



SCOTTISH POLICE  
**AUTHORITY**  
ÙGH DARRAS POILIS NA H-ALBA



10th Anniversary

INDEPENDENT CUSTODY VISITING SCHEME SCOTLAND

# Annual Report 2022-23



**VISION** — Ensure every person held in police custody in Scotland is treated fairly, with dignity, and free from ill-treatment.

**MISSION** — Promote and support our independent custody visitors in providing public reassurance on whether police custody in Scotland is meeting the highest international standards, is safe, and complies with all relevant Human Rights obligations.



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## FOREWORD

The Scottish Police Authority is responsible for the running and management of Independent Custody Visiting Scotland (ICVS). This scheme is made possible by the dedicated work of approximately 100 volunteers across the length and breadth of Scotland who fulfil the key responsibility of an Independent Custody Visitor (ICV). In fulfilling this role, ICVs ensure that individuals who are held in Police Scotland custody are treated fairly and with integrity, and that their human rights are protected.

The Scottish Police Authority, together with Police Scotland, are committed to the Peelian principles of policing by consent, recognising that the power of the police to fulfil their functions and duties is dependent on public approval of their actions and behaviour. Independent Custody Visiting has these principles at its core, providing oversight to ensure that Police Scotland meets the highest of standards of care for individuals in their custody, but also that custody staff and officers are supported, and their welfare is prioritised. Critically, ICVs monitor to ensure that police custody provision in Scotland upholds the international standards set by the United Nations to prevent torture, cruel, inhuman or degrading treatment (OPCAT) of persons in custody.

This 2022-23 Annual Report highlights the activities, insights and independent assurance provided by the ICVS scheme. Over this period, ICVs undertook over 1,000 visits to police custody and spoke to over 1,600 people in custody. The Authority is pleased to report that, of these visits, no issues were identified under the United Nations standards for upholding human rights.

During 2022-23 the Authority continued to invest in improvement of the ICVS service, ensuring that visitors are supported, and that visitor observations drive both improvement in custody provision and public assurance. This year saw the launch of a new reporting template that allows visitors to quickly and easily record their observations while improving data quality. Work is now underway to delivery an ambitious project to digitise this system, further supporting visitors to capture observations in real-time.

The Authority is extremely grateful to the visitors, and our own ICVS team, for their determination and commitment and for continuing to offer the Authority, and the public, assurance that the welfare and rights of people in custody in Scotland continues to be upheld.



Jane Ryder  
Vice Chair  
Scottish Police Authority

Jane Ryder,

Vice Chair, Scottish Police Authority

## 1. BACKGROUND AND INTRODUCTION

### The Scottish Police Authority

The Police and Fire Reform (Scotland) Act 2012 sets out principles which underpin the policing of Scotland. These are:

- that the purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland; and
- that the Police Service, working in collaboration with others where appropriate, should seek to achieve that main purpose by policing in a way that:
  - is accessible to, and engaged with, local communities, and
  - promotes measures to prevent crime, harm and disorder.

The work of the Scottish Police Authority (the Authority) is focused on maintaining and improving policing in Scotland. We keep the state of policing under review, monitor performance, and seek assurances from the Chief Constable about how Scotland is being policed, based on information and evidence. The Authority draw on a range of evidence and on independent, expert opinion from a number of bodies, including inspectorates, auditors, Independent Custody Visitors and other experts and organisations.

The Authority consist of a Board of up to 15 members, including a Chair and Vice Chair, who are selected through an impartial public appointments process and appointed by Scottish Ministers.

Through our Board and Committee meetings, a series of checks and balances are implemented to ensure that major decisions about the policing of Scotland are made transparently and appropriately. This helps to ensure that Scottish policing is based on public consent, in a way that commands respect and builds public trust and confidence.

The Authority's Policing Performance Committee (PPC) provides oversight of continuous improvement in policing. It does this through reviewing policing performance against agreed strategies, plans and statutory requirements.

### What is Police Custody?

If somebody is detained in police custody, they are held in a secure location, typically at a Police Station, and are under the supervision of police officers or staff. Police custody are places of safety, wellbeing and support, scrutinised and assured by independent bodies.



Police Scotland utilise three types of custody centres:

**Primary Custody Centre** – a centre which is open to receive persons in custody on a full-time basis.

**Weekend Opening Facility** – a centre which is routinely used at peak weekend times.

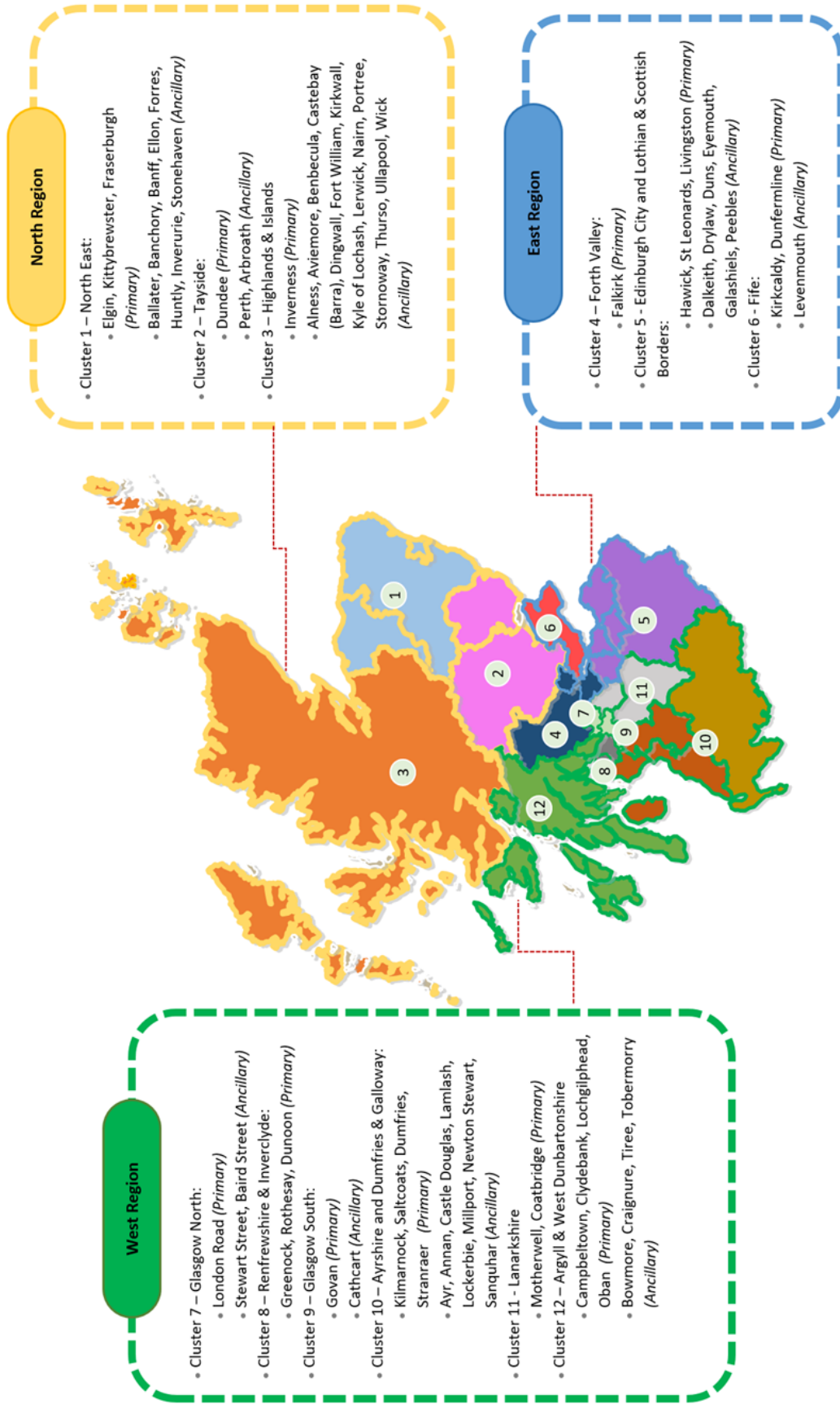
**Ancillary Custody Centre** – a centre which may be opened due to demand or to meet the needs of a specific location.

