



# CHESHIRE CUSTODY VISITING SCHEME

## GUIDANCE ON THE DUTIES AND RESPONSIBILITIES OF CUSTODY VISITORS

## **Objectives of the Scheme**

1. The former Cheshire Lay Visiting Scheme was one of the first custody visiting schemes to be established in the country, following the recommendations of Lord Scarman in 1983. In accordance with Section 51 of the Police Reform Act 2002, all police authorities are required to:-
  - (a) make arrangements for persons to be visited by persons appointed under the arrangements ('independent custody visitors'); and
  - (b) keep those arrangements under review and from time to time revise them as they think fit.
2. The Scheme comprises of volunteers from the local community recruited by the Authority as Custody Visitors to visit custody suites. The Custody Visitors concern is the welfare of persons in custody and the operation in practice of the statutory and other rules governing their welfare. Custody Visitors make unannounced visits at varying times of the day and night, having access to custody suites and are concerned with the conditions of detention and the treatment of individual detainees. Part of the visiting process entails discussions with custody staff and subject to their consent being obtained, detainees are visited. Custody Visitors may raise issues, which require immediate attention by the custody staff and following every visit, will provide a written report of their findings. Custody Visitors have the opportunity to discuss experiences from visits at Panel meetings and raise issues with the Authority. The Authority has a commitment to publicising the work and the findings of the Custody Visiting scheme.

## **Appointment of Custody Visitors**

3. Any person over 18 residing in Cheshire can be appointed as a Custody Visitor, with the exception of serving Magistrates, police officers (including Special Constables), police staff and Members of the Police Authority. Special consideration will be given to the appointment of solicitors and employees of the probation service and persons closely working within the Criminal Justice System.
4. The Authority's Engagement Committee is responsible for monitoring the Scheme. The Chief Executive is authorised on behalf of the Authority to appointment or re-appointment Custody Visitors and terminate appointments if considered necessary.
5. The term of office for a Custody Visitor will initially be for a probationary period of six months. The experienced Custody Visitors on the Panel will consider an individual Custody Visitor's conduct, performance and attendance during the probationary period. Where appointments are confirmed they will be for a period of two years (including the probation period), with a full review of continuing suitability at the end of that period.
6. Custody Visitors will be eligible for re-appointment every two years subject to support by the appropriate Panel. Re-appointments beyond six years will require confirmation by the Chief Executive. The Authority acknowledge that effective and committed Custody Visitors are a precious resource and experience is

valuable, however, this is balanced against the need to avoid staleness and introduce fresh perspectives.

7. A condition of an offer of appointment will be that each Custody Visitor signs a Memorandum of Understanding, which will provide details of the Authority's expectations of the Custody Visitor (copy attached as Appendix 1). The Memorandum includes issues such as undertaking a minimum number of visits per year, attendance at training seminars and Panel meetings and the support which the Authority will provide.
8. Before appointment, applicants must declare any conviction for a criminal offence, and if they have ever served a term of imprisonment or detention (other than those which are spent by reason of Rehabilitation of Offenders Act 1974). Criminal record checks will be undertaken before appointment.
9. Three Panels of Custody Visitors operate visiting one of three specific custody suites serving the Cheshire police area. The Eastern and Northern custody suites both have 35 cells and the Western custody suite, 20 cells. The suites are located at:-

