

SCOTTISH POLICE AUTHORITY

Independent Custody Visiting Scotland

ANNUAL REVIEW 2020-21



FOREWORD

The Independent Custody Visiting Scheme (ICVS) plays an important role in supporting the Authority to meet its obligations in relation to ensuring people in custody are treated fairly, with integrity and that their human rights are protected. The Scheme offers independent assurance that Police Scotland is treating detainees with dignity and respect and that police custody in Scotland is upholding international standards set by the United Nations to prevent torture, cruel, inhumane or degrading treatment of detainees.

This 2020-21 Annual Report explains the context and reports on the activities, insights and independent assurance provided by the ICV scheme, which is delivered by 114 volunteer visitors supported by a small team of SPA Corporate staff. Importantly, this report highlights that during 2020-21, our independent custody visitors did not identify any issues or breaches of those United Nations standards for upholding human rights.

There is no doubt that this has been a challenging period as the impact of COVID-19 has placed unprecedented restrictions on individuals and organisations. The Authority's ICVS team and our visitors had to adapt at pace to ensure that the service continued to provide assurance during the pandemic. Public health measures and social distancing saw our unannounced face-to-face visits from March 2020 replaced by telephone visits for the mutual safety of our visitors, custody staff and detainees. More than 1000 dip sample reviews and 800 telephone or virtual unannounced 'visits' were conducted during 2020-21, with face-to-face visits reintroduced in August 2021. The Authority recognises the continued commitment through these unprecedented times and is very grateful to the volunteer visitors and our own ICVS team for their resilience, determination, flexibility and commitment to ensuring the alternative arrangements continue to offer the Authority assurance in respect of the welfare and rights of Police Scotland's detainees.

Going forward, and in line with the Authority's commitment to continuous improvement, the ICV Service is looking to strengthen and improve the insight and assurance it provides, informed by our learning and experience during the pandemic, particularly in relation to the use of technology for visiting and capturing the observations of visitors. During 2021-22, working with the volunteers, the SPA team, Police Scotland custody colleagues and other partners, will review the scheme looking at all aspects, including the range and quality of data captured, the training, guidance and support provided to volunteers and the reporting framework and governance arrangements. The results of this review will shape a future vision for the ICV Service with a view to recommendations and improvements being put in place from 2022.



Jane Ryder

Vice Chair

Scottish Police Authority

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1. BACKGROUND

The Scottish Police Authority

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

- i. that the purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland; and
- ii. that the Police Service, working in collaboration with others where appropriate, should seek to achieve that main purpose by policing in a way which:
 - a. is accessible to, and engaged with, local communities, and
 - b. 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 draws 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 consists 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.

Chapter 16 of the Police and Fire Reform (Scotland) Act 2012 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.

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 Scotland utilises three types of custody centres:

- **Primary Custody Centre** - a centre which is open to receive detainees 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 are paramount. Within police custody facilities, police officers and staff have the responsibility of care, as well as detention, of detainees. Detainees 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 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.

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 detainee processing.

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 while investigations continue.

In addition to ensuring the welfare of individuals while 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 detainee prior to release or transfer to court.

Custody centres across Scotland are organised into 12 geographical clusters, each led by an officer of Police Inspector rank known as the 'Cluster Inspector'. The North region has three clusters, the East region has three and the West has the largest number with six clusters (See Figure 1).

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 oversee multiple custody centres in their area.

