



**CUMBRIA OFFICE OF THE POLICE
AND CRIME COMMISSIONER**

Cumbria Independent Custody Visiting Scheme

VISITORS' HANDBOOK

CUMBRIA OFFICE OF THE POLICE AND CRIME COMMISSIONER GUIDELINES FOR INDEPENDENT CUSTODY VISITORS

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Section 1: THE PURPOSE OF THE SCHEME

All Police and Crime Commissioners in England and Wales have a duty to implement and co-ordinate an Independent Custody Visiting Scheme. The main purpose of the scheme is to provide independent scrutiny of detainees in custody to ensure they are being treated fairly and in accordance with Code C of the Police and Criminal Evidence Act 1984.

Independent Custody Visitors are volunteers from the local community recruited by the Office of the Police and Crime Commissioner to make regular, unannounced visits to police stations to observe, comment and report on the conditions under which people are detained and the operation in practice of the Statutory and other Rules which govern their welfare. The scheme is designed to offer protection both to detainees and to the police and to provide reassurance to the community about the welfare and well-being of people detained by the police.

Visitors are concerned solely with the conditions of detention and the treatment of individual detainees. Part of the visiting process entails discussions with custody staff. Detainees may be interviewed subject to their consent being obtained.

Visitors may raise issues which require immediate attention by the custody staff and these will be raised directly with the Custody Officer at the conclusion of the visit. Following each visit, the Custody Visitors will complete a report of their findings, using a standard report form provided for the purpose, which will be forwarded to the Office of the Police and Crime Commissioner and a copy kept in the Custody suite. Visitors have the opportunity to discuss experiences from visits and to raise issues at the regular Panel meetings. The work and findings of the Custody Visiting Scheme are reported to the Police and Crime Commissioner's public meeting and publicised on the OPCC website.

Cumbria OPCC operates their Independent Custody Visiting Scheme in line with legislation and the Home Office Code of Practice on Independent Custody Visiting.

Section 2: ARRANGEMENT OF THE SCHEME

In accordance with Section 51 of the Police Reform Act 2002 (as amended by paragraph 299 of Schedule 16 of the Police Reform and Social Responsibility Act 2011),

The Police and Crime Commissioner will:

- make arrangements for persons detained in police custody to be visited by persons appointed under these regulations (known as Custody Visitors)
- will keep those arrangements under review and from time to time revise them as they think fit

The Office of the Police and Crime Commissioner will:

- administer the scheme and
- oversee its operation

The Chief Executive of the OPCC will:

- co-ordinate the administration of the Scheme, supported by the Chief Constable
- appoint a **Scheme Administrator**

Visitors will:

- be appointed to the scheme and allocated to one of four panels covering the Force area:

- Barrow
- Kendal
- North Cumbria
- West Cumbria

Each panel will:

- Hold three meetings each year in February, June and an Annual General Meeting in October at which the members will appoint a Chair and Vice-Chair

The Chair and Vice-Chair will:

- chair the regular meetings of the Panel, held in February, June and October
- act as a point of contact and support for panel members
- organise, co-ordinate and operate an agreed rota for visits
- monitor performance at a local level
- attend meetings of all the panel Chairs and Vice-Chairs which shall be arranged as required and appropriate to operate the scheme effectively
- assist in the organisation and delivery of training for panel members as appropriate
- promote and publicise the scheme to raise public awareness and to attract new volunteers as required.
- either will assist with interviewing and appointing new members of the panel, as and when required by the Scheme Administrator

The Scheme Administrator will:

- assist the Chairs and Vice-Chairs with the administration of the Panel
- prepare the agenda for the Panel meetings (in consultation with the Panel Chair)
- produce minutes of Panel meetings
- provide and maintain member and key contact lists for each panel
- record and monitor weekly reports following each ICV visit
- maintain records and report on the performance of the scheme
- deal with issues raised by visitors arising from their weekly visits
- liaise with the Constabulary and the Office of the Police and Crime Commissioner to ensure that any issues raised are dealt with timeously and appropriately
- provide feedback to the visitors and to the Chair and Vice-Chair of the panel
- arrange recruitment campaigns as needed to ensure that sufficient volunteers are available
- undertake all administrative duties in connection with recruitment, retention, membership, training and management of the Scheme.
- arrange training courses, conferences and meetings as required
- assist the Chairs and Vice-Chairs with publicity and promotion to raise awareness of the scheme

Section 3: APPOINTMENT OF VISITORS

The Office of the Police and Crime Commissioner will:

- recruit, select and appoint visitors
- aim to ensure that adequate numbers of visitors are available to carry out a minimum of one visit every week in each of the four panel areas
- make appointments solely on the basis of suitability for the role without discrimination
- publish a standard application form, job description and person specification to be used by all applicants

The Chief Executive of the OPCC will:

- monitor the scheme and the appointment of visitors
- make the final decision on appointments if required

All applicants selected for short-listing will:

- attend an interview by a selection panel comprising of at least the Chair and/or Vice-Chair of the local panel and the Scheme Administrator¹.

¹The panel may also include at least one independent appointee, for example, a representative of Cumbria CVS (Council for Voluntary Service); or an experienced panel member.

Anyone wishing to volunteer as an ICV¹ will:

- be over 18 years of age
- live or work within Cumbria
- declare any conviction for a criminal offence (whether spent or unspent)²
- declare any term of imprisonment or detention, or any formal caution, warning or reprimand.²
- provide the names and addresses of two independent referees who are not related to them
- agree to appropriate security clearance being obtained and criminal record checks being carried out²
- sign a Memorandum of Understanding³ which sets out the requirements placed on all visitors and standards of conduct for their role.
- complete a six months probationary period before their appointment is confirmed⁴
- agree to a review of their membership at the end of each three years in the scheme prior to confirmation of continuance on the scheme⁵
- agree to retire on completion of three three-year terms⁶

¹The OPCC seeks to ensure that people appointed to the Scheme are representative of the local community in terms of age, gender and ethnicity. It is particularly important to avoid any potential or perceived conflict of interest. For that reason, serving and retired police officers (including police community support officers and special constables), police staff, police volunteer, (or immediate relatives thereof) custody medical staff, serving Magistrates and members of the staff of the OPCC will not be eligible for appointment.

²Before appointment, applicants must declare any conviction for a criminal offence and if they have ever served a term of imprisonment or detention. Criminal record checks and other security vetting will be carried out in accordance with NPPV (Non-Police Personnel Vetting), Stage 2, prior to appointment. Past offending will not necessarily debar anyone from appointment to the scheme and further information will be provided on request to the Scheme Administrator

³A condition of any offer of appointment will be that each new Visitor signs a Memorandum of Understanding (see **Appendix 2**) which sets out:

- the terms of the appointment
- the requirements made on visitors by the Office of the Police and Crime Commissioner, including:
- the requirement to undertake a minimum number of visits every year
- attendance at training events, panel meetings and conferences
- the support provided by the OPCC.

⁴All new appointments will initially be for a three-year period and will not be confirmed until a six months probationary period has been completed satisfactorily.

⁵The panel Chair, Vice-Chair and the Scheme Administrator will carry out a review of the appointment at the end of each three-year term. Visitors will be eligible for appointment for no more than a total of three three-year terms. The review will consider the performance of the visitor measured against the requirements made in the Memorandum of Understanding. The review panel reserve the right not to reappoint if they believe the agreed requirements have

not been met. At eighteen-month intervals, the Scheme Administrator may ask visitors to complete a member review and appraisal questionnaire, which will be reviewed by the Panel Chair and Vice Chair. In consultation with the Panel Chair and Vice-Chair, the Scheme Administrator will make the final decision on whether a re-appointment is made.

