



Agenda Item
3.5

Meeting	Policing Performance Committee
Date	MS Teams
Location	6th December 2023
Title of Paper	ICVS Quarter 2 2023 Report
Presented By	Scott Ross, SPA Head of Change and Operational Scrutiny
Recommendation to Members	For Discussion
Appendix Attached	Yes – Appendix A - ICVS Q2 Report

PURPOSE

This paper provides information on the Independent Custody Visiting Scheme for the period July – September 2023 for consideration by the Committee. This paper is presented for discussion.

1. Introduction

1.1. Legislative Background

Chapter 16 of the 2012 Police and Fire Reform (Scotland) Act 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 to do anything which the Authority considers necessary to enable them to visit and monitor treatment of detainee 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.

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 July - September 2023 was 27,036 (males 21,034, female 4,897, unknown 17 and 1,088 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	5682	76	197	50	98	73
East	9729	93	467	96	211	162
West*	11625	105	560	80	242	167
Total	27,036	274	1224	226	551	402

*Cluster 11 (West) is carried out by East region and these visit figures sit within the East stats above

- A total of 274 visits were attempted with 1224 persons in custody at the time.
- 272 (99%) visits were reported by ICVs as being satisfactory visits.
- In 95% of these visits ICVs recorded/commented on positive feedback regarding custody staff/ officers.
- 7% of these visits were carried out via telephone monitoring.
- 45% of people that were in custody when an ICV visited were offered a visit.
- 33% were seen by an ICV.
- 18% were not available at the time of visit.
- 12% of persons in custody declined the offer of a visit.
- 3% were abandoned visits.
- 1% were reported as unsatisfactory visits.
- 5 Legalised Police Cells (LPC) activations were reported and recorded.

2.2 ICVS Quality Assurance Framework (QAF) submission

ICVS has submitted evidence to attain Gold level from the Independent Custody Visiting Association for their Quality Assurance Framework (QAF). In 2019 the scheme achieved Silver, however this level of Gold is an ambitious target and a hard award to reach. It will outline the quality and the standard of the scheme in Scotland. The process requires a vast amount of additional work in providing evidence to support each outcome. The result will be presented in Q3 report advising of the level achieved.

2.2. OPCAT concerns

During the 274 successful visits there was no recorded concerns relating to torture 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 34 issues raised relating to washing and showering, 22 remain outstanding as officers and staff were unable to confirm if they could accommodate the request. Examples of concerns raised by visitors include:

- At one centre a female person in custody advised ICVs she was not given the opportunity to wash her hands after using the facilities. The response from Police Scotland was that they don't routinely offer handwashing unless requested. In this instance it is unclear why the female was not offered handwashing facilities as the centre is an older building and there are no hand basins within individual cells.
- A male had been in custody since the Saturday 9:30pm and when ICVs visited on the Monday at lunch time they were advised by the male that he had not been offered access to wash/shower facilities. This was subsequently confirmed by the duty Inspector and through viewing the national custody system.

- A female became emotional after ICVs asked about being offered access to a shower or washing facilities. The individual in custody had been advised that there were only male staff working that morning and that she would need to wait until a female staff member became available.

The Care and Welfare SOP (section 35 washing/ shaving) states that 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. Overall wash/shower access can only be carried out where sufficient resources and staffing levels allow, however best practice would be to carry out routine offering of handwashing/wash/shower where it can be accommodated and regular offering of toothbrush/sanitary provision and shave to help maintain health and wellbeing where someone is deprived of their liberty.

2.2 Where ICVS has affected change

In July 2023 Police Scotland's Criminal Justice Services Division (CJSD) Chief Superintendent issued a briefing to all CJSD divisional officers and staff that reaffirmed the position that persons in custody should, whenever possible, be offered an opportunity to access suitable washing facilities. This briefing referenced the work of ICVS and that visitors continue to hear concerns relating to washing facilities on a regular basis.

Staff and officers were reminded that whilst the busy nature of custody centres is noted, arrested persons must be offered the opportunity to wash if detained for more than a full day. ICVS will continue to monitor access to washing facilities with and hope to see results from Police Scotland's positive action in the Q3 report.

At a National level, ICVS identified examples where Anti Ligature that were too large were being issued to individuals that required their use. In one reported example, a person in custody was given a large anti-ligature suit and complained to ICVs that his shorts fell down when walking to be interviewed. ICVs have also suggested that ill-fitting anti-ligature suits may pose a trip hazard.

ICVS raised these concerns with the CJSD Chief Superintendent and subsequently a new contract has been agreed for the provision and supply of anti-ligature suits in varying sizes. The new supply arrangements are now in place with no further concerns relating to availability of sizes, however, will be closely monitored by ICVs for reporting on.