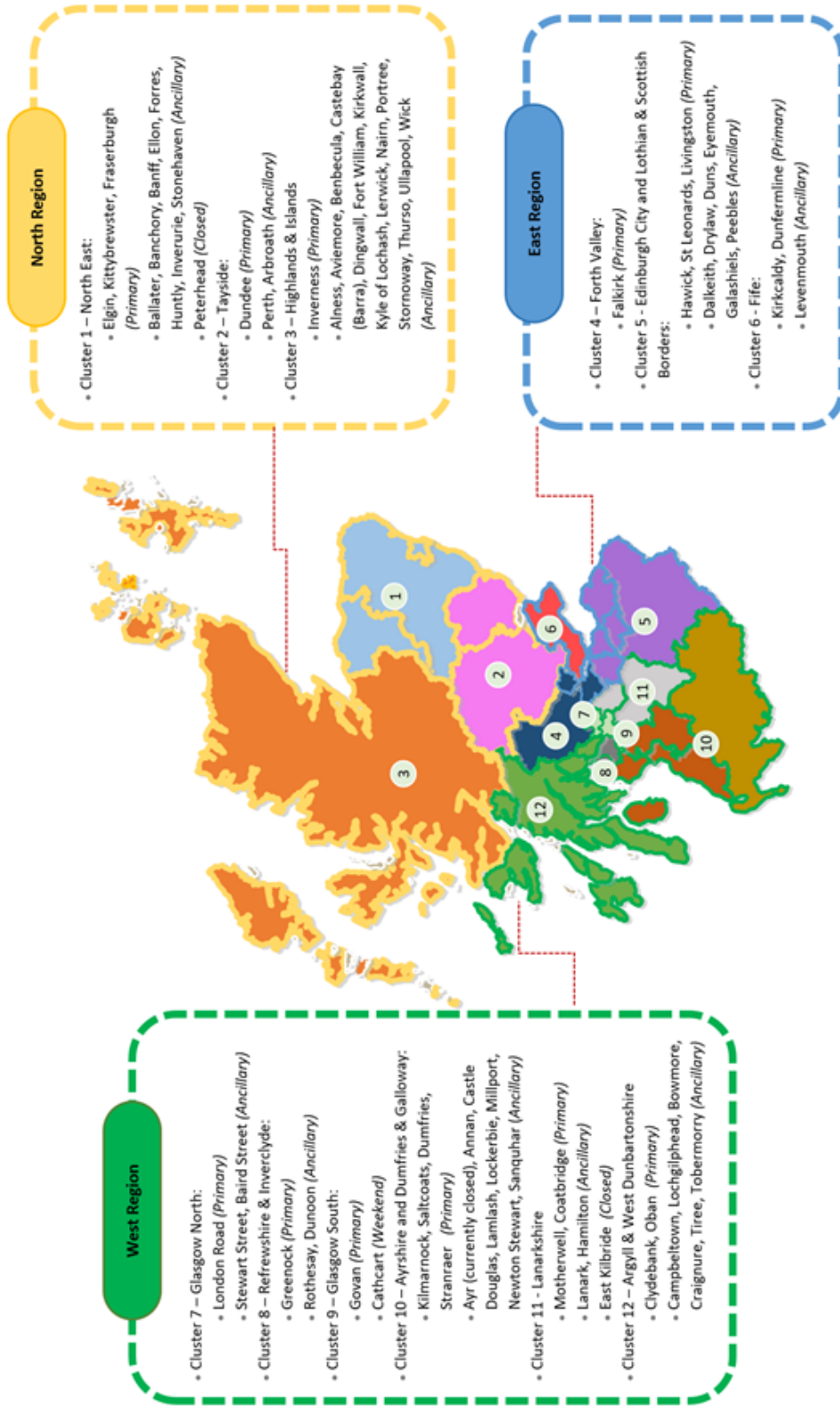
The Custody Sergeant is responsible for local criminal justice decision making and the day-to-day running of the custody centre. Custody Sergeants also provide information and guidance to staff. They are there to ensure the safety and welfare of staff, officers and detainees and to ensure custody supervisors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

A Force Cluster 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 detainees. This is a critical role and allows Custody Sergeants to focus on criminal justice decision making while ensuring that the welfare of detainees remains a priority.

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

Figure 1: Map of Police Custody Clusters and Regions



* Denotes 2020/21

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

Chapter 16 of the Police and Fire Reform Act states that the 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).

National Preventive Mechanism

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.



2. INTRODUCTION

Independent Custody Visiting Scheme

The Independent Custody Visiting Scheme (ICVS) has an essential role to ensure that the dignity and human rights of any individual in custody are respected and upheld. Through the Independent Custody Visitors' 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.

Independent Custody Visitors are volunteers from the community who make unannounced visits 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 their dignity, health and wellbeing are being appropriately protected and cared for. They do this by monitoring facilities, speaking to detainees, checking custody records and generally observing custody suites.

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

At the beginning of each visit, IC Visitors are informed of the number of detainees in custody at the time. The IC Visitors are also there to observe and check the custody suite facilities. During each visit, IC Visitors complete a report form detailing their visit and any areas for improvement identified.

During the reporting period, there were 114 IC Visitors based in three regions - North, East and West. In addition, there are four dedicated ICVS staff members who support the scheme. The staff team includes a National Manager and three Regional Coordinators, all of whom are employees of the Authority.

When carrying out a custody visit, the IC Visitor will raise any concerns directly with the on-duty custody officers and staff. This ensures the quickest possible resolution to any issues, and that the welfare of detainees is safeguarded as a matter of priority.

IC Visitors also complete a report following each visit and submit this to the ICVS Regional Coordinators for analysis. ICVS Regional Coordinators then raise observations, concerns and areas of good practice with the Cluster Inspector/Sergeant at formal Cluster meetings on a quarterly basis. This provides an opportunity to discuss the IC Visitor reports, address any new concerns that have been raised, and follow up on previous actions taken to address IC Visitors' observations. During these meetings, the Custody Inspector/Sergeant is tasked with any outstanding actions and asked to provide an update at next quarterly meeting.

Where an IC Visitor has asked for a specific update, the ICVS Regional Coordinators may, prior to the next meeting, link in with the IC Visitor to provide a response/update.

Serious issues 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 IC Visitors:

1. Raised directly with custody officers and staff at the time of visit, e.g. for immediate areas for improvement
2. Escalation to Regional Coordinators or the ICVS National Manager who then contacts Police Scotland for a response/update
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 IC Visitors 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 detainees continue to be safeguarded.

Police Scotland

Police custody is an area where arrested individuals are detained, often against their will and often suffering from a range of permanent or temporary vulnerabilities. Police Scotland has a responsibility to ensure that arrested people are kept safe. Staff and officers deal with a variety of conditions and needs, including mental and physical health conditions, substance misuse and intoxication, learning disabilities and gender-specific needs, all of which can be exacerbated by being held in police custody.

