

Meeting	Policing Performance Committee
Date	11 October 2022
Location	Video-Conference
Title of Paper	ICVS Quarter 1 2022-23 Report
Item Number	3.1
Presented By	Scott Ross, SPA Head of Change and Operational Scrutiny
Recommendation to Members	For Discussion
Appendix Attached	Yes Appendix A – ICVS Quarter 1 2022-23 Report

PURPOSE

This paper provides information on Independent Custody Visiting Scheme for the period April – June 2022 for consideration by the Committee.

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) also states that the SPA should ensure that the ICVS visitors may:
- Visit detainees;
 - Access information relevant to the treatment of detainees and conditions in which they are detained;
 - Monitor the treatment of detainees and the conditions in which they are detained.

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

- Provide appointment arrangements for suitable persons to become a visitor;

- Authorise Independent Custody Visitors to do anything which the Authority considers necessary to enable them to visit and monitor treatment of 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.
- 1.2 The terms of reference for the Policing Performance Committee states that the committee will ensure reporting on the arrangements for, and feedback on custody from, the volunteers within 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 for the ICVS Scheme for the period April - June 2022 for consideration by the Committee.

- 1.3 Reporting quarterly to the PPC is also a part of a key consideration from the ICVS Management Review. The Management Review was delivered in Q1 2022 and highlights 5 key recommendations. The review was directed towards ensuring the ICVS takes every opportunity to continually improve, maximising the contribution of the Service to the Authority and those who work in or are detained in Police Custody. The review considered all of the enabling tools and processes that underpin the ICVS, including: (i) governance; (ii) quality of data; (iii) criteria/thresholds for recommendations; (iv) processes (i.e. Human Resources, Legal and otherwise); (v) training and (vi) supporting documentation/handbooks.
- 1.4 This report will also detail the emerging key considerations from the Management Review.

2. FURTHER DETAIL ON THE REPORT TOPIC

- 2.1 The ICVS Quarter 1 report is attached in Appendix A. During the 242 successful visits to custody suites and interviews with 436 detainees there were no recorded concerns relating to torture inhumane treatment or significant breaches of human rights and therefore no OPCAT related concerns.
- 2.2 However during the period there was one occasion when significant concern was raised regarding an individual detainee who had not been afforded reasonable access to washing/showering facilities.

As highlighted during a visit in the North region it was reported by the independent visitors that a detainee had been held in custody for 2 days and 9 hours and custody staff had not been able to respond to the request from the detainee for access to a shower during this time. The initial response from the on duty supervisor was that the reason for the failure to provide access to showering facilities was due to limited staffing resources.

This issue has been raised with the Divisional Commander for CJSD who is keen to understand the circumstances and explore new approaches to ensure a shower for a prolonged stay in custody is available where necessary. There are a number of complex interdependencies between staffing and the gender balance that has led to this situation but it is accepted that a solution should have been found. CJSD are currently consulting on CJ PCSO shift pattern changes across the majority of Scotland and this will afford another opportunity to ensure team construction is as conducive as possible to meet a range of demands such as this.

- 2.3 In delivering this report SPA staff have reviewed all visitor report forms submitted during April – June 2022 and highlighted key findings and areas for continuous improvement within Police Scotland's Custody estate.
- 2.3 Appendix A details key activity carried out by the scheme, access issues that visitors have experienced, feedback on custody staff and estate, detainee rights issues and any issues that have been escalated.
- 2.4 It should be highlighted that data quality remains an issue for the scheme and one we are working hard to resolve. There is still

ongoing work to connect the data to a dashboard which will allow for more detailed reporting on visitors observations.

2.4 The ICVS Management Review described in section 1.3 of this report was delivered in Q1 this year. A detailed Improvement Plan has been created and reported to the Vice Chair of the Authority. The 5 key recommendations and indicative completion dates are provided below:

- 1. A redesign of the ICVS operating model should be undertaken to ensure processes and procedures (including data collection/utilisation) are robust. The redesign should aim to ensure that the visitors' observations provide assurance of good practice in Police Scotland Custody and have maximum impact in the continuous improvement of the care, welfare and dignity of those held in police custody. This re-design should use, where possible, the good areas of practice identified within the ICVS' current operating model. (Q4 2022)*
- 2. Provide training and support for the ICVS staff to enable the embedding of an assurance and improvement culture within the operating model of the ICVS. (Q4 2022)*
- 3. The ICVS, in consultation with the Visitors, should redesign the Visitor Form to ensure accurate capture of quantitative and qualitative data which will lead to improved reporting and continuous improvement of Custody provision. (Q3 2022)*
- 4. As part of the redesign of the ICVS the Authority should seek to digitise their service.*
- 5. Create and implement a framework that formalises the process of reporting and escalation. (Q2 2023)*

3. FINANCIAL IMPLICATIONS

3.1 There are no financial implications in this report.

4. PERSONNEL IMPLICATIONS

4.1 There are no personnel implications associated with this paper.

5. LEGAL IMPLICATIONS

5.1 There are no further legal implications in this paper to those listed above.

6. REPUTATIONAL IMPLICATIONS

6.1 There are reputational implications associated with this paper.

There are reputational implications associated with this paper. The paper details areas for improvement in the Custody system. It is important that the Authority has effective oversight and independent custody visiting arrangements in place to monitor, observe and ensure areas of concern are highlighted to Police Scotland at the earliest appropriate stage. This paper seeks to address this.

7. SOCIAL IMPLICATIONS

7.1 There are no social implications associated with this paper.

8. COMMUNITY IMPACT

8.1 There are no community implications associated with this paper.

9. EQUALITIES IMPLICATIONS

9.1 There are no equality implications associated with this paper.

10. ENVIRONMENT IMPLICATIONS

10.1 There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members are invited to discuss and note the contents of this paper.

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SPA Policing Performance Committee
ICVS Q3 Report
11 October 2022

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APPENDIX A - INDEPENDENT CUSTODY VISITING SCHEME QUARTER 1 REPORT

September 2022

Kirsty Scott
ICVS National Manager

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1. Introduction

1.1 Legislative Background

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 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.

1.2 The Independent Custody Visiting Scheme

Independent Custody Visitors are volunteers from the community who make unannounced visits in pairs to police custody suites to check the treatment of detainees and assess the conditions in which they are detained. They also have a role in ensuring that detainees are properly informed, are being cared for and that their dignity, health and wellbeing are being appropriately protected. They do this by monitoring facilities, speaking to detainees, checking custody records and observing custody staff and facilities.

1.3 Report Purpose

The purpose of this report is to provide the SPA Policing Performance Committee with an update on the visits carried out during quarter one (April – June 2022).

To generate the data for this report the ICVS National Manager was asked to review the forms submitted by visitors which are stored on the ICVS database for North, East and West for the reporting period to ensure accuracy information.

There is still ongoing work to connect the data to a dashboard which will allow for more detailed reporting on visitors observations.

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

- Whether the visit had been successful

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

2. Review Findings

The key findings are detailed below.

2.1 Key Activity

During the reporting period the majority of the visits conducted were physical, face-to-face visits to Police Scotland Custody Suites, with a small proportion being undertaken via telephone monitoring.

There were **24,840** detainees processed through Police Scotland custody during Q1.

Region	Throughput	Visits	No of detainees in custody at time of visit	Detainees unavailable	Detainees offered a visit	Detainees seen
North	5,383	56	197	26	105	68
East	6,366	51	194	47	105	75
West	13,091	135	849	99	385	293
Total	24,840	242	1,240	172	595	436

- A total of 242 visits were attempted, seeing 436 detainees in total. 16 of these visits were carried out via telephone monitoring.
- 1,240 detainees were in custody at the time of visiting.
- 172 (14%) were not available at the time of visiting, either at hospital, being visited by medical staff, providing forensic evidence or out of the cell for other reasons
- 595 (48%) detainees were offered a visit
- 159 (26%) detainees declined the offer of a visit.
- 1 Legalised Police Cell activation was recorded in which the visitors carried out telephone monitoring. These police cells have been 'legalised' and as such are used to hold prisoners awaiting trial locally; who have been returned from prison for sentencing; 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.

2.2 OPCAT and Significant Concerns

During the 242 successful visits and interviews with 436 detainees there was no recorded concerns relating to torture or inhumane treatment.