Eastern - Pochin Way, Middlewich, CW10 0GY

Northern - Manor Farm Road, Sandymoor, Runcorn, WA7 1TD

Western - Blacon Avenue, Chester, CH1 5BD

### **Termination of appointment**

10. Although the work is entirely voluntary, there may be occasions when the Authority has to consider the termination of the appointment of a Custody Visitor either because of misconduct or poor performance. Misconduct encompasses matters such as misuse of the identity card, inappropriate behaviour or comments made during a visit or towards a fellow custody visitor, detainee, police officer or police staff, conviction of a criminal offence, abusing the position of Custody Visitor, for example, by consistently flouting the guidelines covering the conduct of Custody Visitors. Examples of poor performance are detailed in paragraph 14.
11. Custody Visitors **must** notify the Chief Executive if they are arrested, cautioned or charged with a criminal offence. In such circumstances, the Authority will suspend the appointment of that Custody Visitor until the outcome of any criminal proceedings is known. If the Custody Visitor is subsequently found to be not guilty, they may be reinstated. In the case of a caution, the Chief Executive will review the appointment of the Custody Visitor with regard to the nature of the offence. If the Custody Visitor is found guilty of a criminal offence, the Chief Executive will write to them to enquire about their period of and whether they should consider resigning from the Scheme.
12. Where a Custody Visitor fails to make a visit within a three month period, the Convenor will advise the Chief Executive who will write to the Custody Visitor concerned to seek an explanation. If a satisfactory explanation is not provided, the Chief Executive after consultation with the Convenor, will consider whether the appointment should be terminated.
14. Where a Custody Visitor fails to make a minimum of 8 visits or fails to attend at least two panel meetings during the year or the annual training seminar and no

explanation has been given to the Scheme Administrator, the Chief Executive will consult with the appropriate Convenor and consider whether the appointment should be terminated.

15. An Appointment and Appeals Procedure for Custody Visitors has been adopted by the Authority and is attached as Appendix 2.

### **Visiting Programme**

16. Each Custody Visitor Panel shall appoint a 'Convenor' to be responsible for the co-ordination of visits and the day-to day administration of the Panel. The Convenor's role is to act as a contact point and offer advice and support to Custody Visitors. The responsibilities include chairing Panel meetings; preparing the agenda for meetings (in consultation with the Scheme Administrator) and subsequently the notes; the compilation of the visiting statistics; attendance and the presentation of their half-yearly report to the Engagement Committee; and attendance at conferences and training seminars as requested by the Scheme Administrator.
17. Each custody suite should be visited twice a week. These suites are where persons are detained under arrest and are staffed 24 hours a day. Visits should be made without appointment however shift changeover periods should be avoided. Remember that your visit may not always be convenient and you may experience a short delay.

### **Conduct of Visits**

18. Custody Visitors must carry their identity card, which will include your photograph at all times within the custody suite. The identity card must be shown on arrival to the custody staff and on request.
19. Custody Visitors must visit in pairs and no more than two Custody Visitors can visit at any one time. Custody Visitors should not be accompanied by any unauthorised persons.
20. Custody Visitors will only have access to those parts of the custody suite where members of the public are detained which includes all parts of the custody area - cells, detention rooms, holding cells, charging areas, washing facilities, kitchen/food preparation area and medical room (but not the drugs cabinet). Custody Visitors should ensure that these areas are clean, tidy and in a reasonable state of repair and decoration, and that bedding in cells is clean and adequate. Empty cells and detention rooms should also be checked to ensure heating/ventilation systems, cell bells and toilet flushing mechanisms are working properly. Unoccupied interview rooms in the custody area may also be visited.
21. Custody Visitors must remember that visits will cause some disruption to the normal operational efficiency of a custody suite. Visits should therefore be brief and business-like.

### **Visiting Procedures**

22. The following paragraphs detail the procedure for Custody Visitors when visiting the custody suites:-

- On arrival at the custody suite, Custody Visitors should park in the visitor car park (or staff car park using access card to gain entry) and proceed to the reception or straight through to the custody area. On receiving a response Custody Visitors should introduce themselves by advising of their names and role – this information will be relayed to the Custody Desk. If there is delay in your entry in excess of 10 minutes, Custody Visitors should enquire with the Custody Sergeant how long entry will be and the reason for the delay. Any delays must be recorded on the CV/2 Form to enable the effective operation of the Scheme to be monitored. When Custody Visitors are admitted through the gate they will then gain access to the main reception area.
- On arrival at reception, Custody Visitors may be asked to hand over any mobile telephones and bags and any other personal possessions to the officer. At times, Custody Visitors will only be allowed to take a pen, CV/2 Form/paper, Custody Visiting Scheme Handbook and clipboard into the cell area. The Custody Visitors will then proceed through a 'security lock' to the secure area.
- Whilst in the security lock, Custody Visitors may be 'scanned' with a metal detector prior to proceeding to the charge desk.
- At the charge desk, Custody Staff will outline the situation regarding the persons being detained in the custody suite at the time. The Custody Sergeant will allow Custody Visitors to view a computer screen (custody board) detailing the detainees being detained at the time of the visit. Whilst viewing the screen Custody Visitors will observe information about the detainee's name and reason for detention, which should be disregarded.
- Custody Visitors are recommended to identify a maximum of 10 detainees male and female to visit with particular focus on juveniles and vulnerable persons. If the majority of the selected detainees do not wish to receive a visit, Custody Visitors may wish to return to the charge desk and select further detainees to visit or inspect the other facilities in the custody suite. During the visit, other areas as detailed in paragraph may be inspected as you deem appropriate. CCTV surveillance equipment can also be checked to ensure that it is operational. This should result in a visit lasting a maximum of 1½ hours.
- Following the visit, Custody Visitors will be required to complete a CV/2 report form. Custody Visitors should ask the Custody Sergeant if they can use a quiet room to enable the report to be completed in private. Custody Visitors will, therefore, be required to inform the Custody Sergeant of any issues, which require immediate action at the time of the visit and before leaving the secure area. The completed report should be handed to the Custody Sergeant at the charge desk.
- Custody Visitors should ensure that if a custody record is printed out for information, that it is returned to the Custody Sergeant before leaving the secure area, and not taken outside the custody suite.

