



# ANNUAL REVIEW 2016/17

Independent Custody Visiting Scotland

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## Foreword

Subjecting an individual to detention is to deprive them of their liberty; the process is intrusive, risk laden and creates feelings of vulnerability, anxiety and stress. Article 5 of the Human Rights Act 1998 protects the right to liberty but also allows the state to restrict it.

Such detention is a necessary part of law enforcement, however detainees have rights and needs which must be considered when they are in custody.

Police custody is a high risk environment where police officers and staff have the responsibility of care, as well as detention, of people in very difficult situations. It is into this very environment that the individuals who volunteer as Independent Custody Visitors go. Independent Custody Visiting Scotland is a scheme providing random unannounced visits to police stations throughout Scotland. Through this volunteers carried out over 1,500 visits last year.

We must have confidence and assurance that detainees are held in appropriate conditions and that our international obligations to respect detainees' human rights are maintained.

Across Scotland, our volunteers are crucial to building that assurance and their very independence provides confidence in the way policing handles detainees. They invest their own time for the benefit of individuals in times of crisis but importantly provide feedback that brings benefits to policing.

I am grateful to all those who have contributed in the past year and on behalf of the SPA I thank them all for their continued commitment.

A handwritten signature in black ink, reading "Andrew Flanagan". The signature is written in a cursive style with a long, sweeping underline.

Andrew Flanagan  
Chair  
Scottish Police Authority

## Purpose

1. To provide an update on the activities and outcomes of the Scottish Police Authority's (SPA) Independent Custody Visiting Scheme covering the period 1 April 2016 to 31 March 2017.

## Section 1: Background

2. On 1 April 2013, Chapter 16 of the Police and Fire Reform (Scotland) Act 2012 established custody visiting in Scotland on a statutory basis.
3. In 2003, the United Kingdom (UK) Government adopted the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). OPCAT obligates the UK to identify a 'National Preventive Mechanism' (NPM) to ensure the prevention of ill treatment in places of detention.
4. On 3 December 2013 the SPA scheme was designated in the UK Parliament as a stand-alone member of the NPM.
5. Chapter 16 states that the provisions within it are in pursuance of the objective of OPCAT. The purpose of this is to ensure that an established system of regular visits is undertaken by independent custody visitors to places where persons deprived of their liberty are held. During these visits they observe, monitor and report on the welfare of people held in police custody and also on the custody facilities.
6. The scheme is independent of both Police Scotland and the Scottish Government. This allows reporting of custody visitor findings with integrity and impartiality.
7. This report seeks to highlight the key achievements in the delivery of the national Independent Custody Visiting Scheme, as well as detailing relevant statistics.
8. In 2016/17 the SPA invested £238,698 in administering the Independent Custody Visiting scheme.

## Section 2: Performance & Statistics

### 9. Number of Volunteer Independent Custody Visitors

The scheme, as of 31 March 2017, has 159 volunteer custody visitors (an increase of 11 on the previous year). There is no optimum target figure for volunteers within the scheme but recruitment in selected areas will continue to fill current gaps.

During the course of 2016/17, 28 existing custody visitors were reappointed, 21 custody visitors left the scheme, and 27 new custody visitors joined the scheme. All custody visitors have to clear vetting at Non Police Personnel Level 1 (NPPV1).

The scheme is broadly reflective of the communities it represents with an almost even split on gender (52% female, 48% male). The age range is evenly spread from 18 to 84 years. It is believed that the current group of volunteers effectively represent diverse backgrounds, however two key issues have been identified when trying to collect this data; a large proportion of volunteers have not chosen to provide this information as it is voluntary; and, as the current system ensures this data is completely anonymous, there is no way to adjust the figures when an individual leaves the organisation.

This issue has been recognised and steps are being taken to review the approach to gathering equality information in 2017/18.

Region	Number of Current Custody Visitors	Number of Custody Visitors in 2016	Custody Visitors Reappointed	Leavers	New Custody Visitors
North	45	31	4	9	23
East	41	42	9	5	4
West	73	75	15	7	5
<b>Total</b>	159	148	28	21	32

### 10. Cluster meetings

Custody visitors are placed into one of 12 geographical groups known as clusters which mirror the structure of Criminal Justice Services Division within Police Scotland. These clusters are supported by an SPA staff team of three Regional Coordinators, who maintain regular contact with the volunteers, chair quarterly visitor meetings, and relay further feedback to Police Scotland. Visitors carry out visits in pairs and raise any issues directly at the point of visit with Police Scotland officers and staff but the meetings allow for experiences and issues to be discussed and shared among the visitors and Police Scotland.

49 cluster meetings took place during the course of 2016/2017 and were attended by custody visitors, Police Scotland cluster inspectors and invited guests (Table 2).