Between 1 April 2020 and 31 March 2021, 101,203 people were detained by Police Scotland. The number of individuals detained in custody continues to drop since the implementation of the Criminal Justice (Scotland) Act 2016. The act was intended to ‘modernise and enhance’ the efficiency of the Scottish criminal justice system. The table below details the annual throughput figures from 2016-17 to 2020-21:

Table 1: Custody Throughput

	2016-17	2017-18	2018-19	2019-20	2020-21
Custody Throughput	143,620	130,755	118,418	115,126	101,203

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

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, which 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)

Overview of Findings from ICVS Monitoring Visits

During 2020-21, Independent Custody Visitors 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.

Despite this, there are key and thematic areas for continuous improvement highlighted in this report. In the majority of cases, the responsibility to act on IC Visitor findings falls to Police Scotland and these findings are addressed at the time by the custody staff. However, a small number of findings will require input from other public sector partners or investment in order to address the actions identified.

3. KEY THEMATIC FINDINGS

This Annual Review highlights to the Authority, the Scottish Justice System and the United Nations that during 2020-21, the IC Visitors 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 have been raised:

- Children in custody
- Letter of Rights being issued and understood by individuals in custody
- Informing individuals in custody that third party and/or a solicitor has been notified of their detention
- Medical related areas for improvement with a focus on mental health
- Access to washing and showering facilities.

Finding 1: Children in Custody

Independent Custody Visitors continue to prioritise the most vulnerable people in custody at the time of their visit. As such, the ICVS has been focusing on children and young people over the last year as part of a UK wide theme, led by the Independent Custody Visiting Association (ICVA). A child is defined as under 18 years of age, however, there are different provisions for different age groups of children.

Younger children are those under 16 years of age and those under 18 who are subject to Compulsory Measure of Supervision under Section 199 of the Children's Hearing (Scotland) Act 2011.

Older children are those aged 16 or 17 years of age who are not subject to Compulsory Measures of Supervision. Children under 8 cannot be arrested by the police.

There were a total of **4,147** children held in custody during the last reporting period. This is a reduction in comparison to the previous year, which saw 5,359 children in custody. The ICVS and the Authority welcome this reduction. The throughput of under 18s in police custody will continue to be closely monitored to examine whether this reduction is sustained.

Looking back at the reporting period, in June 2021, the subject of children in custody was reported in public to the Authority's [Policing Performance Committee](#). The Committee welcomed Police Scotland's commitment to seek to ensure that children are not brought into, or held in, custody unless there are exceptional circumstances. These are often due to a lack of suitable alternative place of safety.

The Authority will monitor progress on Police Scotland's commitment to continually improve in this area by working in partnership with all relevant agencies to minimise the need for children requiring secure accommodation to be held in police custody other than in exceptional circumstances and as a last resort.

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.

The following tables present this year's data by the age range of those children in custody and their classification whilst in custody:

Age	Number of Detainees
11	6
12	36
13	104
14	286
15	584
16	1,291
17	1,840

Age	11	12	13	14	15	16	17
Court Review						1	1
Not officially accused		4	32	72	114	248	329
Officially accused	6	32	71	206	445	973	1,376
Other				1	6	9	16
S23 Detention				1	2	16	24
Transit					1	8	8
Voluntary attendant				6	16	22	16
Warrant			1		2	25	86

*There could be multiple classifications for children in custody, one child may be officially accused and have a warrant for example

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. 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.

Independent Custody Visitors' observations have highlighted some inconsistency of process and reported that Police Scotland should seek to improve the consistency of sharing the letter of rights with individuals in custody and where appropriate explain in detail the letter of rights. This will help people in custody, who are often at their most vulnerable, to understand and be fully informed about the freedoms to which they are entitled.

CASE STUDY

Letter of Rights - Case Study 1

(West Cluster 9)

On 03/07/20 at 19:58 hours, IC Visitors conducted telephone monitoring at a custody centre in the west of Scotland. There were eight males in custody, four of whom were available for a visit. All four accepted a visit. All four detainees reported that they had not been provided with the Letter of Rights.

Visitors recognise the importance of the letter of Rights. It is a key document to help ensure the individual is treated fairly whilst in police custody. Due to the importance of ensuring all those detained in police custody are provided with this, IC Visitors immediately raised this as a concern with the PCSOs. The IC Visitors were assured by PCSOs that Letters of Rights would be provided to all detainees.

This case study is a local example of how communication and ensuring that detainees understand their Letter of Rights could improve detainees' treatment in police custody and their understanding of their freedoms which are enshrined in law.

Finding 3: Communication and Informing Persons in Custody

Engagement and clear two way communication with a person in custody is key for Police Scotland staff and officers. Individuals in custody may be at their most vulnerable, which could mean they require to hear information more than once in order to fully comprehend what is being discussed. The detainee may have challenges in hearing or understanding spoken English or may have difficulty in reading. This must be taken into account. Police Scotland also has a duty to ensure that the individual in custody is made aware that a nominated person has been notified that they are in custody. Police Scotland also has a duty to ensure that a lawyer has been informed that the person is in custody if requested. These areas are covered in two of the freedoms mentioned in the Letter of Rights above:

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.