### **General Visiting Procedures**

23. Custody Visitors should focus on whether detainees have been offered their rights and entitlements under the Police and Criminal Evidence Act (PACE) (including receipt of the necessary paperwork) and confirm whether the

conditions of detention are adequate. Custody Visitors should encourage an open exchange with the detainee.

24. Care must be taken to differentiate between the visit and the pursuing of individual cases. For instance, if called to the custody suite in a private capacity as counsellor or friend by an individual detainee, or if nominated by a detainee under the 'intimation of arrest' procedure, you cannot adopt or thereafter revert to the Custody Visitor function and see other detainees.
25. In general, you may see anyone detained at the Custody Suite at the time, subject to the following qualifications:-
  - (a) no detained person is required to receive a visit and answer any questions. Custody Visitors will introduce themselves to the detainee using the agreed introduction text. The accompanying Custody Sergeant/Detention Officer shall be within view but out of earshot during the visit. If the detainee is asleep at the time, they can be woken at the discretion of the Custody Sergeant/Detention Officer to seek consent to a visit. As a general rule, to avoid interrupting the continuous period of eight hours rest provided for under the PACE, sleeping detainees should not normally be woken, but may be observed through the communicating hatch. If a detainee is not in a position to give consent, perhaps because of the effects of alcohol or drugs or by virtue of a mental illness, the Custody Sergeant should allow access unless it is considered that the Custody Visitors' safety would be at risk. In such circumstances the Custody Visitors may wish to speak to the detainee through the communicating hatch. That may also apply where consent is given, but the Custody Sergeant considers the Custody Visitors would be in danger from a violent or potentially violent detainee if they entered the cell.
  - (b) if a detainee is being interviewed the interview may not be interrupted; you will not be admitted to an interview in progress. Custody Visitors may wish to wait until after the interview has finished.
  - (c) the PACE – Codes of Practice govern the way in which the Police question suspects or witnesses. They also deal with the rights of the individual who is in custody, including their ability to communicate with people outside. The Police can delay contact in exceptional circumstances by the Codes of Practice. The Police may decide for similar reasons that a detained person should not be seen by the Custody Visitors, to avoid any risk of prejudicing an important investigation. Any decision to deny Custody Visitors access to a detained person can be taken only by the Custody Sergeant, who must explain his/her reasons on each occasion. Custody Visitors should also record this fact, and the reasons given and whether they were satisfied with the explanation on the CV/2 Form.
  - (d) there may be very rare instances where, in view of prevailing circumstances, the Custody Sergeant is incapable of permitting access to the custody suite. On such occasions the Custody Sergeant shall explain the circumstances and the visit may be deferred. You must record this on the CV/2 report form.