The care and welfare of individuals in police custody is paramount. Within police custody facilities, police officers and staff have the responsibility of care, as well as detention, of persons in custody. Many may be vulnerable or have additional needs, which should be considered and accommodated, whilst carrying out these responsibilities.

Police custody facilities are a necessary part of law enforcement and serve to protect both society and the individual. The decisions and actions that lead to someone being detained can be influenced by a broader set of factors than the crime itself – such as alcohol or substance



Figure 1: Map of Police Custody Clusters and Regions



\* Denotes 2022-23

misuse or mental ill-health. To take away the liberty of a human being, even for a short period of time, is one of the most serious responsibilities carried out by police officers.

Custody centres across Scotland are organised into 12 geographical clusters, each led by an officer of Police Inspector rank, known as the 'Cluster Inspector'. These clusters are also grouped and overseen by Chief Inspectors who report into Superintendents. (See Figure 1 on previous page for more information on the geographical clusters).

### How does an individual find themselves in custody?

Police officers have the power to arrest an individual if they have reasonable grounds for suspecting that a crime has been committed, or is in the process of being committed. Upon arrest, the individual must provide the police officer with their name, date of birth, address and nationality.

The police officer will explain to the individual why they are being arrested and then escort the individual to a police custody facility. Typically this will be the closest facility to the site of arrest, however, occasionally an alternative custody facility will be used if the closest facility is busy, unavailable or has a queue for person in custody processing.

Police custody is an inherently high risk area for policing. Custody is often a point where individuals with complex needs, compounded by societal issues, are under the care and welfare of Police Scotland.

Once at a custody facility, the custody officer will provide the individual with an explanation of their rights. The custody officer will then go through a list of vulnerability-based questions to establish any risks or concerns and determine whether the individual is fit to be detained.

If the individual being detained is suspected of a crime but has not yet been charged, Police Scotland has the power to hold them for up to 12 hours before they have to formally charge them with a crime or release them. This can be extended to a maximum of 24 hours, but only if authorised by a senior officer. Police Scotland only uses this power in rare cases and when absolutely necessary. Police Scotland can also release the individual whilst investigations continue.

In addition to ensuring the welfare of individuals whilst in police custody, Police Scotland also has a duty of care to ensure that those who are being released from custody are fit, able and prepared to look after themselves, and that any identified threats or vulnerabilities are managed. This is done via a pre-release risk assessment, which is a thorough assessment carried out for every person in custody prior to release or transfer to court.

All officers and staff within custody, irrespective of rank, are responsible for the care and welfare of people in custody. There are various roles that allow for the efficient and effective

delivery of custody in Scotland:

The role of Cluster Inspector is central to the delivery of efficient and effective custody management, balancing a range of operational priorities. Cluster Inspectors may oversee multiple custody centres in their area.

The Custody Sergeant is responsible for local criminal justice decision-making and the day-to-day running of the custody centre. Custody Sergeants also provide information and guidance to staff. They are there to ensure the safety and welfare of staff, officers and persons in custody and to ensure that custody supervisors are sufficiently trained and supervised whilst undertaking their responsibilities.

A Force Custody Inspector (FCI) is on duty 24/7 and provides advice, guidance and support to Custody Supervisors nationally.

Criminal Justice Team Leaders lead a multi-disciplinary team within Criminal Justice Services Division to ensure the efficient and effective operation of the function. Similar to a Custody Sergeant, the Team Leader has responsibility for decisions relating to the care and welfare of persons in custody. This is a critical role and allows Custody Sergeants to focus on criminal justice decision-making whilst ensuring that the welfare of persons in custody remains a priority.

Criminal Justice Police Custody and Security Officers (CJ PCSO) are police staff who work within custody, managing and maintaining the safe custody, care and welfare of persons in custody.

### What is the Independent Custody Visiting Scheme?

Independent Custody Visiting Scotland (ICVS) has an essential role to ensure that the dignity and human rights of any individual in custody are respected and upheld. Through the ICVs' observations and reports, the scheme provides the Authority with assurance and identifies areas where improvement could be considered, thus supporting the Authority to maintain and improve policing in Scotland. The scheme allows the Authority to draw together thematic areas for continuous improvement and identify trends emerging from visits to help support Police Scotland to address these.

ICVs are volunteers from the community who make unannounced visits in pairs to police custody centres to check the treatment of persons in custody and assess the conditions in which they are detained. They also have a role in ensuring their dignity, health and wellbeing are being appropriately protected and cared for. They do this by monitoring facilities, speaking to persons in custody, checking custody records and generally observing custody centres.