In the vast majority of cases, IC Visitors noted that communication with individuals in custody was appropriate and that records were kept in the National Custody System. However, during physical visits, remote monitoring and dip sampling of custody records indicated that further improvement could be made to ensure that custody officers and staff provide detainees with an update on any requests in a controlled and documented fashion. For example, any request made by the detainee for a doctor/nurse/named person, or any request for clothing or medication should include an official note of the request, what time it was made and what time an update was given to the person in custody, including updates that provide reassurance that their request has been carried out.

CASE STUDY

Communication and Informing People in Custody - Case Study 2

A review of custody visit feedback shows that there is variability in the information communicated to detainees whilst in custody. There have also been instances where detainees report that they are not fully aware of the reason they are in custody. These circumstances have been escalated by IC Visitors to PCSOs to ensure this is clarified for the detainee. Furthermore, there have been cases where detainees have reported that they are uncertain of the process they will follow once in custody, particularly with the introduction of the newer virtual court process.

There have been occasional reports of detainees being uncertain whether a solicitor had been contacted for them, requiring IC Visitors to follow up with PCSOs to ensure the detainee is updated. Some detainees may also require extra support in understanding their rights whilst in custody. There were several examples of detainees with dyslexia or literacy issues who needed further support to understand the letter of rights. These instances were escalated by IC Visitors to PCSOs who secured this support.

It is essential that detainees are communicated with in a manner that meets their needs throughout their time in custody. This ensures that detainees can make appropriate decisions whilst in custody and that they are aware of their rights.

Finding 4: Mental Health and Wellbeing

Between the 1 April 2020 and 31 March 2021, **101,203** people were detained by Police Scotland. A significant proportion of these individuals were assessed as showing or declared to have some vulnerability with regard to mental health, drug or alcohol misuse. The events that lead to an individual being arrested, being processed and finding themselves in a place of detention can be a distressing and can sometimes exacerbate underlying mental health issues.

There have been occasions when IC Visitors have spoken to detainees in highly distressed states, refusing food and seeking medication. On these occasions IC Visitors have reported that Police Scotland has dealt with the circumstances appropriately and in a timely fashion.

The ICVS is aware that Police Scotland is focused on improving partnership working across custody to improve health and wellbeing outcomes for detainees. Police Scotland has undertaken significant effort to improve the provision of healthcare and early interventions in custody, however, inconsistencies across Scotland remain. Police Scotland continues to engage with Health Boards and local authorities to address this. Activity is also being undertaken to improve signposting of people in custody, in a standardised fashion, to health interventions that could help prevent or reduce further presentation at custody from some individuals. The Authority and the ICVS will continue to monitor Police Scotland's progress in this area of work.

CASE STUDY

Physical, Mental Health and Wellbeing - Case Study 3

(West Cluster 7)

On 10/03/21 at 19:29, two IC Visitors conducted telephone monitoring of a custody centre in the west of Scotland. There were ten males in custody, one of whom the IC Visitors were advised did not speak English so would be unavailable for a visit. The IC Visitors were also advised another detainee would not be available for a visit because he had additional support needs. The IC Visitors challenged the PCSOs on this rationale, advising that this was not an appropriate reason to refuse the detainee a visit from IC Visitors. As such, the detainee was offered a visit from IC Visitors, which was accepted.

The visitors' knowledge of acceptable reasons for a detainee to be denied a visit from IC Visitors meant they were able to successfully visit the detainee and ensure their care in custody was appropriate to their circumstances. Due to the vulnerability of this detainee, it was particularly important that IC Visitors were able to confirm that he was given appropriate support whilst in custody. This included ensuring the detainee was able to understand the letter of rights and that he was supported by an appropriate adult if required.

Finding 5: Access to Washing and Shower Facilities

The ICVS recognises that the Custody Care and Welfare of Persons in Police Custody Standard Operating Procedure (SOP) contains a process that when an arrested person is to be detained in custody for more than a full day, they should 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 detainees that washing and showering facilities are available as and when required.

The ICVS also recognises that during the unprecedented circumstances during the pandemic and the restrictions which were advised due to the unknown risk of COVID-19, Police Scotland was unable to facilitate washing and showering of those having or suspected of having COVID-19. This was in line with NHS Scotland advice at the time. This advice stated that Police Scotland should not provide showering facilities for any persons in custody who have, or is suspected of having, COVID-19 due to the risk of contamination and spreading the virus. The ICVS also recognises that for these reasons 2020-21 was not a typical year to assess access to showering and washing facilities.

However, it is recommended that Police Scotland should continue to monitor closely access to washing and showering facilities as restrictions and health advice change. This continues to be a key focus of IC Visitors' monitoring. Access to washing, showering and hand washing facilities is fundamental to the care, welfare and dignity of people in custody. 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.