⁶The maximum tenure of appointment will be nine years. Whilst it is acknowledged that effective and committed Custody Visitors are a precious resource and that their experience is very valuable it is necessary to balance this against the need to ensure that the panel continues to be representative of the whole community, to avoid “staleness” and to introduce fresh perspectives.

The OPCC values committed and experienced visitors; but it has a duty to ensure that the scheme can operate effectively and efficiently. Visitors not re-appointed to the scheme have a right of appeal to the Chief Executive of the OPCC as described in the Scheme Appeal Procedure (see **Appendix 6**).

Section 4: ACCESS TO POLICE STATIONS

On arrival at the Police Station, visitors should normally report to reception if the reception area is staffed at the time of arrival. If the reception area is closed, visitors should use the communication buzzer provided to contact the Custody officer to obtain entry. If this proves difficult, visitors are advised to telephone 101 and ask to speak to the Custody officer.

Visitors may be asked to hand over mobile telephones, bags and any other personal possessions at reception. All mobile phones should be switched off. At times, visitors will only be allowed to take a pen, the ICV report form, a copy of the Custody Scheme Handbook, the report checklist and a clipboard into the cell area.

At the custody desk, the Custody Officer will outline the situation regarding the persons being detained in the custody suite at the time of the visit. The Custody Officer may allow the visitors to view a computer screen detailing the detainees being detained. Whilst viewing the screen visitors will observe information about the detainees’ names and reasons for detention, which should be disregarded.

If the Custody Officer reports that no-one is currently being detained the visitors may request to inspect, in the company of an officer, those areas of the police station in which persons are normally detained, unless the Custody Officer is able to provide a satisfactory reason why such an inspection to all or part of the appropriate areas is not possible. The Officer must enter the visitors’ request and the reasons for refusal on the visitors’ report form. Otherwise, visitors may decide to abandon the visit and return at another time/day within the same seven day period.¹

¹ The visitors should bear in mind that there can be benefits from having the time to speak to the Custody Officer and their staff in more detail and that this may be more practical at a time when there are no, or few, detainees in custody.

Section 5: CONDUCT OF VISITS

The purpose of custody visits are to ensure that Code C – the Code of Practice for Detainees, under the Police and Criminal Evidence Act (PACE) 1984 are being adhered to.

Custody visitors should focus on whether detainees have been offered their rights and entitlements under 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.

Visits will:

- be undertaken by pairs¹ of properly authorised² visitors.
- cover the area of the police station in which persons are detained pending interview, release or production in Court, including the cells, charge areas, detention rooms and medical rooms³, if a registered healthcare professional is present to facilitate entry to the medical room, which should otherwise be locked (Custody staff do not have direct access to medical rooms).
- begin promptly as soon as the visitors arrive at the police station⁴
- be accompanied by a police officer or detention officer⁵
- begin with a report by the Custody Officer giving details of the situation in the custody suite at that time⁶
- allow custody visitors to introduce themselves to detainees⁷

¹No more or less than two visitors may attend at any one time and they cannot be accompanied by any unauthorised persons. The only exception to this rule shall be that more than two visitors may, at the discretion of the appropriate Custody Manager, attend to undertake a routine observation visit, when new visitors are accompanied by more experienced colleagues to observe custody staff carrying out their duties. Such visits shall NOT be recorded as Custody Visits and shall only be arranged for training purposes.

²Visitors will not be allowed access to the police station unless they can produce authorisation in the form of an approved identity card provided by the OPCC which bears their photograph. The identity card must be shown to both the reception staff at the police station and the custody staff on arrival in the custody area and must be displayed at all times whilst the visitors are in the Police Station.

³Visitors may not visit offices or other operational areas, except as may be necessary to gain access to the custody areas to be visited.

⁴Immediate access to the custody area must be given. Access may only be delayed if there is a risk to the safety of the visitors themselves or if the safety of someone already in the custody suite would be put at risk by allowing immediate entry. The Custody Officer must provide the visitors with a reason for any delay, which must be recorded in the report of the visit.

⁵In the interests of security and the safety of the visitors, a police officer or detention officer will accompany them at all times during the visit. Interviews with persons detained in custody will be held within the sight, but out of the hearing, of the accompanying officer. Visitors should bear in mind that some detained persons may be violent and/or under the influence of drink or drugs, and that the presence of a police officer or member of police staff may deter or frustrate assaults on the visitors. Should this be the case, custody staff should not make comment during the interview.

⁶The Custody Officer will report on the custodial situation at the start of the visit and visitors should also check on any outstanding issues from the previous visit by consulting the file copy of the previous week's report.

⁷ All custody visitors are to be able to self-introduce to detainees. They will be accompanied to the cell by a member of custody staff, who will carry out a dynamic risk assessment on the detainee. Following this, the visitors will be allowed to enter the cell to carry out their visit. Should neither of the custody visitors wish to self-introduce they may ask the member of staff to do this for them.

Section 6: **DETAINEES**

Detainees who:

- **are asleep:**

If a detained person is asleep at the time of the visit, the Visitors will have to decide whether they should be woken to establish whether or not they wish to be seen¹.

¹Visitors must bear in mind the provision in PACE Code C that a detained person under investigation must be allowed a continuous period of eight hours rest. In such circumstances, the custody officer will advise that the detainee must not be disturbed.

- **are under the influence of drink or drugs (or are for some other reason unable to indicate their willingness to be seen):**

If the visitors so desire, the custody officer may allow them access, at his or her discretion, unless it is considered that the safety of the visitors or the detainee could be at risk²

²If a detainee is for any reason incapable of deciding whether to allow access to their custody record, the presumption must be in favour of allowing the visitors to examine it.

- **are being interviewed:**

While visitors may visit unoccupied interview rooms, they will not be admitted to an interview in progress and no interview may be interrupted³

³If visitors wish to see the person being interviewed, they may do so after the interview has been concluded, and may, if necessary, wait in the waiting room for this purpose. Consideration should be given to the expected length of time the interview is likely to take.

- **are being examined or treated by a medical practitioner:**

Visitors may visit medical rooms whenever a medical or healthcare professional is present⁴, but may not interrupt a medical examination or treatment in order to do so. If a detained person is being examined or treated by a medical practitioner then the advice of the medical practitioner must be sought before access to the detained person is given to the Visitor⁵

⁴Medical rooms are the responsibility of the provider of medical and nursing care and do not form part of the police custody premises. Custody staff do not normally have access to medical rooms, which should be kept locked unless a healthcare practitioner is present.

⁵Visitors do not have any right to see a detainee's medical records, even where these are attached to the custody record. However, key points relevant to medical treatment should be recorded in the custody record itself.

- **are violent or who present a risk to the safety of the Visitors, staff or themselves:**

If the Custody Officer has reason to believe that a detainee may present a risk to the safety of the visitors, detention staff or themselves if access is given, he or she will advise the visitors not to interview them. In these circumstances it may still be appropriate for the visitors to observe the detainee through the cell hatch⁶. The Custody Officer's recommendation should be recorded in the report of the visit.