Chapter 16 of the Police and Fire Reform (Scotland) Act 2012, sets out the Authority's



responsibility for making arrangements in order that ICVs may:

- Visit persons in custody;
- Access information relevant to the treatment of persons in custody and conditions in which they are detained;
- Monitor the treatment of persons in custody 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 ICVs to do anything which the Authority consider necessary to enable them to visit and monitor treatment of persons in custody and the conditions in which they are held;
- Provide for reporting on each visit;
- Be kept under review and revised as the Authority sees fit;
- Prepare and publish such reports on independent custody visiting as the Scottish Ministers may reasonably require.

### United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

Chapter 16 of the Police and Fire Reform (Scotland) Act 2012 states that the ICVS is to provide independent monitoring of Police Scotland custody to ensure that persons in custody 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 requires 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).

Police Scotland has specific obligations in pursuance of OPCAT. Police Scotland's Code of Ethics, to which every officer and staff member must adhere, is an essential mechanism that underpins persons in custody' rights and ensures that these are upheld to the highest standard.

The Police Scotland Code of Ethics sets out the standards expected of all those who contribute to policing in Scotland. The code provides a practical set of measures that are reflective of the Police Service of Scotland. The code recognises that all staff and officers are

responsible for delivering a professional policing service to all people across the country. This includes individuals in custody. The code sets out four key areas: integrity, fairness, respect and human rights. The code has some key statements which set clear standards for Policing in Scotland in pursuance of OPCAT:

- *I will show respect for all people and their beliefs, values, cultures and individual needs.*
- *I will have respect for all human dignity as I understand that my attitude and the way I behave contribute to the consent communities have for policing.*
- *I shall treat all people, including detained people, in a humane and dignified manner.*
- *I will not encourage, instigate or tolerate any act of torture or inhuman or degrading treatment under any circumstance nor will I stand by and allow others to do the same.*
- *I understand that the humane treatment of prisoners is an essential element of policing and that the dignity of all those I am trusted to care for remains my responsibility. (Article 3)*
- *I understand that people have an equal right to liberty and security. Accordingly, I will not deprive any person of that liberty, except in accordance with the law (Article 5).*

### National Preventive Mechanism (NPM)

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 persons in custody and staff in private.

### Independent Custody Visiting Association (ICVA)

ICVA provides leadership to Independent Custody Visiting schemes in the UK, helping them to define their aims and ensuring that schemes remain up to date in policing reforms. Their activities include responding to the increase in terrorism-related arrests in the UK, developing and delivering the Quality Assurance Framework for schemes to be recognised for their work.

and working with schemes to develop data collection standards and corresponding documentation.

### Independent Custody Visiting Scotland

Independent Custody Visitors are trained to make observations and ask a series of questions to ensure that persons in custody treatment is fair, dignified, and that their human rights are protected. ICVs are also trained to identify an individual's specific needs and focus their observations and conversations with persons in custody on key areas: reason for their detention; the letter of rights being issued to them; general appearance; characteristics; specific/diverse needs; health and wellbeing; and overall experience. ICVs are also trained to establish whether a person in custody has any specific needs. Examples include: unique dietary requirements; access to religious materials; or translation requirement or communicates via British Sign Language (BSL). Where an individual does not speak English or use BSL, the use of an interpreter is available, and ICVs have access to this service when required.

At the beginning of each visit, ICVs are informed of the number of persons in custody at the time. The ICVs are also there to observe and check the custody centre facilities. During each visit, ICVs complete a report form detailing their visit and identifying any areas for improvement.

During this reporting period, there were 93 ICVs operating in three regions – North, East and West. In addition, there are 4 dedicated ICVS staff members who support the scheme. The staff team includes a National Manager and 3 Regional Coordinators, all of whom are employees of the Authority.

When carrying out a custody visit, the ICVs will raise any concerns directly with the on-duty custody officers and staff. This ensures the quickest possible resolution to any issues or observations, and that the welfare of persons in custody is safeguarded as a matter of priority. ICVs complete a report following each visit and submit this to the ICVS Regional Coordinators for analysis. ICVS Regional Coordinators then follow this up by speaking with the Cluster Inspector or checking custody records to raise observations, concerns and areas of good practice at formal Cluster meetings on a quarterly basis, with ICVs and police officers. This provides an opportunity to discuss the ICVs' reports, address any new areas of concern that have been raised, and follow up on previous actions taken to address ICVs' observations. During these meetings, the Custody Inspector/Sergeant is tasked with any outstanding actions and asked to provide an update at the next quarterly meeting. Cluster meetings returned to face-to-face in person during this reporting period with some volunteers still joining virtually where required.

Where an ICV has asked for a specific update, the ICVS Regional Coordinators may, prior to

the next meeting, link in with the ICV to provide a response/update.

Issues which the ICVs consider to be more serious are escalated to the ICVS Regional Coordinators and National Manager immediately following a visit. The National Manager then contacts Police Scotland's Senior Leadership Team, requesting that immediate action is taken to resolve any high priority concerns.

There are three levels of escalation for feedback from ICVs:

1. Raised directly with custody officers and staff at the time of visit, e.g. immediate areas for improvement;
2. Escalation to Regional Coordinators or the ICVS National Manager who then contacts Police Scotland for a response/update; Escalation at this stage can also occur between the ICVS National Manager and the Head of Change and Operational Scrutiny for direct liaison with the Divisional Commander of Criminal Justice Services Division (CJSD);
3. Escalation through the Policing Performance Committee and/or Authority Board, if necessary.

For escalation routes 2 and 3 above, feedback will be provided to ICVs on the action taken by Police Scotland to resolve any of the issues or areas for improvement identified, ensuring that the welfare and conditions for persons in custody continue to be safeguarded.

## Police Scotland

Police custody is an area where arrested individuals are detained, with many often suffering from a range of short to long-term vulnerabilities. Custody staff and officers deal with a diverse range of conditions, needs and vulnerabilities that include mental and physical health conditions, substance misuse, intoxication, learning disabilities and gender-specific needs, all of which can be intensified by being held in police custody. Police Scotland has a responsibility to ensure that detained people are kept safe and that their needs, human and legal rights are adhered to and accommodated.

## Overview of Findings from ICVS Monitoring Visits

During 2022-23, ICVs have not reported any breaches of human rights or highlighted any instances of cruel, inhuman or degrading treatment or punishment of arrested individuals, as described by OPCAT.