- (e) juveniles (below the age of 17) in custody will normally be accompanied by a parent or guardian (or other persons known as an appropriate adult). A visit will be permitted if an appropriate adult is not present, subject to the juvenile's consent. If an appropriate adult is in attendance, the juvenile's wishes should be sought and respected as to whether the appropriate adult should be in attendance during the visit.
- 26. When visiting persons in custody, Custody Visitors will at all time be accompanied by either the Custody Sergeant or Detention Officer. Any conversation with the detainee, which the Custody Visitor instigates, must be confined to the welfare and custodial arrangements only. The reason for detention, evidential matters relating to the investigation, and the question of bail are **not** matters which fall within the remit of the Custody Visiting Scheme.
- 27. Custody Visitors must **not** involve themselves in individual cases to the extent of offering advice about whether or not a detainee should make a statement or otherwise co-operate with the Police's enquiries. Custody Visitors must also decline to convey messages from detained persons, however innocuous they may seem. Custody Visitors must take care, in conversation with the detainee, not to invite comments on matters related to the circumstances of his/her arrest or other aspects of the investigation and in particular should avoid any suggestion that you are soliciting complaints about such matters. All questions should relate to the detainee's welfare and the conditions in which they have been detained.
- 28. The detainee may wish to raise matters outside those governing his/her welfare and on those occasions, particularly if the matter is construed as a complaint against any police officer, reference should be made immediately to the Custody Sergeant, who will take the appropriate action.
- 29. Custody Visitors should constantly be aware of the likelihood of their subsequent evidential involvement, should the detainee make spontaneous comment, which has evidential value, either for the prosecution or defence. Questions likely to elicit such comment should be avoided if possible. If a Custody Visitor witnesses such evidential comment, they will be invited to make a statement on the matter for subsequent submission in evidence.
- 30. If a Custody Visitor recognises or has knowledge of a detainee being held in custody, they must immediately declare that interest to the Custody Sergeant and abandon the visit to the specific detainee.
- 31. A Custody Visitor may, with the consent of the detainee, be present during the formal charge process. On these occasions Custody Visitors must not make any comment which might interrupt the procedure. Similar conditions will apply should Custody Visitors wish to observe the documentation procedure of a recently arrived detainee. The presence of the Custody Visitor will be recorded on the Custody Record.

### **Custody Records**

- 32. Subject to obtaining the detainee's consent to view their custody record, the Custody Visitors may check its contents against what they have been told by the detainee. In particular, Custody Visitors may wish to verify:-

- whether entitlements under PACE have been given and signed for;
  - that medication, injuries, medical examinations, meals/diets are recorded;
  - that procedures to assess special risks/vulnerabilities presented by the detainee have been properly recorded;
  - the timing and frequency of cell inspections of inebriated or otherwise vulnerable detainees; and
  - the timing of reviews of the continuing need for detention
33. If a detainee is for any reason incapable of deciding whether to allow access to their custody record, the presumption should be in favour of allowing the Custody Visitors to examine the record.

### **CCTV footage**

34. Custody Visitors must carry out their functions in person and not by viewing either live CCTV pictures or recorded footage. The role is fundamentally interactive with both detainees and police staff and cannot be discharged remotely. There may also be issues about infringing the privacy of detainees who have not consented to Custody Visitors observing them using CCTV. However, where specific incidents or circumstances arise and have been captured on CCTV, Custody Visitors might reasonably be allowed access where both the police and the detainee(s) concerned, consent.

### **Medical Issues**

35. Custody Visitors have no right to see a detainee's medical records, even when attached to the custody record. However, key points relevant to medical treatment should be recorded in the custody record itself. Custody Visitors should pay particular attention to detained persons who are suffering from any form of illness, injury or disability. They should satisfy themselves that, if appropriate, medical advice has been obtained and established from the Custody Sergeant what instructions for medical treatment have been given and confirm by consulting the custody record that these instructions have been carried out.

### **Police Initiated Visits**

36. Exceptionally, circumstances may arise where the Police will wish to initiate a visit, in particular where there may be serious local concern about the treatment or well-being of a person in custody and a special visit could help allay public fears. The senior officer in charge of the Custody Suite shall be responsible on those occasions for contacting the appropriate Convenor.