⁶Unless this also carries a risk. It is for the visitors to decide whether to observe the detainee but they should always take the recommendation of the Custody Officer into account.

- **may present a possible risk of prejudicing an important investigation if a visit goes ahead:**

In exceptional circumstances, it may be necessary for a detained person not to be seen by the visitors in order to avoid any possible risk of prejudicing an important investigation.⁷

⁷Any decision to deny the visitors' access to a detained person must be taken by an officer of the rank of Inspector or above, who will explain and record his or her reason on the detainee's custody record on each occasion. The visitors should also record the fact in their report of the visit. Any decision to deny or limit access must be recorded in the detainee's custody record.

Section 7: EXPENSES

Visitors may claim for ¹:

- Travelling costs incurred within Cumbria in attending visits, panel or authorised meetings, conferences and training courses²
- Any travel costs incurred outside of Cumbria, where transport is not being provided, should be agreed with the Scheme Administrator prior to travel.
- Re-imburement of reasonable out-of-pocket administrative expenses incurred in carrying out their role.

¹Panel Chairs and Vice Chairs will also be able to claim travelling expenses for attending other additional meetings and training courses if requested to do so by the OPCC,

²Expenses are reimbursed at the approved rate for casual car users.

Section 8: HEALTH, SAFETY AND WELLBEING

The Custody Sergeant should inform the visitors if a detainee has been subjected to Captor Incapacitant (eg PAVA spray). Visitors should record this fact on the report form.

Visitors are responsible for their own personal health and safety issues whilst undertaking visits. If they feel unwell, have an injury or have a contagious disease prior to undertaking a visit they should contact another member of their panel and ask them to undertake the visit or cancel the visit with their partner if this is not possible. If a visitor feels unwell during a visit they should inform either the Detention Officer or Custody Sergeant immediately and if necessary conclude the visit instantly and leave the Custody Suite.

Visitors who are pregnant should consider whether they wish to withdraw temporarily from the scheme. If a pregnant Visitor wishes to continue they must advise the Scheme Administrator and make the Custody Sergeant aware on each visit they undertake so that they can risk assess against factors in custody, e.g. violent detainees, contagious diseases, availability of health staff, breakdown of air conditioning, etc. These issues will be considered for all visitors, but the risk is more acute when pregnant. In certain circumstances the Scheme Administrator may decide to suspend the visitors' membership to the scheme until an appropriate period of time after the birth.

Whilst carrying out visits all custody visitors need to be aware of the layout of the custody suite, take care when moving around and in or out of cells or rooms; adhering to any health and safety notices or instructions. Visitors should consider their attire and positioning whilst speaking with a detainee in the cell; and removing themselves immediately should a situation develop or they begin to be uncomfortable with the detainee's demeanour.

Section 9: IDENTITY BADGES

Identity badges will:

- be issued to new Visitors¹ following the induction training session for their use and safe keeping. (A temporary identification letter will be issued for use until the badge has been provided).
- remain the property of the Office of the Police and Crime Commissioner
- be returned on the expiry or termination of the Visitor's appointment.
- only be used for no other purpose than identifying the Visitor at designated Police Stations² within the Cumbria Constabulary force area.
- not be misused; to gain personal or pecuniary advantage; to provide identification to another organisation or business.

¹ Visitors must carry their identity card at all times within the Custody Suite. The card must be shown to the Custody staff on arrival and on request.

² See **Section 17** Termination of Appointment

Section 10: INSURANCE

The OPCC will:

- ensure that all visitors are covered by insurance against personal injury suffered while undertaking visits on police premises.

Visitors will:

- certify that they have advised their motor vehicle insurers that they are undertaking a volunteer role and that they have ensured that their vehicle is insured in connection with use as a Custody Visitor.

Section 11: PANEL MEETINGS

Custody Visitors will:

- be allocated to one of the four ICV panels - Barrow, Kendal, North Cumbria or West Cumbria
- agree to attend each meeting of their panel
- advise the Scheme Administrator if they are unable to do so¹
- contribute to the agenda for each meeting as appropriate
- review their work at each meeting²

¹Should a custody visitor fail to attend 3 meetings in succession (or within a 12 month rolling period), without prior arrangement or agreed suspension from the scheme, the Scheme Administrator will contact the individual and carry out a review of their performance. Dependent upon the outcome of the review the Scheme Administrator may remove the custody visitor from the scheme.

²Reports on the Panels' work and the operation of the Scheme in general, will be posted on the OPCC website on a four monthly basis after each round of meetings. An annual report will be submitted by the Scheme Administrator to the Police and Crime Commissioner and published on the OPCC website.

Section 12: TRAINING

Before commencing their duties all visitors must attend an induction training session¹ and a night observation visit² so that they are fully aware of the requirements of their role and their duties as visitors.

The OPCC will:

- arrange appropriate training for visitors so that they may be fully aware of the relevant requirements of the law and of Force instructions²

¹There will be initial induction training for all newly appointed visitors followed by specific events organised by the OPCC and less formal training provided at Panel meetings, conferences and one-off events as appropriate.

²A night observational visit is carried out on a Friday night/Saturday morning or a Saturday night/Sunday morning usually between the hours of 10.00pm and 2.00 am to observe a busy custody suite.

Training will be:

- conducted by a variety of providers which may include:
 - the OPCC
 - the Independent Custody Visiting Association (ICVA) www.icva.org.uk
 - Cumbria Constabulary
 - other training providers as required

All visitors will:

- attend the training events arranged by the OPCC as a condition of their appointment³.

³Continued non-attendance may result in a custody visitors' appointment being reviewed and potentially terminated.

Section 13: VISITS

The visiting rota will:

- be drawn up by the Chair and/or Vice Chair of each panel
- detail two visitors to make an unannounced visit to each designated police station¹ at least once every week
- ensure that every designated police station is visited, on average, 52 times a year
- leave it open for visitors to select the day and time of their visit

¹Designated stations are those at which persons are usually detained under arrest and are staffed 24 hours a day. In Cumbria the designated police stations are:

- Barrow,
- Carlisle (Durranshill)
- Kendal
- Workington

Other police stations with cells will be visited following designation by the Chief Constable. The Scheme Administrator will advise the appropriate Panel Chair of which suite should be incorporated into weekly visits.

The Scheme Administrator will:

- Monitor the dates and times of each visit and advise the panels to ensure that visits are spread across all seven days of the week and take place at all times of day

There may be occasions when custody suites and detention areas at police stations will be closed (for example for redecoration or cleaning). Visitors will be notified, in advance whenever possible, and of alternative or temporary arrangements.

Visits will:

- be unannounced¹
- not always be convenient to the Custody staff – please be patient and understanding if a small wait is necessary
- be conducted in a brisk and business-like manner
- impose an unexpected additional burden on custody officers and their staff, particularly at busy times of the day or week, such as Saturday nights, when they are likely to have to deal with a number of arrests.
- possibly make it necessary to withdraw an officer from patrol to accompany visitors around the station. This may add to waiting times

Visitors will understand that:

- there may be occasions when they may have to wait until an officer is available before the visit can commence.
- at busy times it may be necessary to consider limiting the number of detainees visited
- visits, whilst sufficiently distributed to meet the objectives of the Scheme,² must not take place so often at busy times or at any particular station that they impair the efficiency of the administration of the police station concerned or the operational work of the officers attached to it.

