



Agenda Item
3.4

Meeting	Policing Performance Committee
Date	07 December 2022
Location	
Title of Paper	Independent Custody Visiting Scotland Quarter 2 2022-23 Report
Presented By	Scott Ross, SPA Head of Change and Operational Scrutiny / Kirsty Scott, Independent Custody Visiting National Manager
Recommendation to Members	For Discussion
Appendix Attached	Yes – Appendix A - ICVS Q2 Report

PURPOSE

This paper provides an update on activity across Scotland of the Independent Custody Visiting Scheme for the period July – September 2022. This paper has been presented for **discussion**.

1 Background

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

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

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

- Keep the arrangements under review and revise them as it thinks fit; and
- Prepare and publish such reports on independent custody visiting as the Scottish Ministers may reasonably require.

1.4 The terms of reference for the Policing Performance Committee state that the Committee will ensure reporting from the Independent Custody Visiting in Scotland (ICVS) scheme is carried out publicly at least twice per year, including publication of the Authority's annual review of ICVS. This report seeks to fulfil this commitment and report a summary of the visits and the observations from the visitors within the ICVS Scheme for the period July – September 2022 for consideration by the Committee.

2 Summary Findings July – September 2022

2.1 During the reporting period the majority (92%) of the visits conducted were physical face to face visits to Police Scotland Custody centres. Throughput during July – September 2022 was 25,198 detainees.

Region	Throughput	Visits	No of detainees in custody at time of visit	Detainees not available	Detainees offered a visit	Detainees seen
North	5362	74	197	35	112	90
East	6616	51	178	33	95	73
West	13220	128	766	79	345	262
Total	25198	253	1141	147	552	425

- A total of 253 visits were attempted, with 1141 detainees in custody at the time of the visit.
- 18 of these visits were carried out via telephone monitoring.
- 552 (48%) of detainees in custody at the time were offered a visit
- 147 detainees were not available (13%)
- 127 detainees declined the offer of a visit (11%)
- 14 visits had to be abandoned (2 telephone and 12 face to face)
- Overall 239 visits were reported by ICVs as being successful visits.
- 4 Legalised Police Cell (LPC) activations took place during this quarter and were subject to a ICVS visit. One of these visits took place face to face at Falkirk with the others carried out via telephone monitoring.

OPCAT contravention or other issues and concerns

2.2 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international human rights treaty designed to strengthen the protection of people deprived of their liberty.

2.3 During the 239 successful visits there was **no recorded concern** relating to torture or inhumane treatment.

2.4 Visitors did highlight in their observations that that there appear to be ongoing issues regarding the timely and appropriate offering and/or providing detainees with access to washing and showering

facilities which has been articulated by PS colleagues during the visit as being due to the availability of staff to facilitate washing. The Police Scotland Care and Welfare Standard Operating Procedure (SOP) 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.*

- 2.5 It is the view of a number of the ICVs that detainees wellbeing and treatment would be improved if they were offered access to washing facilities at the first opportunity after being processed in custody where capacity and facilities allow and in particular where the detainee is due for court the next lawful day regardless of time spent in custody.
- 2.6 Of the successful visits, 203 visits (70%) had no outstanding issues which had not already been addressed and noted as resolved at the time of visit.
- 2.6 During the reporting period actions raised from 16 visits were recorded as 'outstanding', 4 of these have since been resolved. A total of 12 actions remain outstanding for updating in Q3. More detail on these can be found in Appendix A.
- 2.7 The Authority and Police Scotland hosted a Places of Safety for Children in Conflict with the Law event on the 15th of November. This event discussed alternatives to custody for children and young people who find themselves in conflict with the law. The event reaffirmed the position of the Authority and Police Scotland that no child should be held in Police Custody.

3 FINANCIAL IMPLICATIONS

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

4 PERSONNEL IMPLICATIONS

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

5 LEGAL IMPLICATIONS

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

6 REPUTATIONAL IMPLICATIONS

- 6.1. There are no adverse reputational implications in this report and public confidence is enhanced by the ICVS recording no OPCAT issues in the period.

7 SOCIAL IMPLICATIONS

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

8 COMMUNITY IMPACT

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

9 EQUALITIES IMPLICATIONS

- 9.1. There are no equality implications in this report.

10 ENVIRONMENT IMPLICATIONS

- 10.1. There 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 SCOTLAND - QUARTER 2 REPORT

November 2022

1 INTRODUCTION

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

ICV visits and recommendations can require the police to make improvements to ensure the welfare and dignity of detainees. Working as part of the oversight of police custody they play a valuable role in maintaining public confidence in this high risk area of policing by making sure detainees are treated appropriately.