### **Confidentiality**

37. During the course of undertaking visits, a Custody Visitor may acquire considerable personal information about persons connected with police enquiries, the majority of whom will not at that time have appeared in Court. Some will never appear in Court. That information must be protected against improper or unnecessary disclosure and you will therefore be asked to sign an undertaking of confidentiality. That undertaking will be signed at the time of your appointment. Custody Visitors should be aware that improper disclosure of information acquired during the course of a visit may attract civil or criminal proceedings. Improper disclosure extends to discussion of individual cases and

identities with other Custody Visitors and to the system of written reporting to the Police Authority of the results of visits. Additionally, unauthorised disclosure of facts concerning police operations or the security of police stations may constitute an offence under the Official Secrets Act 1989.

### **Persons informally present at the custody suites**

38. There may exceptionally be persons at the custody suite who, whilst not detained under the formal arrest procedure, are there having attended freely to offer evidence as a witness to some occurrence, to provide fingerprints, photographs or DNA or to be interviewed as a possible suspect for an offence. Such persons will not fall within the provision of the Custody Visiting Scheme. However, should a Custody Visitor wish to satisfy themselves as to the welfare of such persons, their consent should first be ascertained by the Custody Sergeant.
39. The following persons may also be present in a custody suite and may be visited by Custody Visitors when they are under the control and responsibility of the police service:-

#### Home Office Prisoners

On occasion remanded and sentenced prisoners are held in Custody Suites. They are known, in the police context, as Home Office prisoners. Home Office Circular 74/91, 'Remand and sentenced prisoners held in police cells', sets out the categories of prisoner who may be held and can be visited.

#### Group 4 Prisoner Escort and Custody Service

Group 4 are responsible for escorting prisoners from custody suites to court and if sentenced, onward to prison. Lay Observers have been appointed by the Home Office to monitor Group 4's performance and to inspect the conditions in which prisoners are transported and held. From time to time, it may be necessary for Group 4 detainees to be held in the custody suites.

#### Immigration Detainees

These are persons held under the Immigration Act 1971 and Immigration and Asylum Act 1999 who are subject to deportation proceedings or who are waiting to be removed from the UK as illegal entrants.

#### People at Risk/Police Protection

These may be persons held under the Mental Health Act 1983 for their own protection or children taken into police protection under the Children Act 1989.

### **Completion of CV/2 report forms and follow-up action**

40. Recording the contents of a visit is one of the most important aspects of the scheme. Custody Visitors may wish to make notes in the course of the visit, but should explain to the detainee why they are doing so. Custody Visitors shall report on each detainee visited at the end of the visit. The CV/2 report form should be completed in a private area, not in the presence of custody staff. You should record all aspects of the visit – complimentary comments about the suite

and the custody staff and your concerns, which may include delays in accessing the custody suite and whether you were satisfied with the reasons given; the reception by custody staff; the cleanliness of the custody suite; etc. One copy should be given to the Custody Sergeant who will in turn forward it to the Custody Inspector responsible for that particular suite, one copy should be retained by the lead Custody Visitor and the remaining copies forwarded to the Panel Convenor. The Convenor will retain a copy and forward a copy to the Scheme Administrator.

41. If a visit discloses any aspects of the treatment of persons detained at the suite or conditions there, which are unsatisfactory, **it must be recorded on the CV/2 Form**. If a matter appears to require urgent attention, the Custody Sergeant should be informed immediately. This action must be taken if a detained person makes a complaint of assault or ill-treatment, or appears to have sustained an injury which is not recorded on the Custody Record. If the Custody Visitors are not satisfied with the response or actions of the Custody Sergeant with regard to the welfare of a detainee they must raise their concerns with the Custody Inspector at the time of the visit.
42. The following escalation procedure has been developed to ensure that out of normal office hours, serious concerns are effectively addressed:-
  - Where an incident occurs as a result of a visit and is of a routine nature, Custody Visitors should note the issue on the CV/2 Form and forward to the Authority via the Convenor, in the usual manner.
  - Where an incident occurs and immediate resolution is desirable, the Custody Visitors should raise the issue with the Custody Inspector, if it cannot be resolved by the Custody Sergeant in the first instance.
  - Where an incident occurs that requires urgent resolution, but no actual risk to an individual is suspected and the matter has been raised with the Custody Inspector but there is no satisfactory resolution, then this should be raised the next working day with the Custody Chief Inspector via the Police Authority.
  - If the matter cannot be resolved with the Custody Inspector and the Custody Visitors consider the matter is urgent and there is a serious risk to an individual, the Force Incident Manager should be contacted on 01606 362270 who may then refer the matter to the locum Inspector/Superintendent. (It should be noted that this officer is responsible for major incidents and may not be available at that time).
  - Custody Visitors should also advise the Convenor of any unresolved issues to ensure that the most appropriate course of action is being taken.
43. References in reports to individual detainees must be made by their custody number in order to preserve their anonymity.