However, there are key and thematic areas for continuous improvement highlighted in this report. In the majority of cases, the responsibility to act on ICVs' findings falls to Police



Scotland and these findings are usually addressed at the time by the custody staff/officer. However, a small number of findings will require input from other public sector partners or investment in order to address the actions identified.

## 2. ANNUAL ACTIVITY DATA OF THE ICVS 2022-23

### Custody Throughput Figures

Between 1st April 2022 – 31st March 2023, **98,960 individuals** were detained by Police Scotland. This is an increase of 3% from 1st April 2021 – 31st March 2022, but notably represents a 16% decrease when compared to 2018-19. The table below details the Police Scotland official custody throughput figures from 2018-19 to 2022-23:

**Table 2: Annual Custody Throughput Figures**

	2018-19	2019-20	2020-21	2021-22	2022-23
Custody Throughput	<b>118,418</b>	115,126	101,203	96,170	<b>98,960</b>

The following tables show a breakdown of people in custody by age and gender (Table 3), and show how many specific areas of vulnerability or specific characteristics (Table 4) are highlighted to custody staff and officers as recorded by Police Scotland.

**Table 3: Age Range of Persons in custody in Custody**

2022-23	Female	Male	Unassigned
<b>U16</b>	217	1,046	3
<b>16-25</b>	3,793	18,354	30
<b>26-35</b>	5,673	25,292	5
<b>36-45</b>	5,109	19,996	0
<b>46-60</b>	3,042	12,917	7
<b>Over 60</b>	465	2,717	2
<b>Unknown*</b>	75	217	0

*\*There were 75 females and 217 males that came into custody and refused to provide details of their date of birth.*

When compared to last year the largest increase in gender and age groups being taken into custody are: U16 Female and Males; 45-60 Females and Over 60 Female and Males. There has been a reduction in the number of 16-25 year old males being taken into custody.

**Table 4: Self-Declared Vulnerability / Specific Characteristics**

2022-23	U16	16-25	26-35	36-45	46-60	Over 60	% of total Persons in Custody with characteristic
Alcohol Dependent	9	1,394	3,570	3,623	2,706	355	11.7%
Drug Dependent	48	2,578	5,426	4,983	2,073	70	15.3%
Mental Health	266	7,833	14,052	11,854	6,812	860	42.1%
Foreign Nationals	90	2,582	4,026	3,343	1,623	220	12%

*\*Please note, each person in custody may have disclosed more than one/multiple vulnerabilities. These vulnerabilities would have been declared by the person in custody as part of the vulnerability*

## ICVS Key Figures

During the reporting period, there were **93** ICVs available to undertake visits to police custody premises. 6 of these ICVs are fully qualified and trained for specific visits to those arrested under the Terrorism Act. Over the year, the scheme has seen some of its long standing ICVs move on. The table below shows the breakdown of ICVs across geographic areas and by gender during this reporting period:

**Table 5: Custody Visitors (ICVs)**

Number of current ICVs	Male	Female	Leavers	ICVs Joined
North	9	19	2	5
East	12	15	10	2
West	17	21	8	3
Total	38	55	20	10

As part of the continuous improvement work of ICVS the Authority continues to recruit ICVs. In 2022-23, the total financial cost to the Authority of supporting the ICVS was **£244,907**. This includes salaries, recruitment campaigns, visitor expenses, training events and materials, cluster meetings and visitor induction days, and includes travel expenses following the return to normal levels of face-to-face visits.

The ICVS has carried out **1037** visits to custody centres and visited/spoken to **1661** persons in custody (58 of these were observed) during 2022-23).



\*An unavailable visit is when the person in custody is currently not in the cell or is otherwise occupied. Example reasons for this are:

1. having fingerprints taken;
2. forensics tests;
3. out of cell for questioning, or with a solicitor; or
4. receiving a medical assessment.

There are also instances where Police Scotland will refuse access under ministerial determined grounds for refusal. There are specific reasons for which access to a person in custody can be refused:

1. denying a visit is necessary for an independent custody visitor's safety;
2. such access could seriously interfere with the process of justice;
3. there are urgent and compelling grounds of public safety;
4. there is serious disorder in the place to be visited that temporarily prevents the carrying out of such a visit;
5. there is a period of emergency, either national or more local, for example a health pandemic;
6. there is natural disaster.



Throughout the reporting period, ICVs continued to undertake unannounced visits to custody facilities on weekdays and at weekends. The following table shows on which days of the week visits were conducted during 2022-23:

**Table 6: Days of the Week Visits Occur**

Day	Number of Visits
Sunday	68
Monday	123
Tuesday	156
Wednesday	206
Thursday	232
Friday	184
Saturday	68

### Legalised Police Cells (LPC)

Legalised Police Cells (LPC), which are unique to certain parts of Scotland, derive historically from the inaccessibility of the Scottish courts in outlying districts and islands. These police cells have been 'legalised' and as such are used to hold individuals awaiting trial locally, or who have been returned from prison for sentencing, or following conviction, or pending transfer to prison. There are four designated police stations which may be used as legalised cells. These are Lerwick, Kirkwall, Stornoway and Hawick.

- Police Scotland is responsible for the care and welfare of individuals held in LPCs.

## CASE STUDY

### Mainland LPC activation – Case Study 1

In September 2022, ICVS officers were notified of an LPC activation. The person held in custody was a 17 year old male and was reported to be showing signs of distress and exhibiting extreme behaviour relating to mental illness. During the period of detainment, the male was observed by police at all times to ensure his safety. The individual was also provided with food and water and both his mother and an interpreter were contacted. Given the complex and sensitive nature of this detainment ICVs were quickly requested to undertake a visit. The Divisional

## CASE STUDY (continued)

Commander for Criminal Justice Services Division maintained a constant line of communication with the Head of Change and Operational Scrutiny at the Authority.

Due to the vulnerabilities of the individual, the court process had to be carried out at the cell door, and attempts were made to remove him from the cell. The first attempt failed and more GeoAmey trained staff were brought in. He was removed from custody before ICVs arrived, however they questioned staff and officers and praised the team leader for such an in-depth record of what happened, including how GeoAmey staff professionally engaged with the male, ensuring his dignity at all times.

This case study is an example of how things can happen outside of the norm and officers, staff and ICVs need to be prepared for anything.