However there was one occasion where there was significant concern for an individual with regards to washing/showering access:

In the North Region a detainee had been held for 2 days and 9 hours. The detainee had requested access to showering facilities during this time, but the request was declined. The initial response from the on duty supervisor was that due to limited staffing resources they were unable to accommodate a shower. This issue has been raised with the Divisional Commander for CJSD who is keen to understand the circumstances and explore new approaches to ensure that showering facilities are made available to individuals who experience a prolonged stay in custody is available where necessary. There are a number of complex interdependencies between staffing and the gender balance that has led to this situation but it is accepted that a solution should have been found. CJSD are currently consulting on CJ PCSO shift pattern changes across the majority of Scotland and this will afford another opportunity to ensure team construction is as conducive as possible to meet a range of demands such as this.

2.3 Access Issues

There were no immediate issues raised regarding access by ICVs to custody facilities. The ICVS team has observed a significant improvement with access and waiting times to gain entry to the custody suite compared to last reporting period.

There were a number of delays between front desk and accessing the custody suite, 6 delays were reported in the West and 3 in the East.

There were 16 abandoned visits recorded, this is down from 19 recorded in the previous quarter. The below provides a snapshot of examples for abandoned visits during Q1:

- At a custody centre in the East Region staff advised there was no capacity to accompany visitors, this was flagged to the Inspector with the response being it was not safe for visitors to enter at the time due to movement of detainees.
- In the West two telephone visit attempts had to be abandoned. The visitors were advised that the mobile phone was not working. This was addressed at a cluster meeting to ensure there was contact available at the custody centre.
- In the North a detainee required immediate medical attention and ICVs decided it was appropriate to abandon due to the busy circumstances.
- At another custody centre in the West a detainee was being aggressive to officers and staff in a live situation and ICVs decided to abandon the visit due to visitor safety.

2.4 Custody Estate and Facilities

An initiative which supports Visitors to partner with visitors in different cluster areas is ongoing. This initiative has overcome recent challenges in the number of visitors available to undertake monitoring activity. Additionally, it has enabled joint working and allowed provided valuable insight from Visitors that do not have prior experience of having visited a specific custody facility.

This is something the ICVS team will continue to maintain, allowing visitors to share best practice across clusters.

In the East region during the 51 visits undertaken there were 22 facility concerns relating to washing facilities, stores and supplies and cells being out of commission. Some examples of facility issues raised were:

- In the East some showering areas are being used to hold stock and there were no showers working because of sunken drain covers which caused a health and safety hazard;
- In some custody centres the temperature of cold water was lukewarm rather than cold;
- Two custody centres reported that they were short of blankets in April and May.

In the West region during the 135 visits in Q1 there were 39 facility related matters reported. Similarly to the East region, these were mainly relating to washing facilities, stores and supplies and cells. The below list has some examples of facility issues raised:

- At a custody suite multiple cells were reported as being out of commission and one being used for storage. This was reported each month of the reporting period. ICVS has since been advised by Police Scotland that all cells are now operational.
- At two custody suites, there were issues reported regarding a shortage of anti-ligature suits. Police Scotland has advised that it had been raised with the supplier.
- There was an issue effecting hot water for three weeks as a new boiler had broken down. The Boiler was replaced in July 2022 and therefore this should no longer present as an issue in Q2.
- In one of the custody suites there were serious concerns raised over food stock levels and lack of variety. This was down to lack of variety with the supplier as there are international issues facing supply and demand at the moment. Police Scotland assured the visitors that food was being offered and that detainees would never go hungry and alternative meals are sought in instances like this.

In the North region during the 56 visits there were 18 points raised relating to cells, stores and supplies and ventilation. Some example of these include:

- On two occasions a visit recorded that a custody suite had cells out of commission due to the air conditioning system having failed.
- One custody suite reported a short supply of anti-harm clothing

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- One custody suite recorded that the new meals were being decanted into polystyrene containers. This will be an issue when complying with Scottish Government's new single use plastic policy.

2.5 Detainee Rights Issues

During April to June there were 428 points of note raised by the custody visitor. The majority of these were not classed as an outstanding issue and were resolved at the time of the visit or closed after the regional coordinator after the regional coordinator followed up with Police Scotland and/or monitored mitigating actions reported on the National Custody System (NCS).