Our volunteers are made up of a diverse group of people from Scotland including those local to communities in the highlands and islands.

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

1.1 Report Purpose

The purpose of this report is to provide SPA Policing Performance Committee with an update on the visits carried out and observations made by visitors, during the quarter two reporting period (July - September 2022). The report includes a number of key considerations:

- Whether visits have been successfully completed (i.e were visitors able to access custody facilities in order to make their observations)
- Whether any OPCAT related concerns were identified
- Facility improvements advised or defects identified
- Issues identified and whether these had been addressed during the visit or are still unresolved.
- Remedial actions committed to by custody staff or issues which require to be followed up or escalated

2 Report 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 centre.

During July – September 2022, 25,198 individuals were held in Police Scotland custody.

Region	Throughput	Visits	No of detainees in custody at time of visit	Detainees not available	Detainees offered a visit	Detainees seen
North	5362	74	197	35	112	90
East	6616	51	178	33	95	73
West	13220	128	766	79	345	262
Total	25198	253	1141	147	552	425

- A total of 253 visits were attempted, 1141 detainees in custody at the time.
- 18 of these visits were carried out via telephone monitoring.
- 552 (48%) of detainees in custody at the time were offered a visit
- 147 detainees were not available (13%)
- 127 detainees declined the offer of a visit (11%)
- 14 visits had to be abandoned (2 telephone and 12 face to face)
- Overall 239 visits were reported by ICVs as being successful visits.
- 4 LPC activation 1 visit was conducted as face to face at Falkirk with the others carried out via telephone monitoring.

2.2 OPCAT contravention and other raised issues or concerns

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international human rights treaty designed to strengthen the protection of people deprived of their liberty.

During the 239 successful visits there was **no recorded concern** relating to torture or inhumane treatment.

Visitors did highlight in their observations that that there appear to be ongoing issues regarding the timely and appropriate offering and/or providing detainees with access to washing and showering facilities which has been articulated by PS colleagues during the visit as being due to the availability of staff to facilitate washing. The Police Scotland Care and Welfare Standard Operating Procedure (SOP) 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.*

It is the view of a number of the ICVs that detainees wellbeing and treatment would be improved if they were offered access to washing facilities at the first opportunity after being processed in custody where capacity and facilities allow and in particular where the detainee is due for court the next lawful day regardless of time spent in custody.

2.3 Children in Custody

During the reporting period 1094 children were processed through police custody. As defined a younger child is any child under 16 or 16 and 17 years old on a compulsory supervision order. An older child as any child that is 16 or 17 years old not on a compulsory supervision order.

During the reporting period 434 younger children and 660 older children were processed in custody. The below table shows the regional breakdown.

	East	North	West	Total
Younger Children	73	79	282	434
Older Children	200	147	313	660

During the conduct of their visits ICVs visited/observed 15 older children and 2 younger children in custody.

Records show that 14 of 15 older children who were visited by ICVs had reported that they had been given appropriate treatment and attention and had been provided with relevant support and access to services. Of the children visited during the reporting period, the following observations were noted by visitors:

- 1 male older child was not offered a visit due to being very emotional and would possibly be further distressed by a visit. ICVs

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verified that the child's mother was present to provide support and social work were aware of the child's presence in custody.

- 1 of the older children was accompanied by a support worker from a homeless unit present.
- 1 female older child, was reported as looking scared but advised the visitors that the officers had been looking after her well.
- 1 male, younger child, 16yrs on supervision and 1 male aged 14 were not in a cell at the time of the visit, however the ICVs obtained verification that the 14 year old went straight to interview with support from a solicitor and had then been released.

It should be noted that Greenock has set up a 'relaxed room' which has low sofas and soft effect colour on the walls, this is to help create an appropriate atmosphere for children and has been noted by ICVs as a positive improvement introduced locally.

2.4 How information is now recorded

The ICVS staff team continue to embed new and improved ways of working and processes to better coordinate and support and the work of the ICVs. In particular, during July to September regional coordinators were able to enhance the recording issues and concerns by determining:

- If an issue or concern had been resolved at the time of the visit.
- If there were any significant issue was not resolved at the time of the visit and required follow up.
- If the issue or concern was still outstanding and not resolved from a previous visit.