- The cells are no different to those used for routine persons in custody, but the conditions of detention differ.
- Prisoners held in the LPC are detained under the provisions of the Prison and Young Offenders Institutions (Scotland) Rules 2011.

ICVS were informed of 19 activations over the last year, and spoke to 11 who were male (one being 17 years old) and 1 female.

The team continues to work with Police Scotland to ensure ICVS is given advanced notice and early communication where possible to allow for advanced planning.

### Terrorism Act (TACT)

Specially-trained ICVs visit persons in custody who have been arrested on suspicion of being persons who are, or have been, concerned in the commission, preparation or instigation of acts of terrorism, or who have been arrested for statutory offences as detailed in the Terrorism Act (for example fundraising or directing terrorism). Throughout the United Kingdom, ICVs have visited suspected terrorist persons in custody for several years and Scotland has one detention centre for this purpose. During the reporting period, there were no TACT activations.



## Border Force

The Border Force is a law enforcement command within the Home Office where officers deal with threats from international and domestic terrorism and the exploitation of borders and ports from serious organised crime. Independent Custody Visiting is not a statutory requirement for Border Force, however, the Authority decided that for reasons of public confidence and transparency, arrangements should be made for Border Force custody facilities to be visited by ICVs in line with the rest of the UK. During the reporting period, there was 1 activation of Border Force facilities:

The person in custody agreed to speak with the ICVs on the three visits. The individual was encouraged by officers and ICVs to ask for anything they needed and not wait until asked. The Chaplain and Doctor had been requested and attended.

### 3. KEY THEMATIC FINDINGS

This Annual Review highlights to the Authority, the Scottish Justice System, the public, and the United Nations, that during 2022-23, the ICVs have not raised any OPCAT level breaches of human rights or highlighted any instances of cruel, inhuman or degrading treatment or punishment of arrested individuals as described by OPCAT.

However, key thematic areas for continuous improvement for Police Scotland continue to be raised in relation to:

- Children in custody;
- Letter of Rights being issued and understood by individuals in custody;
- Medical requests;
- Access to washing and showering facilities;
- Request and availability of reading and writing materials for persons in custody;
- Police Scotland's custody estate;
- Stock / Laundry.

503 facility concerns

1447 observations

#### Finding 1: Children in Custody

ICVs continue to prioritise the most vulnerable people in custody at the time of their visit. As such, there is an ongoing focus on children and young people. The Authority has produced a Children in Custody public briefing (available [here](#)). This briefing outlines that despite additional safeguards being in place for children, custody can be a traumatic experience for a child. Both Police Scotland and the Authority have been clear that they do not consider police custody to be a suitable place of safety for a child and Police Scotland continue to take steps to minimise the number of children that are held in police custody.

The Criminal Justice (Scotland) Act 2016 contains provisions which provide differing rights to children (aged under 16 years or those aged 16 or 17 subject to supervision) and those aged 16 or 17 and not under supervision whilst they are in Police custody. There is planned legislation this year that will change this to ensure that all of those under 18 will be defined as a child.

Currently, the definition of a child, as per the 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's Hearing (Scotland) Act 2011, and;
- Older children are those aged 16 or 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.

There were a total of **4,261** children held in custody from 1st April 2022 – 31st March 2023. This is an increase in comparison with **3,965\*** children in custody in 2021-22 and slight increase from **4,147** in 2020-21. The Authority understand that Police Scotland continue to commit to ensuring that, where possible, children are not brought into or held in custody unless there are exceptional circumstances. The main underpinning reason for this having to take place is due to a lack of suitable alternative places of safety.

Police Scotland is continually and actively trying to progress in this area, through partnership with relevant agencies to minimise the need for children to be held in police custody, other than in the utmost exceptional situations.

The ICVS will monitor progress on the commitment made by Police Scotland to ensure facilities are suitable to minimise trauma and ensure the best possible environment for children in custody through their Criminal Justice Services Division transformation programme.

Table 5 below provides a breakdown of the number of children that experienced police custody in 2022-23 by age. Table 6 then provides details of the custody classification for each child.

TABLE 5: Age of Children in Custody	
Age	Number of persons in custody
12	33
13	152
14	361
15	722
16	1,228
17	1,765

*\*Figures provided to the Authority for 2021-22 were inaccurate. The figure that has now been provided for 2021-22 is 3,965 under 18 year olds as compared to 4,012 which was reported.*



Table 6 – Custody classification for those under 18

2022-2023	12	13	14	15	16	17
Not Officially Accused	7	40	111	180	217	313
Officially Accused	26	112	250	538	972	1327
Other	0	0	0	2	14	13
Transit	0	0	0	0	3	9
Court Review	0	0	0	0	0	0
S.23 Detention	0	0	0	2	10	11
Warrant	0	0	0	0	12	92
Total	33	152	361	722	1228	1765

1 All data has been extracted from Police Scotland internal systems (SEB-P) and are correct as at 31st May 2023.

2 Those 16 and 17 years old displayed within Table 6, include those under supervision, and those who are not under supervision.

3 Those 12 - 15 years old displayed within Table 6, include those under supervision, and those who are not under supervision.

4 Voluntary Attendance (VA) is not counted as these figures are based on the arrest time from SEB-P (see above) and no arrest time is available with VA as the individual has not been "arrested".

5 Other – Any arrest that is not Criminal Justice Act related.

6 Section 23 Detention – Detention for the purposes of a Search for Controlled Drugs. Under Section 23 Misuse of Drugs Act 1971.

7 Transit – For those who are in the cells from Prison, have attended for an identification parade.

## Finding 2: Letter of Rights

The Letter of Rights leaflet gives important information on the freedoms and support to which everyone has a right under Scots Law. The Letter of Rights helps people in custody know their rights and, in turn, can help ensure the individual is treated fairly whilst in police custody. During the reporting period Scottish Government has been developing a Letter of Rights for children and designing a new easy read version aimed at children.

The Letter of Rights states:

1. You have the right to know why the police are keeping you at the police station.
2. You have the right to know what the police think you have done.
3. You have the right not to speak. You do not have to answer any questions the police ask you. **But** you do have to give your name, address, date of birth, where you were born and your nationality.