3. FINANCIAL IMPLICATIONS

3.1 There are/ are no financial implications in this report.

4. PERSONNEL IMPLICATIONS

4.1 There are/ are no personnel implications in this report.

5. LEGAL IMPLICATIONS

5.1 There are/ are no legal implications in this report.

6. REPUTATIONAL IMPLICATIONS

6.1 There are/ are no reputational implications in this report.

7. SOCIAL IMPLICATIONS

7.1 There are/ are no social implications in this report.

8. COMMUNITY IMPACT

8.1 There are/ are no community implications in this report.

9. EQUALITIES IMPLICATIONS

9.1 ICVS is committed to focus on equality and diversity and recognise where disproportionality is having an impact.

10. ENVIRONMENT IMPLICATIONS

10.1 There are/ are no environmental implications in this report.

RECOMMENDATIONS

Members are invited to discuss the contents of this paper.

11. APPENDIX A



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INDEPENDENT CUSTODY VISITING SCHEME QUARTER 2 REPORT

December 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.

When an ICV undertakes a visit to a custody centre they may make recommendations that require the police to make improvements for the welfare of persons in custody. Working as part of the oversight of police custody ICVs play a valuable role in maintaining public confidence in this high-risk area of policing. ICVs comprise a diverse group of individuals from every corner of Scotland.

Scotland's ICV scheme is a member of the Independent Custody Visiting Association (ICVA). Further information is available at the [ICVA website](#).

ICVs visits are in line 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 Report Purpose

The purpose of this report is to provide SPA Policing Performance Committee with a quarter two report for the visits carried out between July – September 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
- Person in custody care, welfare and dignity
- Actions of the custody staff or access issues
- Facility improvements advised or defects identified
- 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 July - September 2023 was **27,036** (males 21,034, female 4,897, children 1,089 and 16 were unknown).

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- 5 Legalised Police Cells (LPC) activations were reported and recorded.

2.3 OPCAT concerns

During the 274 successful visits there were no recorded concerns relating to torture or inhumane treatment of detainees.

However there still remains a significant issue with regards to offering and providing persons in custody with suitable washing or shower facilities. Out of 34 issues raised relating to washing and showering, 22 remained outstanding as officers and staff were unable to accommodate the requests. Examples of concerns raised by visitors include:

- At one centre a female person in custody advised ICVs she was not given the opportunity to wash her hands after using the facilities. The response from Police Scotland was that they don't routinely offer handwashing unless requested. In this instance it is unclear why the female was not offered handwashing facilities as the centre is an older building and there are no hand basins within individual cells.
- A male had been in custody since the Saturday 9:30pm and when ICVs visited on the Monday at lunch time they were advised by the male that he had not been offered access to wash/shower facilities. This was subsequently confirmed by the duty Inspector and through interrogation of the national custody system.
- A female became emotional after ICVs asked about being offered access to a shower or washing facilities. The individual in custody had been advised that there were only male staff working that morning and that she would need to wait until a female staff member became available.

The Care and Welfare SOP (section 35 washing/ shaving) states that 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. Overall wash/shower access can only be carried out where sufficient resources and staffing levels allow, however best practice would be to carry out routine offering of handwashing/wash/shower where it can be accommodated and regular offering of toothbrush/sanitary provision and shave to help maintain health and wellbeing where someone is deprived of their liberty.

2.4 Children in Custody

ICVs cover the rights for all persons in custody. They do not have separate questions for children however the ICVS team do provide training and guidance in relation to specific rights for individuals so they can explore them in more detail during their visit.

A child is defined as any persons under the age of 18 years.

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There are two different categories of children, which have different rights:

1. Younger Child - Under 16 years of age **and** under 18s subject to Compulsory Measures of Supervision.
2. Older Child - 16 or 17 years of age who are not subject to Compulsory Measures of Supervision (they will still be reported to COPFS as per current guidance).

Younger Children rights:

Intimation of custody must be sent to parent or guardian. Parent/Guardian must be afforded access to child visitation under normal circumstances and a Solicitor must be present during interview, they cannot waive entitlement.

Older Children rights:

Can request intimation of custody be sent to an adult reasonably named (no mandatory requirement) they can request a visit from their named contact, which must be accommodated (under normal circumstances). However, they can waive the right to have solicitor present during interview but only with agreement of a named contact.

During the reporting period **1089** children were processed through police custody, the below table is broken down into East, North and West.