Finding 6: Arrangements for COVID-19 Measures

The COVID-19 pandemic and subsequent lockdowns caused considerable disruption and the Authority took the decision to suspend all face-to-face visits on 18 March 2020, after the Scottish Government advised against all but essential travel. In response to this, the ICVS team took action to implement alternatives to physical visits, such as reviewing Custody Records, telephone and virtual visits. The most suitable option, which was technically feasible, quick to implement, cost effective and ensured IC Visitors continued to speak with detainees was telephone visiting. This involved the use of the three way calling in which two IC Visitors could be involved as per the standard physical visiting process.

Telephone monitoring was implemented on 1 June 2020. The telephone monitoring arrangements resulted in changes to working methods and required the development of new process, procedures and training for IC Visitors. Technical and process problems such as phone signals in certain areas of custody suites and calling at times during handovers or emergencies required to be resolved and managed appropriately.

Custody visits were also conducted virtually during the COVID-19 restrictions. This meant using the virtual court system and video links, which enabled IC Visitors to see and speak to people in custody. This equipment was only available in six custody suites, however, Police Scotland is looking to expand the use of these devices further across the estate in the future.

Regular cluster meetings continued to be held virtually between Police Scotland and IC Visitors. These allowed the opportunity for IC Visitors to speak with Cluster Inspectors to discuss actions arising from their reports and follow up on any outstanding actions and areas for improvement.

A common way of conducting monitoring remotely is through reviewing digital custody records to oversee and monitor the care recorded as being provided to detainees in line with legislation. The ICVS team has conducted reviews of custody records remotely from March 2020 to December 2020 with a specific focus on the care and welfare of detainees with suspected or confirmed COVID-19. This has helped the ICVS understand and monitor the level of care recorded as provided to detainees. The main focus of ICVS dip sampling of custody records was on:

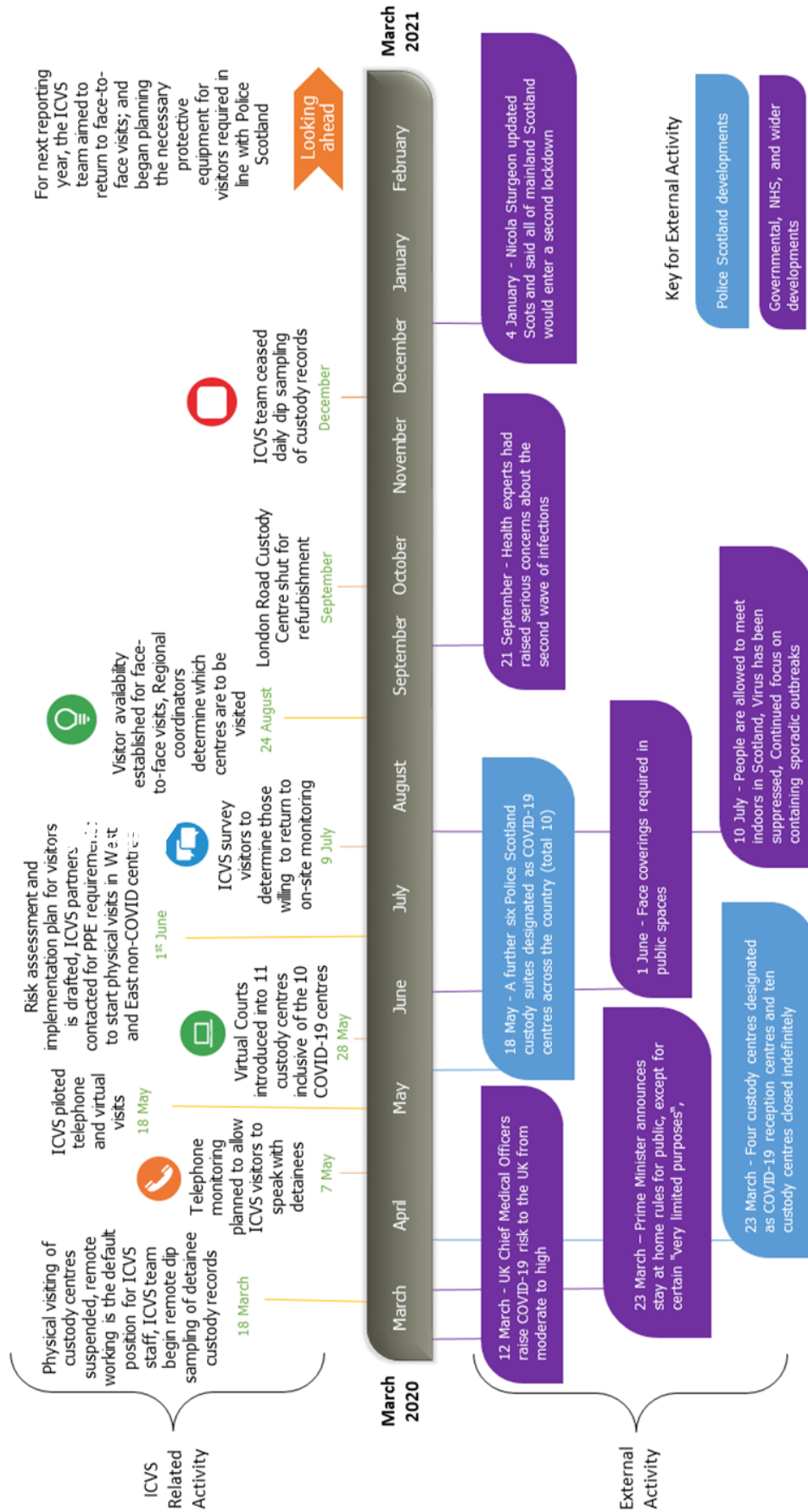
- Time of detention
- Letter of rights understood/accepted
- Observation level
- Reasonable named person/lawyer requested
- Medical issues
- Meals/Drinks - offered, refused, accepted, etc
- Other Requests i.e. blankets, reading material, etc
- Washing/showering
- Older/younger child provisions, i.e. social worker, etc
- Release from custody.