¹The Custody suites are where persons are detained under arrest and are staffed 24 hours a day. Visits are always made without appointment but visitors are advised to avoid shift changeover periods if possible.

²The Scheme Administrator will monitor the actual frequency of visits against the planned programme. Reports on visits will be published on the OPCC website every four months, following the cycle of Panel meetings.

Section 14: VISITORS' POWERS

Visitors are entitled to:

- visit the designated police station(s)¹ to which they are assigned, at any time, in order to carry out visits in accordance with the requirements of Code C of the Codes of Practice under the Police and Criminal Evidence Act 1984 (PACE)
- interview anyone detained at the Police Station at the time of the visit (provided that the detainee gives their consent to be interviewed)²
- examine documentation relating to detention and treatment while detained, including the relevant sections of the Custody Record³ provided that the detainee has given consent for the visitors to inspect the Custody Record

¹Other than parts of the Police Station given over to the current approved transport provider. Visitors may visit cells, detention rooms, holding cells, charging areas, washing facilities, kitchen/food preparation areas, unoccupied interview rooms and the medical room (when a healthcare professional is present). 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 should also be checked to ensure heating/ventilation systems, cell bells and toilet flushing mechanisms are working properly.

²No detained person is obliged to be interviewed or to answer any questions. Detainees may only be spoken to with their consent which will be established either by the visitors introducing themselves or should they not wish to do so by the escorting officer explaining the purpose of the visit and asking the detainee if they are willing to speak to the visitors. The Custody Officer will be responsible for establishing in each case whether the detained person concerned wishes the visitors to have access to their documentation.

³Visitors may not see police documents concerning the conduct of enquiries into the alleged offences in connection with which persons are detained and may not view the detainee's medical record.

Section 15: VISITORS' CONDUCT OF INTERVIEWS

Visitors will:

- be concerned **only** with custodial welfare
- **not** involve themselves with legal or evidential matters
- **not** involve themselves with the circumstances of the arrest or detention¹
- have **no** responsibility for investigating or dealing with individual complaints of misconduct or maltreatment made by or on behalf of detained persons²
- decline to discuss anything more than the conditions in which persons are detained and their treatment, even though some detainees will naturally wish to ask for advice about their possible defence.
- **not** give advice about whether or not the detainee should make a statement or otherwise co-operate with police enquiries.
- tell detainees that any information obtained during the visit may be disclosed in legal proceedings.
- **not** convey messages to or from detainees, however innocuous they may seem at first sight.
- declare an interest at the outset if they recognise a friend or relative who is in police custody at the time, or know beforehand that a particular person is being detained there³
- bring it to the attention of the custody staff immediately if any detainee indicates that they may harm themselves or any other person
- be aware that they may be called upon to give evidence in any proceedings relating to events which they may have witnessed

¹In the interests of maintaining their impartiality visitors **must not** take up individual cases or make representations on behalf of detained persons.

²Any complaint made by or on behalf of any detainee alleging misconduct or maltreatment should be reported to the Custody Officer. The detainee will be advised to make a formal complaint to the Custody Officer or the Duty Inspector

³If the detainee does not object to the visit continuing, it is permissible for it do so, but the Visitor must consider whether to withdraw from the visit having regard to the nature of the relationship.

Section 16: VISIT REPORTS AND FOLLOW-UP ACTIONS

Recording a visit is one of the most important aspects of the Scheme. At the end of each visit:

The visitors will:

- complete a report of their findings using a standard template provided for the purpose¹
- report on each detainee in custody² at the time of the visit on the form provided
- complete the form at the end of the visit before leaving the Police Station

¹This does not prevent the visitors from making a more detailed report if they wish and they have the right to ask the Duty Inspector to attend if there are any issues which they cannot resolve with the Custody Officer at the time. This is provided that they believe that it is essential for the issue to be dealt with immediately.

²References to individuals being by their cell number or custody number in order to preserve their anonymity. It will normally be sufficient to quote the cell number – but if the visitor wishes to raise an issue that requires later investigation, the custody record number should be obtained and quoted on the report form

The report will be completed:

- immediately at the end of each visit
- in a private area and not in the presence of the custody staff.
- in duplicate³
- signed by both visitors
- signed by the Custody Officer and the escorting Detention Officer (if different)

³One copy will remain at the police station and be filed in the binder provided. The other copy is then sent to the Scheme Administrator, who will send e-mail or hard copies by return to each of the visitors.

A note of the custody visitors' visit should be entered by the Custody Sergeant on the detainee's custody record.

Follow up action:

When a detainee makes a complaint or raises an issue⁴ about their general treatment or conditions during a visit:

The visitors will:

- ensure that they have the detainee's consent to raise the issue with the Custody Officer
- take the matter up with the Custody Officer before leaving the police station
- write down the details of any issue which cannot be resolved to their satisfaction at the time, as part of their report⁵

The same procedure applies to any issues identified by the visitors themselves in the course of their visit.

⁴If a detainee makes a complaint of misconduct by a police officer they **must** be advised to address it to the duty officer in charge of the police station. With the detainee's consent it may be appropriate for the visitors to notify the duty officer that the detainee wishes to make a complaint. Such complaints must be dealt with through the formal procedures and there is no role for Independent Custody Visitors. They must not involve themselves in individual cases or make representations on behalf of detainees

⁵Where any issue is not resolved to the complete satisfaction of both visitors, it should be reported on the visit report form. The Scheme Administrator will liaise with the visitors and the Panel Chair and investigate the issue with a view to obtaining a satisfactory response. Issues which cannot be resolved at this stage will be passed to the Chief Executive of the OPCC for further action

Issues will:

- be resolved, if possible, before the visitors leave the police station⁶.

⁶If the visitors are satisfied with the explanations given, there is no need to raise the issue within the report, but visitors may also make reference to the resolution in their report if they wish.

Section 17: TERMINATION OF APPOINTMENT

Although custody visitors are volunteers there may be occasions when a visitor's appointment has to be withdrawn, either because of **poor performance, misconduct** or **for other reasons**. Below are some examples of what these may be although it is not an exhaustive list.

Poor performance will include:

- Failure to carry out a minimum of six visits in any one year¹
- Failure to attend Panel meetings and training events without providing the Panel Chair and the Scheme Administrator with a valid reason, 3 consecutive panel meetings, or 3 within a 12 month rolling period.
- Continued failure to attend rostered visits without informing the Panel Chair and without making arrangements to swap with another visitor²

¹Where a Visitor fails to make a minimum of six visits during the course of a year and/or regularly fails to attend Panel meetings and training events with no good reason for this has been provided, the Scheme Administrator will, following consultation with the appropriate Panel Chair, recommend that the Visitor's appointment be terminated.

²Where a Visitor fails to make any visits in any four month period, the Panel Chair will advise the Scheme Administrator, who will write to the Visitor to seek an explanation. If a satisfactory explanation is not provided within fifteen working days of it being requested, the Scheme Administrator will ask the Panel Chair and the Chief Executive to consider whether the appointment should be terminated

Misconduct will include:

- misuse of the identity card
- conviction of a criminal offence¹
- abuse of position
- inappropriate behaviour or comments made during a visit, at a meeting or conference
- breaching the guidelines for conducting visits²

¹Visitors **must** notify the Scheme Administrator immediately if they are arrested, cautioned or charged with a criminal offence. The Scheme Administrator will then suspend the visitor's appointment until the outcome of any criminal proceedings is known. If the visitor is found not guilty consideration of the circumstances will be taken before a final decision is made following which they may be reinstated. If found guilty, the appointment will be terminated. In the case of a caution or other form of disposal the Chief Executive of the OPCC will review the nature of the offence and make a decision about whether to reinstate the visitor

²Every breach of the guidelines will be judged on its own merits and there may be instances where a single breach is sufficient to merit the termination of a visitor's appointment. The Scheme Appeals Procedure is included in the Custody Visiting handbook at **Appendix 6**. All complaints and grievances will be dealt with as speedily and as informally as possible.