TABLE 2: Number of Cluster Meetings as at 31 March 2017			
Region	Number of Clusters in Region	Number of Cluster Meetings in 2016/17	Number of Cluster Meetings in 2015/16
North	3	13	12
East	3	12	13
West	6	24	24
<b>Total</b>	12	49	49

## 11. Custody Suites

The National Scheme aims to ensure that **all** custody suites are visited by trained volunteers, according to a minimum schedule as detailed below.

TABLE 3: Breakdown of Custody Suites Types in each Region			
Region	Custody Suite Type	Number in Police Scotland Estate	Frequency of Visits Required
North	Primary/weekend	7	W/F*
	Ancillary	26	M/Q/Bi/A*
East	Primary/weekend	8	W/F*
	Ancillary	11	M/Bi/A*
West	Primary/weekend	26	W/F/M*
	Ancillary	17	M/Q/Bi/A*
OVERALL NATIONAL ESTATE	Primary/weekend	41	
	Ancillary	54	

\*The frequency of visits are categorised as Weekly / Fortnightly / Monthly / Quarterly / Bi-annually / Annually. The regional coordinators determine the frequency of visits by considering the throughput in each centre.

The Custody Estate is separated into three categories by Police Scotland –

- a. Primary Custody Centre – a centre which is open to receive custodies on a full time basis.
- b. Weekend Opening Centre – a centre which is routinely used at peak weekend times.
- c. Ancillary Custody Centre – a centre which may be opened due to demand or location.

As a result of the activities of visitors through the year, all custody suites featuring in the Police Scotland Custody Estate were visited during the period 1 April 2016 to 31 March 2017, fulfilling one of the scheme's prime obligations under OPCAT.

## 12. Visits undertaken to Custody Suites

The 2012 act requires the SPA to maintain an Independent Custody Visiting Scheme, however it is not obligatory for any detainee to accept a visit from custody visitors. Also, given that custody visitors are entitled to turn up unannounced at custody suites at any time, there can be occasions where there are no detainees in custody. This is likely to be the case at Ancillary centres, if this occurs the visitors will use the opportunity to monitor the estate.

At the outset of a visit the custody visitors will review an anonymised custody record that details the numbers of detainees currently held within that custody suite and thereafter select at random a number of detainees to whom visits are offered.

All statistics relating to the visit are recorded by the custody visitors on a standard form which is returned to the relevant Regional Coordinator, together with any additional comments on issues which the custody visitors may have identified during their time in the custody suite.

TABLE 4: Analysis of Visits Undertaken 2016/2017			
Region	Details	Figures for 2016/17	Figures for 2015/16
North	Total custody throughput (figures obtained from Police Scotland)	32,959 (-12.8%)	37,810
	Number of visits	401 (+17.2%)	342
	Number of detainees in custody	1554 (+15.1%)	1350
	Number of detainees unavailable	170 (+11.8%)	152
	Number of detainees offered a visit	749 (+15.2%)	650
	Number of detainees accepting visit	557 (57% uptake)	426
East	Total custody throughput (figures obtained from Police Scotland)	36,694 (-14.6%)	46,483
	Number of visits	409 (+1.7%)	402
	Number of detainees in custody	2483 (-4%)	2588
	Number of detainees unavailable	242 (-5.4%)	256
	Number of detainees offered a visit	1352 (-2.3%)	1385
	Number of detainees accepting visit	1000 (74% uptake)	897

West	Total custody throughput (figures obtained from Police Scotland)	70,967 (-9.4%)	78,323
	Number of visits	756 (+1%)	749
	Number of detainees in custody	4031 (+3.3%)	3901
	Number of detainees unavailable	298 (+12%)	266
	Number of detainees offered a visit	2097 (-2.8%)	2158
	Number of detainees accepting visit	1522 (72.5% uptake)	1180
OVERALL NATIONAL ACTIVITY	Total custody throughput (figures obtained from Police Scotland)	143,620 (-11.7%)	162,616
	Number of visits	1567 (+5%)	1493
	Number of detainees in custody	8069 (+3%)	7839
	Number of detainees unavailable	710 (+5.3%)	674
	Number of detainees offered a visit	4199 (+0.1%)	4193
	Number of detainees accepting visit	3080 (+23%)	2503

Commentary:

- a. *Increase in North visits* – The ongoing recruitment in the North region has increased visitor numbers again this year allowing for a significantly higher number of visits.
- b. *Increase in the number of visits accepted by detainees* - from 2015/16 to 2016/17, despite the fall in detainees going through custody there has been an increase in both the number of detainees offered visits (+0.1%) and in the number of detainees accepting visits from custody visitors (+23%). Visitors continue to comment positively on the good relationship that custody staff establish with the detainees.
- c. *Increase in the number of detainees unavailable for a visit* – The visits carried out are only a 'snapshot' of custody at that time. The number of detainees unavailable are only dependent on the time of the visit. There has been an increase in the number of detainees not available for a visit during the reporting period. This occurs if detainees are at hospital, if they are undergoing interview or if they are consulting with their solicitor.
- d. *Reduction in custody throughput but increase in the number of detainees in custody during visits* – custody throughput for 2016/17 has dropped by 11.7%, however the number of detainees in custody at the time visits were carried out increased by 3%. Visit report forms are analysed to ensure that the spread of visits is varied on both time and day of the week and safeguard against any predictable patterns appearing.



### 13. Issues and Outcomes Arising from visits to Custody Suites 2016/17

The prime consideration of the independent custody visiting scheme is to ensure the good treatment of those in custody. During the reporting period NO significant issues regarding care or ill treatment of detainees were raised, either by detainees or custody visitors. This is the third consecutive year in which this positive outcome has been recorded.

#### *Update on Issues Raised in Last Year's Review*

##### *Access*

As reported previously in the 2015-16 annual review, the major issue for visitors is the access to custody suites and police stations. This continues to be a problem with the number of delays increasing during the reporting period due to a lack of front counter staff or staff in custody areas when visitors make their unannounced visits. Visit report forms received and feedback from visitors is that this problem has been exacerbated during the period by the introduction of the National Custody system.

This is a processing and recording system previously used in the legacy Dumfries and Galloway area which is now being used throughout Scotland. The system will allow for an overview of all detainees in custody in the force area. Its use is causing significant delays for visitors gaining access to custody due to the length of time being taken when processing detainees resulting in an increase in the number of abandoned visits.

##### *Stock and supplies*

The disparity of stock and supplies such as blankets and anti-harm suits across custody suites was raised in the 2015-16 review. This is predominately an issue in the north region and visitors have reported improvements since last reporting.

##### *Washing facilities*

The lack of washing facilities offered/ provided to detainees continues to be reported by visitors.

##### *Fabric of Custody Estate*

The general lack of repair of the fabric of the custody estate continues to be reported by visitors.

##### *Staffing*

Concerns over the level of staffing within custody suites and the use of backfill staff both continue to be the subject of visit report forms.

#### *New Issues in 2016-17*

##### *Letter of Rights*

A new issue raised by custody visitors is the frequency of detainees reporting that they have not been issued with their Letter of Rights. There is a statutory obligation on Police Scotland to provide this document to detainees under The Right to Information (Suspects and Accused Persons) (Scotland) Regulations 2014.

##### *Short-notice Closures of custody centres*

The dynamic process introduced by Criminal Justice Services division of closing custody centres at short notice is impacting on the ability of the scheme to carry out its statutory function. Visits are currently planned on a three monthly basis to allow volunteers to plan ahead for scheduled visits. The current process of closures, sometimes with only one day notice, is becoming increasingly difficult to manage as visitors are volunteers who require to balance their volunteering commitments with other aspects of personal, family, and working life.

## **Section 3: Milestones & Achievements**

### **14. Legalised Police Cells**

Following the enactment of the Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 the responsibility for monitoring Legalised Police Cells passed to Independent Custody Visiting as of 31 August 2015.

Basic training has been provided to visitors to allow visits to be conducted as necessary. The first visit under the new process was carried out in January within Kirkwall Police office. This was a successful visit with no issues raised.

Due to continuing dialogue between Police Scotland and the Scottish government in complying with current prison rules relating to Legalised Police Cells (LPCs), the intended joint training programme for custody staff and custody visitors has not yet been finalised. The liaison work for full training is ongoing and visitors will be updated in due course.

### **15. Recruitment & Appointment of Custody Visitors**

The recruitment of custody visitors is a continuing process in targeted areas such as Shetland and the Western Isles. In this regard, as part of this ongoing initiative and to assist in generally raising the profile of the SPA ICV Scheme, a number of activities were undertaken over the course of 2016/17.

These included:

- a. The National Manager gave an interview to BBC Radio Shetland. This was aligned with advertising on local radio and engagement with Voluntary Action Shetland. This produced two applications, one of whom is now on the visiting rota and the other awaiting training.
- b. Advertising on websites – Volunteer Scotland and Local volunteer organisations.
- c. Circulation of ICVS volunteer posters and information leaflets within local libraries and community centres.
- d. ICVS section on SPA website with online application and Equality and Diversity monitoring form

During the reporting period 99 expressions of interest were received. There are currently 12 candidates progressing through the recruitment process with a view to being appointed as custody visitors in the near future. However, in order to ensure its continuing effectiveness, the scheme must maintain a constant flow of new custody visitors.

