offered a shower or wash.

When individuals held in custody make a request for access to washing or shower facilities this is often not being facilitated until the next working day. In some instances, these requests are not being facilitated at all.

2.7 Issues for Escalation to Cluster Inspectors or above

187 out of the successful visits (73%) had no outstanding issues as these were resolved at the time of visit.

During the reporting period, 29 visits (11%) were resolved after the regional coordinators followed up with cluster Inspector.

41 visits (16%) were noted as outstanding issues or concerns, all of these relate to continuing estate issues, where repair work has been highlighted and the work has still to be commissioned/carried out.

In the East there were 27 outstanding concerns relating to estates, these were highlighted to various custody inspectors and sergeants. In the North there were 9 outstanding concerns which have also been raised with relevant staff and officers.

In the West there were 6 issues reported as outstanding. These issues referred to instances where cells remained out of use and in addition during the warm spell corridors were extremely hot resulting in persons in custody feeling unwell.

2.8 Positive reports

99% of the visits provided reports where ICVs highlighted the good work and positive comments towards custody officers and staff.

ICVs recorded that one visit out of the 257 visits resulted in a negative outcome. This was due to the visit having to be abandoned due to health and safety reasons and ICVs felt that there was lack of engagement from officers.

This has since been highlighted and the ICVS coordinator and custody inspector met to discuss the visit and agreed a process to eliminate any future confusion or misinterpretation.

2.9 ICVS Conference

In June 2023 the ICVS team held its annual conference which this year celebrated 10 years of the SPA scheme. 50 ICVs joined SPA staff and Board member Jane Ryder to highlight the work of ICVS and the volunteers. Topics focussed on at the conference included mental health and dealing with complex needs in police custody.

3 Review Actions

- Training was delivered to all ICVs with regards to the new Visit Report Form (VRF) which went live April 2023 and included updates to the ICVS database and dashboard to capture and report on the findings of ICVs. Learning from this continues and will remain on cluster agendas for July/August.
- ICVS presented a paper to Police Scotland on menopause in Police Custody to help enhance care and welfare policies and procedures for women in custody. Police Scotland agreed to a number of the recommendations and an update will be provided in Q2 report.
- The ICVS team are continuing to work on the digitisation of the scheme. Work is currently underway to develop the necessary user requirements and documents which will support procurement of a system for the digital recording of ICVs observations.