Due to public health and technology restrictions, it was not possible to involve IC Visitors, however, the findings of this monitoring was fed back to IC Visitors during Cluster meetings in order to build an overall picture of the state of care in custody. IC Visitors continued to support the Authority's oversight by considering these reports produced by the ICVS team and by feeding in their views and insight and latterly conducted telephone and virtual monitoring.

Partnership working between ICVS and Police Scotland continued throughout the reporting period, and the scheme received high levels of cooperation and support from Police Scotland custody staff and officers. Despite the challenges COVID-19 presented, the commitment and dedication of custody officers and staff, Authority staff and the IC Visitors ensured the continuity of this vital oversight function.

This new approach which was successfully adopted during the COVID-19 pandemic has opened opportunities for new ways of working for the scheme, to include telephone, virtual visits and dip sampling of custody records as business as usual. These positive experiences, and any lessons learned, will be used to inform future consideration regarding the wider utilisation of digital methods. Over the 2022-23 period, ICVS will undertake an exercise, in collaboration with IC Visitors and Police Scotland, to understand the potential for digital devices to support the conducting and recording of visits while also enhancing the scheme's insight, observations and monitoring arrangements. The timeline in Figure 2 shows the sequence of events and adaptations to visiting during 2020-21:

Figure 2: ICVS Timeline During Covid-19



Finding 7: Police Scotland Estate

In 2020-21, the Police Scotland custody operation was organised into 12 clusters with 78 custody centres. This consisted of 22 primary suites; 52 ancillary; three that were closed and one that was only open at weekends.

As a consequence of the COVID-19 pandemic, the Criminal Justice Division (CJSD) invoked a business continuity plan. This resulted in Police Scotland's primary custody suite provision reducing from 22 to 11. Later in the year this increased to 17 primary sites before being back to a full complement of 22 primary suites by the end of the reporting period.

During the past year, the CJSD began a formal consultation process regarding the reclassification of a number of custody centres, which in effect sought to mirror the temporary changes introduced by the current business continuity arrangements.

As part of the valuable insight into detainees' care and welfare and the COVID-19 safety arrangements in place. IC Visitors identified 166 observations specifically relating to police facilities.

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

Where there are issues identified in the cells, these cells are identified 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 is in need of updating and has been a long standing area for improvement. The estate was inherited from the eight geographical legacy forces, which came together to form Police Scotland. Some legacy forces had invested heavily in the custody estate and others had not chosen to prioritise this investment prior to the transition to Police Scotland. This has left a disparate custody estate in different states of repair.

The ICVS is encouraged with the work that has been observed at London Road Custody Suite, however, an ongoing and high priority area for improvement will be for Police Scotland to invest continually in its custody estate to ensure high standards. The ICVS is aware that work is underway to develop a Criminal Justice Service Division Strategy, which will include an overview of estate investment plans.

CASE STUDY

Police Scotland Estate - Case Study 4

(West Cluster 9)

On 06/09/20 at 20:52, two IC Visitors conducted telephone monitoring. There were 17 males in custody, four of whom were offered a visit. All four accepted. Of these four detainees, two raised that the cell call bells were not working. One detainee explained to the IC Visitors that he had to bang heavily on the door to get the attention of PCSOs. This was escalated immediately by the IC Visitors, who raised the issue with the PCSO.

Unreliable or malfunctioning cell call bells are one small example of the need to modernise the custody estate. At present, the condition of custody suites is varied across Police Scotland. It is essential that custody suites are equipped and maintained to a high standard to meet the needs of detainees, with the recent London Road work establishing the standard for future refurbishments.



4. ANNUAL ACTIVITY DATA OF THE ICVS

Custody Throughput Figures

Between 1 April 2020 and 31 March 2021 **101,203** people were detained by Police Scotland. This 101,203 figure is broken down into: **82,695** were male (81%) with **18,470** female (18%). **38** were classed as unknown and **4,147** classed as a child.