Other reasons will include:

- incivility to other custody visitors, OPCC staff or members of the Constabulary
- inability to demonstrate independence during visits or display independent views at Panel meetings
- inappropriate disclosure of information obtained during a custody visit
- failure to adhere to any guidelines or procedures governing the scheme

Section 18: GENERAL PROVISIONS

APPROPRIATE ADULTS

Currently¹ there is no barrier to visitors acting as appropriate adults in certain circumstances, but they **must not** switch between the two roles during the course of a visit, in either capacity. Changing roles in that way could blur responsibilities and cause confusion. However, visitors are not prevented from acting as appropriate adults on separate and distinct occasions, or at different police stations.

¹The Home Office have approved a proposal to prevent custody visitors from also being appropriate adults. A long lead in time is being allowed to enable custody visitors to choose which role they wish to undertake.

CLOSED CIRCUIT TELEVISION (CCTV)

Visitors must carry out their functions in person and not by viewing 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 visitors observing them using CCTV. However, where specific incidents or circumstances arise and have been captured on CCTV, visitors might reasonably be allowed access where both the police and the detainee(s) concerned consent.

CCTV equipment can, and should, be checked to ensure that it is operational.

CONFIDENTIALITY

Personal information relating to any of the detained persons must be protected against improper or unnecessary disclosure. Visitors undertake not to release the identity of, or any information capable of identifying, any person in police custody, or the nature of the circumstances for which they are in custody. **Breach of this undertaking may render a visitor liable to civil proceedings by the detained person concerned.**

Visitors must ensure that, if a copy of any part of a custody record is printed out for information, it is returned to the Custody Sergeant before leaving the secure area and is not taken outside the custody suite.

Visitors must ensure that nothing which they include in their report can lead to the identification of any individual detainee, other than inclusion of the cell number (or the custody record number where further investigation is required).

Improper disclosure extends to discussion of individual cases and identities with other visitors and to the system of written reporting to the Office of the Police and Crime Commissioner. Visitors should also bear in mind that unauthorised disclosure of facts concerning police operations or the security of police stations may constitute an offence under the Official Secrets Act 1989.

CUSTODY RECORDS

Subject to obtaining the detainee's consent¹ to view their Custody Record, the visitors may check its contents against what they have been told by the detainee. In particular, visitors may wish to verify:

- whether entitlements under PACE have been given and signed for

- that medication, injuries, medical examinations, dietary requirements and meals are recorded
- the timing and frequency of cell inspections of inebriated or otherwise vulnerable detainees
- the timing of reviews of the continuing need for detention

¹If 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 visitors to examine the record.

JUVENILES

Juveniles²:

- may be spoken to with their own consent
- it is not necessary to obtain the additional consent of a parent or guardian³

²All persons who have not attained their eighteenth birthday are to be treated as juveniles when in detention. An appropriate adult should be appointed for them; except that young people aged between 17 and 18 have the right to refuse the offer of the support of an appropriate adult.

³If an appropriate adult is in attendance to support a juvenile or vulnerable person, the detained person's wishes should be sought and respected as to whether the appropriate adult should attend any visit.

LAY OBSERVERS

Visitors may also apply to be appointed as Lay Observers⁴, who are appointed under the Criminal Justice Act 1991 to inspect the conditions under which prisoners are transported and held whilst awaiting transport

⁴Lay Observers:

- are independent volunteers who check that prisoners escorted by private escort companies in England and Wales are treated decently
- visit courts where they inspect the custody areas, observe the treatment of prisoners by contractors, and ask prisoners about their treatment
- inspect the cellular vehicles used by the contractors
- visit police stations to observe the handover of prisoners from the police to the contractors
- visit prisons to observe the handover of prisoners from the prison to the contractors and vice versa.

LENGTH OF VISITS

Visitors should ensure that they allow sufficient time to complete all aspects of their visit. When the custody suite is very busy it may be appropriate to identify a maximum of 10 detainees to visit, with particular focus on any juveniles and vulnerable persons. If the majority of the selected detainees do not wish to be interviewed, the visitors may wish to return to the desk to select further detainees to visit and interview. Where the custody suite is less busy, the visitors should be prepared to visit all the detainees. Visits should only last for the length of time it takes to complete all tasks, and should not usually last any longer than 1.5 hours

MEDICAL RECORDS

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. 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 should establish 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.

PERSONS INFORMALLY PRESENT AT THE CUSTODY SUITE

Exceptionally, there may 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 provide fingerprints, photographs or DNA, or as a “voluntary attender” to be interviewed in connection with an offence. Such persons do not fall within the provisions of the Custody Visiting Scheme. However, should the Visitors wish to satisfy themselves as to their welfare, their consent should first be ascertained by the Custody Sergeant

The following persons may also be present in a custody suite and may be visited by the 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 (see Remand and Sentenced prisoners, below).

- **Immigration detainees**

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

- **People at Risk/Police Protection**

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

- **Operation Safeguard**

Operation Safeguard refers to the temporary re-housing of prisoners from Her Majesty’s Prison Service into police cells nationwide. Since the statutory regulations relating to Independent Custody Visiting came into effect in the Police Reform Act 2002, Section 51 of the Act and Paragraph 2 of the Independent Custody Visiting Codes of Practice make no distinction as to the status of the detainee (i.e. whether they are being detained under PACE, terrorism powers, immigration powers, etc.) On that basis, visitors should be given access to Operation Safeguard detainees in cells at Custody suites or police stations unless the standard exceptions apply.

PUBLICITY

Guidelines on publicity for the Scheme are included at **Appendix 3**.

REMAND AND SENTENCED PRISONERS

Visitors may also visit prisoners detained under Section 6 of the Imprisonment (Temporary Provisions) Act 1980⁵ (persons remanded in, or sentenced to, custody) other than those in the custody of the current appointed transport provider.

⁵In practice the great majority of such prisoners will be held on remand in custody pending their appearance in Court. A smaller number of prisoners who may be encountered are those who have been sentenced and are awaiting transfer to a prison establishment.

TREATMENT OF PRISONERS (REMAND AND SENTENCED PRISONERS)

The facilities provided to remand prisoners detained in police custody are the responsibility of the Chief Constable. Visitors will appreciate that it will not be possible for the police to provide all of the facilities which a remand/sentenced prisoner might receive if detained in prison. There are a number of reasons for this, not least being that police cells are designed to hold people for short periods and do not incorporate some of the facilities which would be normal in a prison establishment. The police will seek to ensure that priority is given to the provision of such facilities as access to a doctor and visits by legal representatives.

CONDUCT OF VISITS (REMAND AND SENTENCED PRISONERS)

Should the remand/sentenced prisoner(s) concerned consent to see Visitors, for reasons of security this will take place in the cells areas⁶ and within the sight and hearing of the escorting officer. This is because some remand/sentenced prisoners may be charged with, or convicted of, serious offences and the presence of a police officers will be necessary to ensure the visitors' safety.