The previous reported delays experienced with the Police Scotland vetting process have now been resolved, and at time of reporting there were no outstanding requests in respect of custody visitors.

## **16. Training for Custody Visitors**

Current custody visitors require to be supported in their role and it is essential that they receive appropriate training. This is achieved through a variety of activities which include, but are not restricted to, the following:

- a. Quarterly Visitor Meetings – this provides custody visitors the opportunity to discuss any issues or points of note arising from previous visits and receive feedback and updates from the local cluster Inspector from Criminal Justice Services Division. It is also an opportunity to have guest speakers attend and provide input on subjects of relevance and interest.
- b. The ICVS Newsletter 'The Visitor' has now become established and has proved popular with custody visitors. It is published on a quarterly basis and is used to provide updates to custody visitors as well as focusing on common issues being identified throughout the clusters. The newsletter is also used to highlight good practice in custody visiting.
- c. Initial Information / Induction days – four of these events were held over the course of 2016/17.
- d. Training days – these are for custody visitors who have fully signed up following the initial induction / information days, and who have been through their interview and vetting process. Two of these sessions were run during 2016/17.
- e. National Conference – this was held in May 2016 at the George Hotel, Edinburgh for existing volunteers and was well attended. The event included a range of speakers when topics included National Preventive Mechanism, Immigration detainees, mental ill health in custody and new psychoactive substances. A further conference is scheduled to be held in May 2017.
- f. Training was developed with partners at the Scottish Human Rights Commission on Equality and Human Rights. This was delivered at visitor meetings.

## **17. Engagement with Police Scotland**

In order to ensure that there is consistent messaging and understanding about the purpose of, and need, for the ICV scheme in Scotland, the National Manager engages regularly with partners in Police Scotland, and has provided inputs on Independent Custody Visiting at Custody Officer training courses. Information on ICVS continues to be made available on the Police Scotland intranet site.

## **18. NPM & ICVA**

It is important that the SPA ICV Scheme does not work in isolation from other similar bodies in the United Kingdom and remains mindful of its OPCAT obligations. As such there were a number of events and networks that both the SPA ICVS professional staff team and custody visitors attended during 2016/17;

- a. Attendance at the ICVA National Conference – the East Coordinator and four custody visitors represented ICVS at the National Conference held in Birmingham in January 2017.
- b. Regular attendance at the NPM business meetings and relevant sub groups by the National Manager.

- c. The National Manager was re-appointed as a Director of ICVA in January and as such regularly attends ICVA Board meetings. He also sits on the recently formed National Expert Forum set up to share consistency and best practice in custody visiting throughout the UK.
- d. Attendance at the ICVA Scheme Managers Conference by the National Manager and two Regional Coordinators held at the International Convention Centre, Birmingham in October 2016.

## **19. Other Achievements**

Additional work completed in 2016/17 included:

- a. Introduction of a new Cue Card –the cue card is used by custody officers when introducing custody visitors to detainees to ascertain whether or not they are prepared to accept a visit. The wording was amended and rolled out to all custody suites. As recorded above its introduction has shown a significant increase in the acceptance of visits by detainees in the east and west. The comparatively low acceptance within the north region cannot be explained.
- b. Research into volunteer visitors- The UK is unusual if not unique in having lay visiting schemes as part of its membership of the NPM and this is an under-studied area in academic literature. In this regard, Professor Rachel Murray at the Human Rights Implementation Centre at Bristol University conducted research into the use of volunteer visitors to which the SPA scheme contributed.
- c. David Anderson QC, the outgoing Independent Reviewer of Terrorism Legislation commented in his sixth and final annual report;

“I applaud the Independent Custody Visitors for the tireless and often thankless work that they perform as a public service and on a voluntary basis. Their reports are a great help (and almost invariably a reassurance) to me. The ICVs are an important guarantor of confidence in police detention, including in terrorism cases”.

## **Section 4: Challenges & Opportunities in 2017/2018**

### **20.Priorities for SPA team 2017/18**

During 2017/18 the ICVS professional staff team will focus on supporting visitors in the following areas:

a. Preparing for Criminal Justice (Scotland) Act 2016 -

The Criminal Justice (Scotland) Act 2016 will change the way that Criminal Justice Services Division conducts its day-to-day business when it comes into effect in July 2017. Its introduction is likely to result in increased scrutiny of custody and detention. The National Manager and Regional Coordinators are currently completing training on the new legislative provisions with the view to delivering a bespoke training package for custody visitors during the course of 2017.

b. 2026 Strategy

Throughout 2017/18 the ICV team will ensure that visitors are kept abreast of how the implementation of the overall 2026 strategy may impact on the custody environment.