Issues recorded relating to Letter of Rights (LoR) were raised in instances where detainees had mentioned they were not given, or had sight of, their rights. However on checking the NCS it transpired that the LoR had been recorded as being provided and in some instances ICVs have asked PS staff to reissue the LoR to the detainee.

On occasion, ICVs heard concerns from detainees relating to medical issues and that they were waiting to see a nurse and had not been updated. One case for noting is that a detainee advised they had been roughly treated during arrest and there were obvious signs of bruising and swelling on the detainee. Upon checking NCS and requesting a response from Police Scotland it was noted that the detainee had seen the nurse at the time of being booked into custody and again later on during their stay and had not made any complaint towards the police.

2.6 Issues for Escalation to Cluster Inspectors or above

During the reporting period 48 visit reports were flagged to the cluster Inspectors for escalation, response and update. Fifty-three checks on NCS were carried out by the coordinators to clarify visit reports and on three occasions coordinators had to contact visitors for more information relating to their reports. Some examples of escalations are included below:

- In the East a male detainee had mentioned to the visitors about having back pain at the time of visit and they were advised he was waiting to see the nurse. The coordinator asked the Inspector to provide further evidence as nothing was recorded on NCS as to whether or not the individual received medical treatment. It was confirmed that a nurse was consulted.
- In the North, visitors noted visible signs of bruising on a male detainee which he advised was a result during arrest. This was flagged to the Inspector and Police Scotland advised that this was caused by the application of handcuffs. This was recorded on NCS and the detainee had been seen by a nurse after arriving into custody.
- In the North, visitors were refused access because of a sensitive case regarding a detainee and it was not appropriate to visit. This was raised with the Inspector to

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remind staff that visitors are to be granted to all custodies regardless of the offence and only where there is a risk to the visitor's safety may they be refused.

2.7 Total Resolution Performance

41 of the 242 visits were recorded as containing a concern, 28 of these have been resolved with 13 still outstanding. Some of the examples awaiting resolution are detailed below:

- A custody suite in the west is waiting repairs to the hot water tap
- Additional keys are required at a custody centre in the East due to their being only one set of cell door keys.
- At a custody suite in the North there appears to be only male staff available on some shifts. This means they are unable to accommodate washing/showering requests from female detainees. This issue has been raised with the Divisional Commander as outlined in section 2.2.
- In the North the LoR was not available for a detainee who identified as from Ethiopia. The Scottish Government website does not have a version of the LoR in Ethiopian. This issue was raised to National Manager and currently LoR is under review and no new languages will be added until further notice. The National Manager will work with Police Scotland to ensure there is a resolution for individuals who find themselves and require their letter of rights in a language they can understand.
- At a custody suite in the North, 25 cell buzzers were broken, this has been reported to estates and a contractor will attend.
- Some cells in the North were out of use since March due to cracked skylights. This has been highlighted to estates who are looking at a long term fix.

2.8 Positive comments/reports

In total, 198 positive comments were noted and recorded on the ICVS database. These included staff being friendly and helpful and the way in which staff and officers supported and cared for detainees. For every custody centre visited there was at least one positive note recorded. Some of these positive comments are highlighted below:

- Motherwell PCSO was extremely helpful, respectful to the visitors and detainees even though staff were brought in from other custody centres.
- Kirkcaldy Sergeant was extremely good at understanding the ICVS role ensuring visits were undertaken. The staff have a great rapport with detainees and very helpful and accommodating.
- St Leonards there was clear evidence that detainees were well looked after e.g. provided with reading material etc.
- Clydebank custody facility was very busy however prompt and efficient attention to visitors was provided on arrival and throughout the visit.

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3. Next Steps

The SPA Head of Change and Operational Scrutiny and ICVS National Manager will take the following action in response to the findings outlined in this report:

1. Develop the existing reporting database, taking into consideration the already recorded data and how this can be improved on.
2. In order to support the development of the database re designing of the ICVS report form is required to help improve visitor voices, there is currently a pilot of a new form with visitors, and feedback is expected early September.
3. Further discussion with Police Scotland regarding limited staffing resources and the impact this can, and does have, on the care and welfare of detainees.
4. Examine outstanding issues through the visits identified in this report to develop an appropriate mechanism through which these are tracked and reported back through monthly and quarterly reports.

Figure 1 – Police Scotland Custody Clusters (*Accurate as of 2020-21)