4. You have the right to have someone else told you are at the police station. If you are under 16, this must be a parent or guardian. If you are 16 or over, this might be a family member, a carer or a friend.
5. You have the right to have a lawyer told that you are at the police station. This is free.
6. You have the right to speak to a lawyer in private at any time. This is free.
7. You have the right to have a lawyer present if the police interview you. This is free.
8. If you are under 16, a lawyer must be present when the police interview you unless there are exceptional circumstances. If you are 16 or 17 and subject to a compulsory supervision order, a lawyer must be present when the police interview you unless there are exceptional circumstances.
9. If you are under 16 you have the right to be visited by your parent or guardian at the police station.
10. If you are 16 or 17 and subject to a compulsory supervision order you have the right to be visited by your parent or guardian at the police station.
11. You have the right to medical help if you are ill or injured.

The Letter of Rights should be provided to a person at the earliest possible opportunity and typically when they are first processed at the custody charge bar. ICVs have highlighted instances where there has been inconsistency in this approach. Notably, instances have been reported where persons held in custody have not been able to understand their rights due to them being unable to read or because the person has disposed of the letter early on in the custody process. These concerns have been raised with Police Scotland.

Table 7 (below) shows the number of times a person in custody has raised an issue with the issuance and understanding of the Letter of Rights in each of the three regions\*. The table also shows how many were addressed by Police Scotland and the resolution rate at the time of raising the issue. 15% of those visited in 2022-23 were noted as having an issue with the provision or understanding of the Letter of Rights. Of those issues that were raised, the vast majority were addressed immediately.

Table 7: Letter of Rights			
	Issues Raised by persons in custody	Addressed	Resolution Rate
Total	232	226	97%
East	47	43	91%
North	38	36	95%
West	147	147	100%

The ICVS is aware that Police Scotland currently have plans to create a video version of the Letter of Rights and a separate version for Children. The scheme is keen to see this be delivered and it is hoped this will help enable anyone who is unable to read the Letter of Rights understand their rights.

\*Hardcopy Letter of Rights may be risk-assessed as not appropriate to be given to the person in custody. This can account for some people not having a copy or people being intoxicated or not engaging with the process when first coming into custody. This could potentially account for a proportion of persons in custody who stated they were not given the Letter of Rights on arrival at the custody centre.

The ICVs will continue to monitor the issuing and understanding of the Letter of Rights to persons in custody by Police Scotland.

## CASE STUDY

### Letter of Rights – Case Study 2

In the North region, a female held in custody advised ICVs via an interpreter that she had been provided with the Letter of Rights when she was booked in, however, due to language barriers she did not understand it.

At the time of the ICVs visit, the individual had been in custody for three days and nine hours. ICVs quickly identified that the individual had not been given the Letter of Rights in her own language. This was highlighted to the duty officer as an issue and a request made to provide a copy in her own language immediately.

During the same visit, ICVs spoke with a male with the use of the translator service. The male advised he had spoken to an interpreter at the time of his detention and was aware of the reason for his detention. However he was not aware of the Letter of Rights and its contents. ICVs requested that a Polish version of the Letter of Rights be provided to the individual immediately.

### Finding 3: Medical

Persons in custody should have access to medical provision and this should be available as and when required under their rights and entitlements. The responsibility for the provision of



healthcare in custody centres transferred from Police Scotland to NHS Scotland in April 2014. Current provision has presented several challenges as not all custody centres have medical provision on site, which can cause issues with delays in persons in custody receiving non-urgent medical attention or where they require specific medication.

ICVs have noted that if an individual requests medical attention, unless there is an imminent medical need or an emergency, then it is likely that it will take up to 6 hours to be seen. The length of this wait is often raised as a complaint by individuals who receive a visit from ICVs. There are also instances where persons in custody declare to ICVs that they are on medication or have a health issue, but have not declared this to the officer at booking in point. When this occurs, ICVs highlight this to the custody staff and ensure suitable medical provision is arranged.

In instances where a person in custody is on a methadone programme, ICVs have noted instances of delays in individuals being administered with the appropriate medication. When this occurs it is typically due to methadone only being able to be administered by doctors.

ICVs have also noted inconsistencies in the type of medication that is administered to individuals on a methadone programme. For example, if an individual on a methadone programme is held in a certain custody centre they may be administered with methadone, if held at a different custody centre but in the same region they would receive an alternative to methadone.

His Majesty's Inspectorate of Constabulary in Scotland (HMICS) carried out a joint baseline review of healthcare provision within police custody centres with Healthcare Improvement Scotland to determine the existing provision of healthcare services for persons in custody. Two inspections were carried out in March 2023, which resulted in seven recommendations that aim to improve healthcare and to achieve better outcomes for people in custody. ICVS fed into this report providing information on their observations and comments on the inconsistencies around healthcare provision in police custody. The report was published in January 2023.

Table 8 (below) shows the number of times a person in custody has raised an issue with medical provision in each of the three regions. 13% of those visited in 2022-23 were noted as having an issue with medical provision. Of those issues that were raised, 100% of these were addressed immediately. It is positive to see that the resolution rate of these issues is 100%.

Table 8: Medical			
	Issues Raised by Persons in Custody	Addressed Immediately	Resolution Rate
Total	206	206	100%
East	48	48	100%
North	33	33	100%
West	125	125	100%

#### Finding 4: Mental Health and Wellbeing

High rates of mental health vulnerability have been noted in ICVS annual reports over previous years. Over the last two reporting years, the proportion of individuals declaring mental health vulnerabilities was 41%\*. During this reporting year (2022-23), the figure increased further to 42% (41,761 people).

*\* In 2020-21 41,390 (41% of throughput) self-declared as having a mental health vulnerability. In 2021-22 39,407 people (41% of throughput) self-declared as having a mental health vulnerability.*

These high numbers underline the significance and prevalence of mental health related vulnerabilities for people detained in custody, and further emphasise the demand on policing through mental health vulnerability. The Authority held a Mental Health, Vulnerability and Policing Conference during the year. The event highlighted a number of key themes and new areas of work to be developed:

- Data availability and interagency sharing;
- Clarification of roles and handover between agencies, including out of hour arrangements to avoid silos and duplication;
- Learning from, and applying, good practice gathered both locally and worldwide;
- Strengthening prevention activity, including awareness raising;
- Empowering officers through training and risk & prioritisation based decision making models;
- Ensuring a focus on person centred interventions and service design informed by users of our services directly;
- Recognising the associated trauma experienced by our workforce;
- Development of a Police Scotland Mental Health Strategy in line with wider stakeholders.