⁶This facility does not extend to cells areas falling within the jurisdiction of the various magistrates courts.

A copy of these guidelines will be issued to each police station included in the Scheme.

Appendix 1: CUSTODY VISITOR CODE OF CONDUCT

I undertake:

- to treat everyone with whom I come into contact with dignity and respect and to carry out my duties with integrity and to the highest professional standards.
- to maintain strict confidentiality within the scheme regarding any information or personal details which I may learn whilst carrying out the duties of a custody visitor.
- to carry out my duties as an Independent Custody Visitor in such a way as to never discriminate against, harass or bully any person.
- not to behave offensively towards others either in word or deed
- to develop and maintain professional relationships with police and OPCC staff, based on mutual respect and understanding of each other's legitimate roles.
- to strike the right balance: establishing effective working arrangements without developing a relationship that is too close.

Certain types of behaviour on the part of custody visitors have the potential to create tension and conflict and should be avoided.

I understand that:

- discrimination or harassment can be based on many grounds.
- offensive behaviour can manifest itself in many ways.
- relationships which are too close will seriously affect the ability of independent custody visitors to provide an objective and constructive report on conditions and procedures

Appendix 2: MEMORANDUM OF UNDERSTANDING

You will be issued with a copy of the full guidance for the Scheme, but you should particularly note the following points, which highlight the expectations of each Custody Visitor.

1. ROLE AND RESPONSIBILITIES

The purpose of your role is to observe and report upon the conditions under which persons are detained at Police Stations. Your concern is for the welfare of the person in custody and the operation in practice of the statutory and other rules governing their welfare including a consideration of their welfare in regard to equality.

2. APPOINTMENT

Your appointment is subject to a six month probationary period following which it will be initially for a period of three years.

After three years and six years you will be eligible for re-appointment for a further three years subject to the approval of the Chairman of the panel to which you are appointed and the Scheme Administrator. No visitor may serve more than three terms.

3. IDENTITY CARDS

Your Custody Visitor identity card will be valid for the period that you are appointed as a Custody Visitor. The identity card authorises you to visit police stations within your Panel area. The identity card should only be used for the purpose of making visits. If it is used for any other

purpose, it will be withdrawn and your appointment as a Custody Visitor may be terminated. Identity cards must be returned on termination of appointment as a Custody Visitor.

4. UNDERTAKING VISITS

You are required to make visits in pairs at all times. There are no exceptions to this requirement, and custody staff are aware that they must not allow anyone who is unaccompanied to make a visit. You can only make a visit when accompanied by another Custody Visitor from your Panel.

5. VISITS

You are expected to make a minimum of six visits per year; if there are exceptional circumstances, which prevent you from fulfilling this requirement, you should ensure that the Scheme Administrator is aware of them. If you have not made a visit within a four month period, the Chair of your Panel will advise the Scheme Administrator who will write to you to ascertain the reason and seek an explanation.

6. DOCUMENTATION

You are required to complete reports for every custody visit made (even when there were no detainees in custody) and submit them promptly to the Office of the Police and Crime Commissioner.

7. CHANGE IN CIRCUMSTANCES

You are expected to notify the Scheme Administrator of any change in circumstances which will affect your position as a Custody Visitor, e.g. if you are charged with a criminal offence or become a Magistrate, Special Constable, Police Officer or undertake any other work which may present you with a conflict of interest.

8. ATTENDANCE AT TRAINING SEMINARS

You will be expected to attend the training events arranged by the Office of the Police and Crime Commissioner and encouraged to attend regional or national conferences where appropriate. Induction training will cover the following areas Diversity, Equality and Human Rights training.

9. ATTENDANCE AT PANEL MEETINGS

You will be expected to attend the periodic Panel meetings. If you have not attended any Panel meetings within a twelve month period, the Chair of your Panel will advise the Scheme Administrator who will write to you to ascertain the reason and seek an explanation.

10. IMPARTIALITY AND CONFIDENTIALITY

During the course of your duties, you may acquire 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. You should be aware that improper disclosure of information acquired during the course of a visit may result in civil or criminal proceedings. Additionally, unauthorised disclosure of facts concerning police operations or the security of police stations may constitute an offence under the Official Secrets Act 1989.

You must undertake not to disclose any information related to persons connected with police enquiries or police operations that you may acquire as part of your duties as a Custody Visitor.

11. QUERIES

Queries on any aspect of the scheme should be addressed to the Scheme Administrator on 01768 217734 or e-mail custodyvisitors@cumbria-pcc.gov.uk

You should sign below to indicate your agreement to be bound by the guidance for the Cumbria Independent Custody Visiting Scheme. A copy of this agreement will be returned to you for your reference.

Name: Signed:
(BLOCK CAPITALS) Date:

Appointed to : Panel

Appendix 3: GUIDELINES ON PUBLICITY FOR INDEPENDENT CUSTODY VISITORS

- There is a lot of value in promoting the role and aims of the Scheme to the public; it is useful when encouraging others to participate and it reinforces public confidence in the criminal justice system.
- In the case of the press, local radio and television or business/in-house magazines, etc. there is no reason why visitors should not participate in interviews, which promote their role and the scope of the Scheme in general terms. This may include quotes and personal comments of a positive nature. The inclusion of personal photographs in any such article is a matter for individual discretion. Such activity must be agreed with the Scheme Administrator prior to participation.
- Visitors must not discuss the cases of individuals with whom they come into contact during visits to police stations. Under no circumstances should individual cases or specific events be discussed except in general anonymous terms if doing so helps to support an explanation of the purpose of the Scheme.
- Visitors should bear in mind that the purpose of publicity is to inform the public about the Scheme and not to draw attention to them personally.
- If an invitation to speak to a local group or organisation appears to be of use in promoting the role and scope of the Scheme, it is a matter for the visitor's own discretion whether or not to accept the invitation. Prior to this the visitor should discuss the invitation with the Panel Chair and the Scheme Administrator as to what will be presented and co-ordinate any information to be given out at the event.

- The advice of the Scheme Administrator must be sought before an interview or talk is given. Visitors must also seek advice before submitting articles for publication and seek assistance from the OPCC's Press Office before giving an interview.
- It is a question of personal preference for visitors themselves to decide whether or not to reveal their own identities in these matters. Anonymity can lead to misunderstanding in the media and where possible visitors should be willing to reveal their identities. In doing so visitors should be aware that they might then be contacted directly by members of the public and if that occurs they should bear in mind that they are first and foremost accountable to the Office of the Police and Crime Commissioner. There is no necessity to reveal personal addresses.
- Responses to general enquiries received from the press should only be provided by Panel Chairs and then only if they are satisfied that the required information is of sufficiently general nature to enable a reply to be made. Any concerns in this matter should be addressed to the Scheme Administrator, especially if enquiries are received from national newspapers or broadcasting organisations. Any enquiry concerning any particular case must be referred to Cumbria Constabulary.
- Under no circumstances should Visitors make themselves available to respond to requests for specific information from the press, other organisations or individuals about individual cases or events at local police stations which may involve the Scheme or visitors. Any such matters should be directed to the Chief Constable via the Press Office at Force Headquarters, Penrith.
- Visitors should inform their Panel Chair of their intentions in relation to publicity so that there is co-ordination at a local level. Details of publicity gained for the Scheme should be included in the regular reports to the Scheme Administrator to enable them to be monitored overall.