This categorisation then underpinned a follow up and verification process by either by checking the National Custody System, or following up with the PS cluster Inspector and then recording the resolution action as having been taken appropriately in the visit report.

2.5 Access Issues

There were no patterns or trends observed regarding access. ICVS continues to see a drop in the number of unsuccessful visits with only 14 being recorded in this reporting period. Two of these were via telephone monitoring and 12 recorded as face-to-face visits.

Regarding the occasions on which a visit was abandoned, visitors stated that they had been advised by custody officers/ staff that the visit could not be supported at the time of arrival owing to:

- Custody suite being extremely busy at the time of the visit

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- It being estimated that there would be a delay of more than 30 minutes before access could be supported
- Custody was closed due to COVID-19
- Lack of custody staff to accommodate the visit.

For all abandoned visits, the ICVS National Manager or Regional Coordinators follow up with the appropriate cluster Inspector to understand in detail the reasons for the abandonment and to reinforce the importance of granting visitors with prompt access to custody facilities and detainees.

2.6 Custody Estate and Facilities

During visits ICVs monitor and note any observations in relation to the estate and facilities. They are asked to note the general upkeep of the building and to explore specific aspects of the custody suites such as the operation of CCTV, any cells out of use, the state of lighting and condition of toilets and washing facilities.

ICVs continue the practice of partnering with visitors from other localities to cross cover to mitigate the limited visitor numbers and also to help visitors have an input and cast fresh eyes on unfamiliar custody centres. This reduces the risk of issue fatigue where a visitor presented with the same issue across a number of visits may stop recording repeat issues. By pairing visitors up from other clusters it ensures a continue focus on escalating related issues to allow resolution to be pursued. This is something the ICVS team will continue to maintain, allowing visitors to share best practice across clusters.

Estates and Facilities Observations – East

Facility Concern	East -Number of Concerns
Other	7
Cells	4
Stores/supplies	3
Ventilation	3
CCTV	1
Temperature	1
Washing facilities	1

The below bullet points summarise some of the estate related observations made by visitors in the East:

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- A number of custody suites had cells out of commission
- In one custody suite it was noted that:
 - there were no working showers installed.
 - anti-Ligature clothing was low in stock
 - toilet for detainees broken and remedial action would take several weeks
 - no air conditioning at public desk
 - no secure holding area for custody or vehicles.
- At another custody suite it was noted that there was a low supply of anti-ligature shorts and air conditioning was only installed in one area.
- At another custody suite it was noted that there were issues with lighting. This was due to glass covering panels in doors being damaged and having been replaced by metal doors, however CCTV is affected by this and lights have to be left on in order to see the detainee within the cell. This was reported as causing distress to some detainees.

Estates and Facilities Observations – North

Facility Concern	Number of concerns
Cells	17
Other	5
Stores/supplies	5
Toilet facilities	4
Alarm	2
CCTV	2
Cleanliness	2
Doctor's room	1
Ventilation	1
Washing facilities	1

The below bullet points summarise some of the estate related observations made by visitors in the North:

- It was noted at a custody suite that the intercom had been broken for significant period of time. There was also a shortage of anti-harm suits.
- At a separate custody suite an issue with low supply of anti-harm clothing was reported.
- At another custody suite two cells were not in use due to intercom issues. This was due to protracted times for a deep clean of a cell by an external agency.

Estates and Facilities Observations – West

Facility Concern	Number concerns
Cells	8
Other	6
Stores/supplies	6
Cleanliness	4
Temperature	4
Washing facilities	3
CCTV	2
Toilet facilities	2
Ventilation	1

The below bullet points summarise some of the estate related observations made by visitors in the West:

- At one custody suite five cells were out of use due to a heating malfunction.
- Two custody suites were low in supply of anti-ligature clothing. Laundry was only being collected once a week whereas previously this was twice weekly

2.7 Detainee Rights Issues

Letter or Rights

During the reporting period, there were 44 incidents where visitors recorded observations regarding the issuance of the letter of rights to detainees. In the majority of cases this related to detainees either indicating that they had not been provided with the letter of rights or did not understand the contents of the letter. ICVs were able to request a copy or ask the officer/staff to explain the contents of the letter of rights to the detainee. 34 were resolved at the time and 10 were followed up by checking the NCS or requesting update from the cluster inspector. Two visits reported that easy read letter of rights were provided.