Some of these themes will be key in developing how Custody Centres help those with identified mental health vulnerabilities and the ICVS is keen to see how this is reflective on the wider Police Scotland Mental Health Strategy.

In 2003, the Scottish Parliament passed the Mental Health (Care and Treatment) (Scotland) Act 2003. This came into effect on 5th October 2005, with the aim of ensuring the effective care and treatment of people who have mental health vulnerabilities. This Act also provides a range of powers and duties for local authorities, health professionals and the Police.

The Act makes provision for a police constable to take a person to a place of safety, and keep them for up to 24 hours, so that they can arrange for the person to be examined by a doctor if the below criteria are met:

- If you are in a public place (any place where the public has access) and;

- A police constable reasonably suspects that you have a mental health disorder and;
- Also suspects that you are in immediate need of care and treatment.

ICVs ask persons in custody about their mental health and physical health and whether they need any further support. Sometimes persons in custody do not disclose this to custody staff and officers at the time of booking in, therefore ICVs can highlight any concerns to staff.

## CASE STUDY

### Physical, Mental Health and Wellbeing – Case Study 2

In the west region, a male was placed on constant observations due to the individual having attempted suicide the previous night. This involved a police officer standing at the door of the custody cell and constantly monitoring the individual.

The individual was exhibiting marked vulnerabilities and had torn up the plastic mattress in the room, and attempted to construct a ligature for around the neck. ICVs could also see the male had bruising and cuts from banging his head against the cell wall. He had been aggressive towards staff and officers, kicked one officer and bit another. The male had made threatening comments to the officers and staff and advised ICVs he would attempt suicide when he enters prison, and displayed actions of how he would attempt this.

The ICVs checked that the Crisis Assessment and Treatment Team (CATT) had been in to see the individual and a social worker was there when ICVs were visiting. All relevant documents were checked to ensure the risk and behaviour was documented and identified and the ICVS regional coordinator followed this up with the duty Inspector to ensure all partners were notified.

### Finding 5: Access to Washing and Shower Facilities

Persons in custody should be able to remain clean and should have access to washing facilities. However, ICVs continue to observe, and comment on, the lack of washing facilities that are available at custody centres, as well as the lack of staff available to accommodate people to make use of facilities when they are available.

The Custody Care and Welfare of Persons in Police Custody Standard Operating Procedure (SOP) states that only when a person is detained in custody for more than a full day should they be offered facilities to wash and/or shave at least once per day. The SOP extends to cover that any reasonable requests to wash and/or shave more often than this should be met, where possible, and there are specific provisions made for menstruating persons in custody that washing and showering facilities are available, as and when required.

ICVS have previously recommended that Police Scotland should continue to offer access to wash/shower facilities regardless of the time spent in custody. Access to washing, showering and hand washing facilities is fundamental to the care, welfare and dignity of people in custody. This is a continued area of concern for the ICVs as washing/showering should be seen as a basic right of an individual. Police Scotland should seek to ensure any reasonable request to wash and/or shave more often than once per day should be met, where possible. Access to hand washing facilities should also be facilitated where possible.

Of the 1,661 persons in custody visited or observed by ICVs in 2022-23, the total number of issues raised by persons in custody in relation to **washing or showering facilities** was 138 which represents 8%. 81% of these concerns were either addressed immediately, or had already been addressed by Police Scotland.

Table 9: Washing/Showering

	Issues Raised by Persons in Custody	Addressed Immediately	Resolution Rate
Total	138	112	81%
East	25	19	76%
North	16	9	56%
West	97	84	87%

## CASE STUDY

### Access to wash/shower facilities – Case Study 4

ICVs visited a male in the west region. The male had been in custody for more than 24 hours at the time the visit took place. The individual told ICVs that he had not been offered access to washing/showering facilities and that he had not been offered a toothbrush. ICVs advised the individual that he could ask custody staff for access to washing facilities. The ICVs also checked the custody record to confirm that no washing facilities were offered. The ICVs raised this as a concern with custody staff at the time of the visit. (continued...)

## CASE STUDY (continued)

In response, custody staff reported that the individual was placed within a newly built custody cell which includes a personal wash basin. Ordinarily persons in custody would be offered a wash/toothbrush before attending court or in the mornings. In this particular instance, the gender profile of available staff limited availability of showering facilities (female staff do not facilitate the showering of a male).

### Finding 6: Stock/supplies

During the reporting year, ICVs raised 89 concerns relating to the lack, and inconsistency, of stock and supplies, such as blankets, food and anti-harm suits across custody centres. Concerns regarding food stock was originally raised by ICVS in 2015-16 and, despite a new supply contract, remains an issue. Incidents of food provision not meeting individual dietary needs across custody centres remain. Difficulties with one food supplier has also been identified. This supplier has been unable to provide a suitable veg/non veg breakfast. This has resulted in cereal bars or pot noodles only being available for breakfast in some areas.

Persons in custody who are determined to self-harm can adapt items in many ways and officers must justify removal of clothing for safety or investigative purposes. Any item of clothing can be used as a ligature, such as belts, ties, cords, and shoelaces. Officers will make the decision to remove such items after conducting a risk assessment. This must be balanced against the need to treat persons in custody with dignity. In the instance where clothing has to be removed anti-ligature clothing may be used as a replacement. ICVs have recorded several instances in 2022-23 where there has been a shortage of anti-ligature clothing and limited sizes available at custody centres.

ICVs observed one person partly dressed in anti-ligature clothing. Upon inquiry, ICVs were informed that a full suit was not provided due to a lack of suitable sizes being available. Although not confirmed by ICVS, custody staff regularly report that items going to the laundry are not always being returned in time or at all, leading to a reduction in available sizes. Some custody centres will transfer clothes/blankets leaving the original centre lower in stock for future use. In one area, ICVs highlighted that the laundry collection frequency had reduced to once a week, placing further pressure on stock availability. Following these observations being raised, the laundry provider re-established a twice weekly collection. ICVS recommend that stock levels and laundry services are actively managed to ensure that all custody centres have adequate anti-ligature clothing to meet periods of heightened demand. The ICVS

understands that Police Scotland have entered into a contract with a new provider for this service as of 1 April 2023 and hopes that that this will improve the situation.

Blanket shortages still remain an issue, in particular over bank holiday weekends (as people may have to remain in custody for longer due to courts not operating). Police Scotland has advised that there is a laundry replenishment system in place, which generally meets demand. Furthermore, custody staff can source spares from nearby centres should a shortage arise.