Appendix 4: APPOINTMENT PROCEDURE

The following procedures apply to appointment to and terms of membership of each of the Independent Custody Visiting Panels in Cumbria

- Appointment as an Independent Custody Visitor is subject in all cases to the applicant agreeing to submit to security vetting and clearance at Level 2 of the NPPV (Non-Police Personnel Vetting Scheme) and the receipt of two satisfactory written references from suitable persons who are not related to the applicant.
- No appointment can be confirmed until the necessary clearances have been obtained.
- On appointment, every Independent Custody Visitor shall be required to sign a Code of Conduct and a Memorandum of Understanding which sets out the expectations required of the Custody Visitor by the Office of the Police and Crime Commissioner and also the levels of support, training and feedback which will be provided.
- Prior to starting their appointment, new Independent Custody Visitors will be required to attend at least one session of induction training and a Night Observation visit in Custody in the company of an experienced Independent Custody Visitor.

- All appointments will be offered subject to an initial probationary period of six months and will only be confirmed on the satisfactory completion of this period of service. In deciding to confirm the appointment, the Office of the Police and Crime Commissioner will consider the number of visits undertaken, feedback from the Chair and Vice-Chair of the relevant panel, other fellow Custody Visitors, Custody and Police Staff and the views of the Scheme Administrator.
- Following completion of a satisfactory probationary period, the Custody Visitor will be appointed to their Panel for a period of three years. They will be required to carry out their duties in accordance with the terms laid down in the Memorandum of Understanding and within the overall scope of the scheme laid down in Home Office Guidance.
- At the conclusion of the probationary period or three-year term of appointment, a review will be carried out with the visitor following which the Scheme Administrator will recommend to the Chief Executive whether or not to confirm or renew the appointment. If the appointment is not confirmed or renewed, the Visitor shall have a right of appeal (see Appeals Procedure).
- Visitors shall be eligible to serve no more than three three-year terms of office and shall retire from the scheme upon completion of nine years' service. If they leave the scheme having completed less than nine years' service, they shall be eligible to re-apply at a later date but must still retire from the scheme when they have served the maximum period of nine years.
- Visitors are free to resign from membership of the scheme at any point; but it would be much appreciated if they could give as much notice as possible to the Scheme Administrator to give time for a replacement to be appointed. Visitors who wish to resign their appointment in mid-term are required to advise the Scheme Administrator in writing and must return their ICV Identity Card, which remains the property of the Office of the Police and Crime Commissioner.

Appendix 5: PROCEDURE FOR THE RESOLUTION OF ISSUES RAISED DURING A CUSTODY VISIT

Should there be a disagreement about any unusual practice on the part of an ICV during a visit, the custody officer should raise the issue with the visitors at the time of the visit so that any misunderstanding can be rectified immediately.

In the event of a disagreement between the custody officer and the ICV(s) over the interpretation of any observation made during the visit, the custody officer has the opportunity to append his or her view on the ICV report form.

It is a requirement that should an issue arise during a custody visit, the visitors should discuss the issue with the custody officer on duty with a view to reaching an understanding. The visitors and the custody officer may, if they wish, record their comments on the custody visit report form (and append any more detailed comments if required). If it is not possible to resolve the issue at the time of the visit, the visitors and/or the custody officer have the right to ask the Duty Inspector to comment. If the issue is still unresolved at the conclusion of the visit, it must be recorded on the report form and raised with the Scheme Administrator as soon as possible.

The visitor(s) and/or the custody officer/Inspector may wish to contact the Scheme Administrator either orally or in writing.

In the case of extreme pressure of business at the time of the visit preventing the above procedure being applied, a further written report must be sent to the Scheme Administrator within twenty-four hours of the visit being made. On receipt of this further report, the Scheme Administrator will immediately forward it by e-mail and first class post to the ICVs who undertook the visit, the Panel Chair and Vice Chair and the Lead Inspector for the ICV Scheme.

If the issues raised are of immediate concern or have serious implications for the safety of any individual detainee, member of custody staff or ICV the Scheme Administrator will immediately consult with the Chief Inspector responsible for the Criminal Justice Unit and any actions taken will be recorded and passed to the Chair and Vice Chair of the Panel and the ICVs who carried out the visit in question.

If the issue affects or could affect other custody suites, the actions taken will be communicated to all Panels and new procedures introduced via the Criminal Justice Unit and Custody Managers as appropriate.

Appendix 6: COMPLAINTS AND DISCIPLINARY PROCEDURE

Overview of Policy

The OPPC operates an Independent Custody Visiting scheme (ICV) which is staffed by volunteers.

The policy is in two parts a Complaints Procedure and a Disciplinary Procedure. Both are completely separate procedures and should be ran independently of each other.

The following policy provides clear guidelines for the Police and Crime Commissioner, Independent Custody Visitors, Police Officers and Police Staff and all other staff to adhere to when a complaint is made against an Independent Custody Visitor.

The policy also provides clear guidelines for the Disciplinary Process to be followed if the Complaint is upheld or if there are other serious concerns about a volunteer.

Complaints Procedure

Individuals who want to make a complaint about an Independent Custody Visitor should follow this procedure.

It is important that concerns are identified at an early stage and shared with the appropriate person so that they can be discussed and, if possible, matters put right in an informal way. Individuals are encouraged where possible to try to make their concerns clear to the other person involved so that they can discuss the issues and work together to try to resolve the matter between them. If they are not able to reach a satisfactory conclusion informally, then this procedure should be followed.

Complaints that are raised normally need to be about a matter which has occurred in the previous 2 weeks. However, relevant corroborating information may be gathered by the investigator as evidence of a pattern of behaviour.

PROCEDURE STAGES

Stage 1

- 1) The Complainant will be asked to make their complaint in writing addressed to the ICV Scheme Administrator. Complaints should, where possible, be submitted within 2 weeks of any incident.
- 2) The ICV Scheme Administrator will send out an invitation to meet the Complainant within 14 days of receiving the complaint; the Complainant will be encouraged to think about what their desired outcome would be and how they believe the situation could be satisfactorily resolved. The Complainant may be accompanied by another person of their choice, for support. The ICV Scheme Administrator will also have a second person from within the organisation present to make notes of the meeting.
- 3) As the complaint will be about a volunteer, then the ICV Scheme Administrator will also meet with this volunteer to discuss the matter and hear their side of the story. This is a meeting to find out facts and to ascertain whether they would be able to reach agreement or a compromise with the Complainant. The volunteer may be accompanied by another person of their choice, for support. The ICV Scheme Administrator will also have a second person from within the organisation present to make notes of the meeting.
- 4) Both the Complainant and the volunteer they have complained about will be offered Peer Support to assist them during the process.
- 5) The ICV Scheme Administrator will have one of three decisions to make:
 - A) No further action needed;
 - B) Complaint upheld;
 - C) Complaint not upheld.
- 6) The ICV Scheme Administrator will inform the Complainant of their decision, either face-to-face or by a phone call, which will then be followed up in writing to confirm within three weeks of the meeting.
- 7) Where a complaint is upheld, it may be necessary to then follow the disciplinary procedure below with the volunteer against whom the complaint was made.
- 8) If the Complainant is not satisfied with the outcome of Stage 1, the Complainant can escalate the issue to the Joint Audit and Standards Committee (JASC) by going to the Appeal Stage.
- 9) If the Complainant chooses not to appeal the outcome, the process is now concluded.
- 10) If the complaint was between volunteers and the process has now concluded but challenges remain between the volunteers involved, mediation should be recommended as a way of improving working relationships between the volunteers.