The following table shows a breakdown of people in custody by age and gender and shows how many highlighted specific areas of vulnerability or specific characteristics to custody staff and officers:

Gender/Age	Female	Male	Unknown
Under 16	178	839	2
16-25	4,122	19,965	15
26-35	5,935	27,455	11
36-45	4,969	19,341	4
46-60	2,877	12,825	6
Over 60	389	2,270	0

Age / Characteristic	Under 16	16-25	26-35	36-45	46-60	Over 60
Alcohol	5	1,482	3,583	3,393	2,573	305
Drugs	32	2,931	6,586	5,489	2,001	43
Mental Health	173	8,604	14,611	11,023	6,324	655
Foreign National	32	1,561	2,878	2,297	1,052	113

ICVS Key Figures

During the reporting period, there were 114 IC Visitors committed to supporting the work of the ICVS. In addition, five of these IC Visitors 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 IC Visitors move on or retire, 14 visitors have chosen to leave the scheme but there have been six new visitors recruited into the scheme. The table below shows the breakdown of IC Visitors per geographic areas and by gender during this reporting period:

Table 6: Custody Visitors (IC Visitors)

Number of Current IC Visitors	Male	Female	Leavers	IC Visitors joined
North	12	18	4	5
East	18	15	5	1
West	23	28	5	0
Total	53	61	14	6

In 2020-21, the total financial cost to the Authority of supporting the ICVS was £185,698. This includes salaries, recruitment campaigns, visitor expenses, training events and materials, cluster meetings and visitor induction days. The total spend is significantly less compared to previous years due to restrictions on travel and physical visiting through the arrangements put in place to adhere to COVID-19 measures. It is anticipated that spend for 2021-22 will return to normal levels with a return to face-to-face visits.

The ICVS has carried out 1,014 dip sample reviews and 887 telephone or virtual unannounced ‘visits’ in 2020/21.

The vast majority of areas for improvement or action witnessed by an IC Visitor were raised and resolved immediately by the custody officers at the time of the visit. The diagram below gives some high level figures on visits:



An unavailable visit is when the person in custody is currently not in the cell or is otherwise occupied; for example is getting fingerprints taken; forensics tests; out of cell for questioning or with a lawyer; or is sleeping or eating. There are also instances where Police Scotland will advise against visiting a person in custody. Examples of the reasons for this include for personal safety of the individual or IC Visitor; the detainee has displayed violent behaviour or the detainee is heavily intoxicated. The IC Visitor can request to observe individuals in custody whom Police Scotland have advised are not available for a visit.

Throughout the reporting period, IC Visitors 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 2020-21:

Day	Number of Visits
Sunday	243
Monday	208
Tuesday	343
Wednesday	323
Thursday	266
Friday	216
Saturday	302

Partnership Working

The Independent Custody Visiting Association (ICVA) leads, supports and represents schemes in the United Kingdom. The ICVA helps to shape the schemes' aims to better equip scheme managers to deliver effective custody visiting. The ICVA Scheme Manager's Conference was held in November 2020 and focused on young people in custody. It was an informative event and included a presentation from a young person who had been in custody multiple times speaking on how the 'Divert Service' had a positive impact on his life. A leading academic from the London School of Economics spoke about her research and findings on children and young people in police custody. These resources were provided to scheme managers to provide further learning points. This has helped inform the approach of Scottish IC Visitors to children in custody and has helped inform briefings to the Authority's Committee members on children in custody.

The NPM and NPM Scottish subgroup held various meetings throughout the year to discuss priorities for 2020; the approach to visiting during COVID-19; UK obligations under OPCAT and what appropriate steps members can take to safeguard the rights of individuals held in custody. In August, the group met to discuss the different approaches to monitoring and allowed members to share good practice and any challenges. Sharing good practice at these events and learning from other schemes helped to enable the successful and continued monitoring during COVID-19. This helps to ensure that Police Scotland continually improved their custody arrangements to protect the human rights of people in custody.

Later in the year, the NPM working group held a meeting to discuss visibility and collective identity. This event included representatives from Bristol University who had looked into the Subcommittee on

Prevention of Torture (SPT) visit to the UK in 2019 and offered suggestions to some of the questions and areas of concern raised by the SPT. These discussions helped to direct oversight of Police Scotland's approach to addressing these concerns. The SPT Recommendations are now tracked and overseen by the Authority's Audit Risk and Assurance Committee through Police Scotland's Quarterly Audit and Improvement Tracker. Police Scotland has also adapted its practice with the introduction of a Continuous Improvement team in Criminal Justice Services Division which actively tracks progress on: SPT; Her Majesty's Inspectorate of Constabulary and ICVS recommendations.

The Human Rights Implementation Centre (HRIC) hosted an event at the University of Bristol on good practice and ongoing challenges, which provided another opportunity for partnership working. HRIC had researched practical implications for visiting schemes and how each monitoring body has adapted to COVID-19 measures, detailing how visiting schemes have continued to identify concerns despite challenging circumstances.

The ICVS National Manager met with the Criminal Justice Chief Superintendent throughout the year to discuss various processes and ongoing issues and concerns raised by the IC Visitors. At the start of lockdown, access for the ICVS Regional Coordinators to the National Custody System (NCS) was requested to provide oversight and monitoring during lockdown. This request was granted and allowed for remote monitoring during COVID-19.

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 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.

- Police Scotland is responsible for the care and welfare of individuals held in LPCs.
- The cells are no different from those used for routine detainees, 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.