### Finding 7: Police Scotland Estate

In 2022-23, Police Scotland custody operations continue to be organised into 12 clusters, with 78 custody centres. This consisted of 25 primary centres; 49 ancillary; 4 that were closed (one of which was closed for refurbishment).

The National Custody Operating Model comprises three main types of facility:

**Primary** – open full time to receive persons to custody. Primary facilities are generally situated in areas of highest custody demand and principally staffed by CJSD officers and staff.

**Weekend Opening** – situated in areas of higher custody demand but only routinely opened to provide additional capacity at times of peak weekend demand. Principally staffed by CJSD officers and staff.

**Ancillary** – available for activation as and when required. Generally situated in more remote / rural settings or locations where lower levels of custody demand exist. Principally staffed by suitably trained local police officers, with remote custody supervision and governance being provided by CJSD.

Ancillary activations may include: pre-planned openings by the CJSD where local custody demand is expected to be higher for a specific event; scheduled openings by local police officers where a person attends by arrangement at a specific time for interview; or spontaneous activations by local police officers in order to process short-term local arrests where a custodial disposal is not anticipated.

Although the primary concern of ICVs is the care and welfare of persons held in custody, a key aspect of visits is also to observe the general custody estate and note any areas for improvement. These observations refer to a range of issues within the custody estate, with examples including:

- Custody cell buzzers not working;
- Cell toilets not working;

- Issues with the intercom not working;
- Cells requiring skylights and brickwork;
- Cells reported as being cold;
- Cell damage (paintwork or lighting);
- Stores and supplies not being available;
- Hand washing facilities not working or not available.

Where there are issues identified in the cells, these cells are designated as out of order by Police Scotland and are not used for holding people in custody until work has been undertaken to resolve the issue.

The Police Scotland custody estate remains in need of modernisation and this has been a long-standing area for improvement noted by both Police Scotland and ICVS. Police Scotland are looking to modernise the custody estate and several improvement initiatives are underway which will support improved quality of Police Scotland's custody provision.

ICVS officers continue to engage with CJSD to discuss estate improvements. ICVS are aware that CJSD are currently developing a revised Estates Strategy which will place the health, safety and wellbeing of officers, staff and people in custody at its heart. ICVS will continue to engage with CJSD to represent the views of ICVs during the development of this strategy.

The Authority is acutely aware that the whole of the Police Scotland estate is in need of investment. In the context of custody provision, and while acknowledging the severe financial constraints within which this can be delivered, the Authority is keen to see early implementation of effective investment in custody centres.

## 4. AREAS OF FOCUS

ICVS staff and volunteers are committed to continually improving the service to ensure that the ICVs' observations have the greatest possible impact, and that independent oversight of the care and welfare of people held in custody continues to be carried out to the highest standard.

In last year's annual report it was reported that the Authority conducted a proactive review of the ICVS arrangements. This review involved surveying ICVs, seeking input from Authority Officers and looking at national and international examples of best practice.

Since this review was undertaken, several initiatives have been taken forward to further improve ICVS. This includes:

- New forms for ICVs to record observations while undertaking visits were developed and piloted. Feedback from ICVs and Officers was then collated and further improvements embedded. The form has been developed to maximise the insight generated from visitor observations while supporting enhanced data and trend analysis, this new form went live on 1 April 2023.
- Recruitment activities were undertaken, with a targeted recruitment campaign for specific regions/areas. This resulted in an additional 10 ICVs joining the scheme.
- Updates to the ICVS database to enable further improvements in data quality and analysis capabilities were made. This is supported by the development of a new dashboard which provides enhanced data analysis opportunities.

Work also continues to progress with the digitisation of ICVS. ICVS currently relies upon a paper-based system to record visits. This requires significant manual effort, is open to human error and critically limits the ability of ICVs to provide real-time updates to the ICVS team.

To modernise these processes a project has been established to progress digitisation of the scheme. The project will go out to market to procure a solution that meets the needs of ICVS and will report regular updates to an internal project board.

### Recruitment

During this reporting period, there were 93 ICVs.

Recruitment remains a priority for ICVS officers and there is currently an ongoing process to recruit additional ICVs in the North and East region. ICVS will undertake targeted recruitment activity in these areas to ensure ICVs continue to reflect the communities in Scotland and ensure a service suited to current and emerging needs.



The ICVS team hosted the ICVS Conference in May 2022, which had been put on hold due to Covid 19. Over 30 ICVs attended with inputs from Jane Ryder OBE, SPA Vice Chair and ICVS Champion; Police Scotland; and ICVA. The conference provided valuable opportunity for ICVs to hear first-hand about the issues and concerns within their geographic area, share examples of best practice and to hear directly from Police Scotland about the number of initiatives that are underway or in the pipeline.

Jo Savage from Appropriate Adult service at COSLA attended to speak about the service and how it helps people in custody both understand what is happening and be understood during police investigations. Professor Niven Rennie, Director of Scottish Violence Reduction Unit also attended to present on how the unit is set out to help people with emphasis on violence being preventable not inevitable.

During the reporting year the team also held three induction days and one training day. The Regional Coordinators carried out training of a new visit report form at the scheduled cluster meetings to the ICVs explaining how to fill in and complete the form and the benefits this new approach brings to the functioning of ICVS.

## 5. CONCLUSION

2022-23 has been a successful year for Independent Custody Visiting in Scotland. With the development of new reporting forms and the new outcome reporting dashboard, the ICVS team have put additional demands on ICVs and custody staff/officers to achieve set outcomes and goals, and the support and dedication of all those involved has been outstanding. Importantly, over this period ICVs undertook over 1,000 visits to police custody and spoke to over 1,600 people in custody. The Authority is pleased to report that of these visits no issues were identified under the United Nations standards for upholding human rights.



## Become an Independent Custody Visitor

Custody visiting continues to be essential in providing independent scrutiny of the treatment of people held in police custody and the conditions in which they are held. The scheme helps to build partnerships between police and the communities in Scotland. We are looking to re-cruit within the North and East regions of Scotland and if this is something that you could be involved with please contact:

ICVS  
Scottish Police Authority  
1 Pacific Quay  
Glasgow  
G51 1DZ  
Email: [icvs@spa.police.uk](mailto:icvs@spa.police.uk)

For more information on the role of ICVS, please visit [www.spa.police.uk](http://www.spa.police.uk)