	East	North	West
Younger Children	58	53	243
16/17 Und Sup	43	21	88
Older Children	174	106	*303

- One older child was classed as unknown

Over the reporting period, ICVs requested to visit 15 children that were being held in police custody. Of these 15, 10 were visited, with 1 individual refusing to accept a visit and the other four being unavailable at the time of visit (typically due to the individual being asleep, or meeting with police, legal or medical practitioners).

In one instance, ICVs reported that an older male child appeared to be upset and emotional, was not wearing a shirt, and had no blanket or mattress in his cell. ICVs requested further information from custody staff and were advised that the objects had been removed for the child's safety as the individual had previously attempted to damage the mattress using his teeth and soaked both his top and blanket. Custody staff advised that the individual had been seen by a doctor and nurse and that his father had been advised of his detainment. ICVs were advised that the individual would be released when fit.

2.5 Access Issues

This reporting period saw a slight improvement in issues relating to ICV access. Overall, in Q2, 7 visits were reported as abandoned. This is a slight reduction on Q1 where eight visits were reported as abandoned.

ICVS continues to work to improve the communications between staff and visitors and this is still being closely monitored by ICVS Regional Coordinator and National Manager.

The custody centres where ICVs reported accessibility issues over Q2 include Dunfermline, Kirkcaldy, Fort William, Ullapool and Dumfries. The principal reason given for issues arising is that operational custody staff are too busy to accommodate visits. All delays have been flagged with the relevant duty Inspectors and staff have been reminded of their obligation when visitors attend at a custody centre. This is not a legitimate reason for not being able to access the custody centre.

In one instance a visit had to be abandoned due to a violent incident at the time where staff and officers were injured and ICVs were not granted access for their own safety and wellbeing.

2.6 Custody Estate and Facilities

Over the Q2 reporting period a total of 165 issues were raised that relate to facilities and the custody estate. Overall this represents an improvement from last quarter when 188 issues were raised.

The following section provides examples of the issues ICVs have raised across the East, West and North regions.

East region

57 facility concerns were raised in the East region, this has decreased from last quarter when a total of 67 concerns were raised.

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

- A number of cells across three separate stations remain out of order. In some instances ICVS have previously raised similar concerns and had

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been advised that these are due to be fixed and brought back into operation.

- Issues with the drinking water supply at one custody centre have been reported. Currently water needs to be run for a period of time before the temperature is suitably low for drinking. Water temperature checks are carried out on a regular basis and ICVS have been advised that if temperatures of drinking water exceed 20C then immediate action would be taken to resolve this, however that may pose operational issues when the custody centre is experiencing busy periods. It was suggested that a water cooler be installed unfortunately this has not been approved.
- At one custody centre ICVs raised concerns that panic strips were not operating. At the same centre ICVs have flagged that the kitchen cabinet doors need repair.

In the west region a total of 44 facility concerns were raised. This is a slight decrease for the last reporting quarter when 39 concerns were raised.

- Two custody centres were observed to have cells that were out of use. These cells were out of use for a variety of reasons including buzzers not working, toilet panels broken and roof leaks. Police Scotland Estates are aware of these issues.
- At one custody facility both the custody lift and the general lift were out of order. This is presenting a health and safety risk to officers and staff when moving boxes between floors and transferring items. Additionally persons in custody are having to be taken to other stations due to the lifts being out of order.

In the North region a total of 54 facility concerns were raised. This is a decrease from the last quarter where 77 concerns were raised.

- At the start of the reporting quarter the availability of suitably sized anti-ligature clothing remained an issue at certain custody centres. ICVs highlighted this on a number of occasions. By the end of August ICVs observed a significant improvement in the availability and supply of suitably sized anti-ligature clothing.
- In one custody centre there are two cells that remain out of use. This has been reported by ICVs on a number of occasions and escalated to the custody Inspector. ICVS is waiting on an update on repairs to these cells.
- One custody facility has a shower out of use, with only one shower being operational. ICVs have raised this on a number of occasions and are aware that staff and officers are frustrated at the delay in having this repaired despite it having been raised with estates as a priority.
- At one custody facility there remain issues with the availability of anti-ligature clothing. This appears to be due to clothing not being returned from the laundry supplier timeously.

2.7 Detainee Rights Key Issues

ICVs recorded a total of 473 concerns/ issues relating to detainees rights and entitlements. Of these, the vast majority (over 91%) were resolved during the reporting period with 97 remaining outstanding/unresolved.

The table below details key issues recorded by ICVs that have outstanding/unresolved notes.