### **General Provisions**

44. There is no barrier to Custody Visitors also acting as Appropriate Adults in certain circumstances. Individuals must not switch between the role of Custody Visitor and Appropriate Adult during the course of a visit to the same police

station. Changing roles in that way can blur responsibilities and create confusion for all concerned. However, those fulfilling the role of Custody Visitors are not prevented from acting as Appropriate Adults on separate and distinct occasions, preferably at completely different stations.

45. Custody Visitors may also act as Lay Observers who are appointed under the Criminal Justice Act 1991 to inspect the conditions under which prisoners are transported and held.
46. Custody Visitors must before commencing duties, attend an Induction Seminar so that they are fully aware of their duties, relevant requirements of the law and local Force Orders with regard to custodial arrangements.
47. A copy of the Custody Visiting Scheme Guidance and copies of associated documents such as the translation booklet for non-English speaking detainees and spare CV/2 report forms are kept under the charge of the Custody Sergeant within the custody suite.

### **Panel Meetings**

48. Custody Visitors shall meet on a Panel basis, three times a year, to receive update on local and national policing developments and initiatives and review their work and report through the Convenor to the Authority's Engagement Committee.

### **Expenses**

49. Travelling expenses are payable to all Custody Visitors at the same rates payable to Members of the Police Authority.
50. Travelling expenses will also be payable to those Custody Visitors formally appointed by their Panels to attend conferences/meetings subject to prior consent being given by the Scheme Administrator or Chief Executive.
51. Reasonable out-of-pocket administrative expenses shall be payable to Convenors together with travelling expenses for attending meetings of the Authority's Engagement Committee or any other meeting at the request of the Authority. An annual honorarium of £500 is awarded to Panel Convenors in recognition of their significant time commitment over and above being an active Custody Visitor.
52. Any Custody Visitor who is required to pay a carer in order to undertake a visit or attend a Panel meeting or training event may claim a carers' allowance. This allowance shall be paid upon the production of a valid signed receipt, and shall be for actual expenditure incurred up to a maximum of £6 per hour. The allowance may be claimed for the total hours it takes for a Custody Visitor to leave home and return home after undertaking a visit or attending the Panel/training. The allowance shall not be payable in respect of care provided by a member of the claimant's family. Payments may be claimed in respect of children aged 16 or under and in respect of other dependants where there is medical or social work evidence that care is required.

## **Insurance**

55. All Custody Visitors are covered by the Authority's insurance against personal injury whilst undertaking visits on police premises. Custody Visitors are responsible for advising their motor vehicle insurers that they are undertaking a volunteer role and to ensure that their vehicle is insured for 'business use'.

## **Publicity**

56. It is helpful to use opportunities to raise public awareness about Custody Visiting. Custody Visitors should ensure that the purpose of the publicity is to inform about the Scheme and not to draw attention to themselves. In any article or presentation, Custody Visitors must not discuss individual cases or specific events except in general anonymous terms. It is up to the Custody Visitor to consider whether or not to reveal their own identity, however, anonymity can lead to misunderstanding in the media and where possible Custody Visitors should be prepared to reveal their identities. There is no necessity to reveal full personal addresses. The inclusion of photographs in any such articles is a matter of personal discretion. The advice of the Scheme Administrator must be sought not only prior to an interview/presentation being given, but before any articles are submitted for publication by individual Custody Visitors.
57. Under no circumstances should Custody Visitors make themselves available to respond to requests for specific information from the media or other organisations about individual cases or events in the custody suite.
58. A response to general enquiries from the media may only be provided by the Convenors and only if they are satisfied that the required information is of sufficiently general nature to enable a reply to be made. Advice should always be sought from the Scheme Administrator before a response is given. Any enquiry concerning a particular case should be referred to the Chief Constable via the Constabulary's Press Office on tel. no. 01606 365157.

For further information contact the Scheme Administrator:-

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