Healthcare

43 visitor observations were recorded that related to healthcare provision. In some of these cases detainees had indicated that they are on a particular medicine but that the custody nurse/doctor did not support the prescribing of that medicine to the detainee, or where police have

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engaged to obtain supply of medicines but that the pharmacy had advised that the person has not had that medication for some time. 34 observations were resolved at the time with 10 requiring follow up on NCS or requesting an update by the cluster inspector.

It has been explained to ICVs that unless there is an urgent medical requirement then it is likely that a detainee will not be issued medication for up to 4 hours. ICVs have been advised this is to ensure there is no reaction to any medication taken immediately before coming into custody. This delay in the provision is often raised as a complaint by detainees.

For detainees on a methadone programme, it is established practice that methadone can only be administered by a doctor and that the availability of a doctor may cause a delay. Some health providers who support custody have a policy of not supplying methadone and will prescribe an alternative. For example, NHS Lothian supporting St Leonards in Edinburgh appropriate detainees are provided methadone, whereas NHS Grampian supporting Aberdeen custody suites provide detainees with an alternative medication.

ICVs have raised queries as to why this inconsistency exists and highlighted the possible welfare impact if a detainee on a methadone programme does not gain continued access to that medication. This is one of a number of medical support consistency issues raised by ICVS and subject to a to Her Majesty's Inspectorate of Constabulary Scotland for the joint base line review with Health Improvement Scotland.

These ICV observations relating to healthcare help the inspectorates examine the level of provision to detainees.

It was also noted by ICVs in Aberdeen on 31 August that nurses were having issues with accessing medical records from custody. The ICVS Regional Coordinator followed this up and Police Scotland confirmed that this was due to a national outage which had affected the wider NHS. Importantly, nurses were still able to make clinical decisions based on examining the detainee and locating written notes.

Washing/showering

Visitors continued to highlight in their observations that that there appear to be ongoing issues regarding the timely and appropriate offering and/or providing detainees with access to washing and showering facilities. 24 issues were recorded relating to washing/showering, 8 were resolved at the time with 16 having to be followed up either by checking NCS or

requesting feedback from cluster inspector. Out of the 16 followed up 11 were not resolved and the detainee was not provided with a wash/shower.

2.8 Issues for Escalation to Cluster Inspectors or above

During the reporting period one visit out of the 239 successful visits was noted as unsatisfactory.

- ICVs recorded that the visit had to be abandoned as power was off at Motherwell custody when they arrived. This issue had not been made known to the ICVS National Manager so ICVs had not been notified of this in advance and thus were unaware of the need to cancel the visit. This was followed up with the local cluster Inspector who notified ICVS that the repair had been carried out and the power issue resolved.

203 visits (70%) had no outstanding issues as these were resolved at the time of visit.

During the reporting period actions raised from 16 visits were recorded as 'outstanding', four of these have since been resolved. A total of 12 actions remain outstanding for updating in Q3. All of these relate to facility issues:

- Clydebank still has a leaking roof.
- Kirkwall cells are not operational due to potential use of ligature and there is modification work required to be carried out to eyeholes in cell doors.
- London Road has experienced issues with hot air being pushed through heating panels. Five cells out of commission due to heating malfunction. Still waiting on repair and staff and detainees are finding the centre very warm due to little ventilation to get rid of heat and moisture. *Staff have advised very difficult working conditions.*
- Aberdeen and Fraserburgh still have issues with the intercom system as these are broken and waiting repair.
- Aberdeen are having issues with low stock levels of anti-ligature clothing. This appears to be as a result of items not being returned from cleaning.

2.9 Positive reports

ICVS is pleased to report that out of the 239 visits there were no reports by ICVs where observations were made regarding unsatisfactory interactions with custody staff and officers. This reflects the effective joint working and improved understanding from staff and officers of the role of ICVs.

ICVs reported that their visits were positive and featured staff being friendly and helpful and enabling them to observe and record the way in which staff and officers supported and cared for detainees.

3 Review Actions and Next Steps

The below list details some of the progress made on the ICVS Improvement Plan actions:

- ICVS database and quality check of data recording ensuring relevant issues and concerns outstanding are recorded.
- New visitor record and visit report forms are currently being piloted, ensuring 'custody visitor experience' is more detailed and streamlined, providing the ICVS team with a more informed record of the visit. Training is currently being developed for roll out through January and February 2023.
- Visitor recruitment process started, linking in with Universities and attending various fresher's week events to raise the profile of ICVS and open up opportunities for students to join as a volunteer.
- Issues for escalation to Inspector or above in section 2.7 the 12 outstanding estate issues will be highlighted for updating in Q3.