	Raised	Resolved	Un Resolved
Named Person	61	44	10
LoR	56	41	15
Solicitor	50	43	7
Medical	48	41	7
Reading/writing	45	40	5
Wash	35	14	21
Food/ drink	30	24	6
Bedding/blanket	28	21	7
Clothing	25	23	2
Reason for Detention	22	16	6
Anti Harm suits	9	0	9
Cleanliness	3	1	2

ICVs have highlighted instances where persons in custody have experienced delays in accessing certain provisions that they are entitled to, particularly access to an appropriate adult (AA), lawyer or named person and access to a nurse or medical provision.

ICVs noted on a number of occasions that persons in custody were not aware as to whether an appropriate adult or lawyer had been contacted on their behalf. Additionally examples were identified of detainees having requested medical attention some being where facilities do not have in-house medical provision and not being kept updated on when this would be provided.

ICVs have encountered several examples of where detainees have made a reasonable request and are left waiting with no update as to the outcome of this request. Such delays can heighten any vulnerabilities. In the majority of instances any concerns relating to detainees rights were resolved while the ICV was in custody, however there were 39 occasions where ICVs recorded that issues were not resolved at the time of visit. A range of reasons for non-immediate resolution were provided, including (i) medical staff not always being

available; (ii) detainees not being able to provide contact numbers for their Reasonably Named Person (RNP) and (iii) the nominated RNP not being resident in the UK.

Whilst it is not a routine request from arrested persons that Police make contact with a RNP out with the UK, it would be best practice in cases where there is no RNP resident or present in the UK that Police should still make every effort to facilitate this in accordance with the Rights of Arrestee. ICVS and ICVs are looking for clarity on the expectations relating to contact with Reasonably Named Persons (RNP) out with the UK.

2.8 Where ICVS has affected change

In July 2023 Police Scotland's Criminal Justice Services Division (CJSD) Chief Superintendent issued a briefing to all CJSD divisional officers and staff that reaffirmed the position that persons in custody should, whenever possible, be offered an opportunity to access suitable washing facilities. This briefing referenced the work of ICVS and that visitors continue to hear concerns relating to washing facilities on a regular basis.

Staff and officers were reminded that whilst the busy nature of custody centres is noted, arrested persons must be offered the opportunity to wash if detained for more than a full day. ICVS will continue to monitor access to washing facilities with and hope to see results from Police Scotland's positive action in the Q3 report.

At a National level, ICVS identified examples where Anti Ligature suits were too large and were being issued to individuals that required their use. In one reported example, a person in custody was given a large anti-ligature suit and complained to ICVs that his shorts fell down when walking to be interviewed inadvertently. ICVs have also suggested that ill-fitting anti-ligature suits may pose a trip hazard.

ICVS raised these concerns with the CJSD Chief Superintendent and subsequently a new contract has been agreed for the provision and supply of anti-ligature suits in varying sizes. These new supply arrangements are now in place and will be closely monitored by ICVs. No further concerns relating to availability of suitably sized anti-ligature suits have been raised by ICVs.

2.9 ICVS reports

In 99% of visit reports, ICVs highlighted the good work and positive approach taken by custody officers and staff.

ICVs recorded two visits out of a total of 274 as being unsatisfactory. This was not due to staff and officers behaviour. This related to two persons in custody being held for Video Identification Parade Electronic Recording (VIPER) and neither the ICVs nor police officers/staff were aware that the detainees could be visited under the ICVS scheme. This has since been clarified and ICVs, staff and

officers have been made aware of the position and that VIPER custodies can be seen by ICVs as long as they are in their cell at the time and not next to attend the identification parade.

The other visit was carried out by telephone monitoring and due to a defective phone used for ICVS purpose the visitors had to seek an alternative. It was established that there had been issues with the phone lines and the interpreter service was not in use for foreign national persons in custody. This has since been rectified and normal services have resumed.

3 Review Actions

ICVS is constantly evolving to ensure the rights, entitlements and dignity of persons in custody are being adhered to and that any inconsistencies are being recorded and reported on. ICVS is currently reviewing the following areas of work relating to digitalisation and recruitment of new volunteers.

- The ICVS digitisation project is developing at pace and is currently in the discovery phase with consideration of potential internal and external solutions and the risks and benefits of both.
- Two induction days were delivered by the team locally for new volunteers and eight have individuals have confirmed that they will progress to the next stage of the application process.
- A bespoke training day will be held in November 2023 for new volunteers with a view to plan additional sessions in Jan/Feb 2024.

ICVS has submitted evidence to attain Gold level from the Independent Custody Visiting Association for their Quality Assurance Framework (QAF). Back in 2019 the scheme achieved Silver, however this level of Gold is an ambitious target and a hard award to reach. It will outline the quality and the standard of the scheme in Scotland. The process requires a vast amount of additional work in providing evidence to support each outcome. The result will be presented in Q3 report advising of the level achieved.