There were 18 activations over the last year. Of these 18, IC Visitors undertook virtual visits to 12 detainees. During these visits, findings did not differ from the trends observed during routine custody visits. 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. All visits were done via the telephone monitoring, involving two IC Visitors and the three way call.

TACT

Specifically trained IC Visitors visit detainees 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 have been arrested for statutory offences as detailed in the Terrorism Act (for example fundraising or directing terrorism). Throughout the United Kingdom, IC Visitors have visited suspected terrorist

detainees 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 IC Visitors in line with the rest of the UK. During the reporting period, there were no activations of Border Force facilities.



5. AREAS OF FOCUS FOR 2021-22 AND 2022-23

ICVS Management Review and Vision

Through the second half of 2021-22 and into early 2022-23, the Authority will conduct a proactive review the ICVS arrangements with a focus on continually improving the service. Chapter 16 of the Police and Fire Reform (Scotland) Act 2012, sets out the Authority's responsibility for keeping the arrangements [for ICVS] under review and revise them as required.

The purpose of the review is to ensure that the work of the IC Visitors has the appropriate focus and makes the greatest possible contribution. The review will also seek to ensure that the ICVS has the appropriate governance, quality of data, criteria and thresholds for recommendations, processes (human resources, legal and other), and that the appropriate documentation/handbook/framework is in place. Through these aspects, the review seeks to continually improve and ensure public confidence in the monitoring systems for Police Scotland's management of custody. The review will be split into four phases:

1. The ICVS Management Review/Evidence Gathering
2. ICVS Vision
3. Implementation Plan
4. Progress Reporting

Phase 1 of the review will seek to:

- Establish what best practice looks like
- Review the formal governance route of IC Visitors' areas for improvement and observations
- Assess quality of data currently produced and how it is used to improve policing
- Review ICVS Legal Standing
- Review ICVS Handbook and Policies
- Examine options for greater use of technology and digitisation of the ICVS
- Offer considerations.

ICVS needs to review and enhance its approach to data management, capture, interpretation and analysis. Through the Management Review and subsequent phases, ICVS will undertake a redesign of these processes to support greater insight to the treatment of people in custody.

Phase 2 of the review will create an ICVS Vision that articulates a future state based on recommendations from the ICVS Management Review and engagement with ICVS staff and IC Visitors.

Phase 3 of the review will create a funded and phased Implementation Plan, which provides incremental progress toward the new design at an appropriate pace for IC Visitors and the service. A roadmap will set out clear goals that will achieve the ICVS vision and recommendations within the Management Review.

Phase 4 will consist of regular progress reporting against the implementation plan, on a bi-annual basis to the Vice Chair of the Authority.

COP26

The ICVS role in monitoring how people are treated in police sites was identified as a particular focus during the COP26 event.

Rigorous planning was undertaken to ensure that visits to custody suites could be increased at a time of potential peak demand for policing in Scotland.

ICVS prepared to provide enhanced levels of monitoring to each of the COP26 designated custody centres via a combination of face-to-face (physical), telephone and virtual visits.

Currently visits to custody centres are scheduled based on throughput figures. Some are weekly, some are fortnightly and there are some that are visited less frequently. ICVS planned to visit each designated COP26 custody suite at a minimum of once every two days. ICVS exceeded this expectation and visited the COP26 designated custody suites on a daily basis.

The Authority recognises that COP26 placed additional demands on IC Visitors - from additional training to variation of working patterns - and the Authority is grateful for their commitment to the scheme and for their flexibility and willingness to adapt to ensure people in custody during this busy time continued to receive the best care, ensuring their dignity and wellbeing.

A more comprehensive update on COP26 arrangements, review and lessons learned will be contained in the 2021-22 Annual Review.

Recruitment

During this reporting period, there were 114 IC Visitors. Over the year, the scheme has seen some of its long standing IC Visitors move on or retire, 14 left the scheme and six new visitors were recruited.

Recruitment is an ongoing process and there is a need to recruit additional IC Visitors in the 2022/23 period. The ICVS will target specific recruitment where possible to improve the diversity of IC Visitors to better reflect the community in Scotland.

6. CONCLUSION

2020-21 has been a year like no other for the Independent Custody Visiting Scheme. The relationship with custody staff and officers has remained extremely positive this year, despite the challenges and the additional demands placed on the services through COVID-19. The Authority commends custody officers and staff, Authority staff and the IC Visitors for their dedication and flexibility in ensuring the continuity of this vital oversight function throughout the pandemic.

During 2020-21, the IC Visitors carried out 1,014 dip sampling reviews and 887 telephone or virtual visits across 77 custody centres and spoke with 878 individuals in custody. We are pleased to report that these visits have not raised any OPCAT level or other significant breaches of human rights or highlighted any instances of cruel, inhuman or degrading treatment or punishment of arrested people, but the visits have identified a number of improvement actions, which Police Scotland has already rectified or is taking forward.

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.

If you are interested in becoming an Independent Custody Visitor, please contact:

ICVS
Scottish Police Authority
1 Pacific Quay
Glasgow
G51 1DZ
Email: icvs@spa.pnn.police.uk

For more information on the role of ICVS, please visit www.spa.police.uk