Stage 2 - Appeal

This right of appeal is not afforded to volunteers about whom the complaint is made, but is available to the person who made the complaint should they be unhappy with the outcome. The person complained about may want to raise their own complaint or, if they are taken through the disciplinary procedure as a result of the decision made, will have the opportunity to explain circumstances surrounding their behaviour.

- 1) The appeal will be heard by the Joint Audit and Standards Committee (JASC).
- 2) The Complainant must begin the appeals process by writing to the Committee stating that he/she wishes to appeal and setting out the reasons why, clearly explaining why he/she does not agree with the decision, on no more than 4 sides of A4 paper.
- 3) The appeal must be made within 21 days of the date of the result being given.
- 4) The principles for holding an appeal hearing are generally the same as for the Stage 1 hearing above. It can be an occasion when discussion and dialogue could produce a resolution. However, the following should also be considered:
 - A) The reasoning behind the appeal;
 - B) Any new evidence since the earlier decision;
 - C) Ensure the Stage 1 process was followed accurately.
- 5) JASC will coordinate an appeal hearing with the volunteer appealing; JASC may also need to speak to other involved parties before or after the appeal hearing.
- 6) JASC will consider all documentation and evidence and the decision letters will be sent within 14 days of the appeal hearing.
- 7) The decision of JASC is final and conclusive.
- 8) All avenues of the process have now been exhausted. However, if challenges still remain between the volunteers involved, mediation should again be recommended as a way of improving working relationships between the volunteers.

Disciplinary Procedure

This is the part of the policy for when there is an issue about how a volunteer is carrying out their role. This could be because a complaint against a volunteer has been upheld, their performance is not as it should be, their behaviour has caused a breakdown in relationships within the scheme, they have failed to respect confidentiality or have persistent issues with timekeeping or attitude. This is not an exhaustive list. Responding to complaints about a volunteer is never a comfortable process. The procedure is used to ensure a volunteer knows that a complaint has been made, how to respond and make amends and, if necessary, to appeal.

Sometimes a volunteer's performance may be affected by a variety of factors, including health or personal issues they may be managing. The procedure deals with these capability aspects as well as deliberate misconduct. Bearing this in mind can ensure that although there is acknowledgment of something going wrong, there is no assumption of fault.

When addressing difficulties of behaviour or performance, the ICV Scheme Administrator must meet with the volunteer and discuss what the requirement is and how the standard could be reached. At all stages, it is necessary to make any reasonable adjustments for volunteers identified as having disability or health issues.

Carrying out an investigation

An investigator will be appointed to lead the investigation. In most cases this will be the Chair of the Panel but in certain circumstances, for example if the Chair has been involved in the matter being investigated, this will be a Chair from another Panel, the ICV Scheme Administrator or an External Consultant.

Suspension

A volunteer may be suspended from volunteering during an investigation. This will happen automatically if the issue is something which is considered serious misconduct, but may also be necessary if the investigation is likely to cause disruption or unrest. This should not be viewed as a penalty but is important so that the situation can be investigated as fully as possible.

Outcomes of an investigation

After meeting the volunteer concerned, the investigator will analyse all available evidence into the situation. There are five potential outcomes available to conclude the investigation:

No further action

The investigator does not believe there is a case to answer or sufficient evidence to warrant any action.

Development Plan

The investigator believes that no action is required but there is enough evidence to support a development plan. A list of actions should be drawn up over a specific timeframe (normally 6 months) which gives the volunteer focus on what needs to improve. The ICV Scheme Administrator should meet with the volunteer at the end of the review period to determine whether the volunteer's behaviour or performance has improved. If the volunteer continues to show insufficient improvement, further action may be necessary.

Verbal warning

The investigator believes the situation not to be too serious but that action is required to ensure that the volunteer recognises the problem. Verbal warnings last for a maximum of six months and a record of the circumstances that led to this warning must be kept in the volunteer's file.

Written warning

The investigator believes the situation to be serious and action is required. Written warnings last for a maximum of 12 months and a record of the circumstances that led to this warning must be kept in the volunteer's file.

Dismissing volunteer

The investigator believes the situation to be serious misconduct and that other measures of disciplinary action will not be sufficient. On this occasion, the volunteer will be dismissed from all roles with immediate effect.

Examples of serious misconduct

The list below is intended as a guide (and is not exhaustive) to assist investigators to determine whether the action being investigated should be defined as serious misconduct:

- Breach of policies and procedures;
- Inappropriate contact with a vulnerable person/persons;
- Failure to take direction and follow lawful instruction;
- Theft, fraud or dishonesty;
- Physical violence or threatening behaviour;
- Inability to carry out role due to influence of alcohol or drugs;
- Falsification of records, including expense claims;
- Breach of confidentiality;
- Wilful or reckless damage to property;
- Discrimination on the grounds of gender/sexuality/race/disability, bullying or any other harassment;
- Behaving in a way that undermines Cumbria Constabulary or the Office of the Police and Crime Commissioner for Cumbria;
- Bringing/potentially bringing Cumbria Constabulary or the Office of the Police and Crime Commissioner for Cumbria into disrepute.

Stage 1 – Investigation

This stage should be used to investigate all breaches of misconduct or performance to determine the seriousness of the situation and what action should be taken to resolve it. An investigator will be appointed to carry out this process.

- 1) If the misconduct is deemed sufficiently serious or if it would be in the best interests of the organisation, then the volunteer must be suspended from all active volunteer roles whilst the matter is investigated and concluded.
- 2) The investigator will write to the volunteer asking them to attend a meeting to discuss the issue; the letter should clearly state all the concerns or allegations that will be discussed at the meeting. If any documents will be referred to in the meeting the volunteer will need to receive a copy of these in advance; the letter should also include the five different potential outcomes of the investigation as outlined above.
- 3) The volunteer may be accompanied by another person of their choice, for support. The role of this person will be to provide support, however they will not be able to speak on behalf of the volunteer.
- 4) The investigator will also be accompanied by a second person from within the OPCC to make notes of the meeting.
- 5) The investigator will advise the volunteer at the end of the meeting that an outcome of the investigation will be communicated within 14 days. If a decision is not available within that timeframe, the investigator will have the option of extending by a further 14 days, however, the volunteer must be informed of the delay and reason for delay within the original 14 days window.
- 6) After the meeting, the investigator may need to meet with other individuals involved in order to attain further evidence.
- 7) Once the investigator has met with the volunteer, other individuals involved (if necessary) and considered all documented evidence, the investigator will reach one of the following five decisions:

- A) No further action;
 - B) Development plan;
 - C) Verbal warning;
 - D) Written warning;
 - E) Dismissing volunteer.
- 8) Outcome D and outcome E require a written report by the investigator explaining the investigation and how the decision was reached.
- 9) The investigator will inform the volunteer of their decision, either face-to-face or by telephone, which will then be followed up with written confirmation within 14 days of the meeting/conversation.
- 10) Where the outcome is D or E, the letter to the volunteer should detail the volunteer's right to appeal.

Stage 2 – Appeal

A volunteer has the right of Appeal against a written warning and against the decision to ask them to leave. A volunteer does not have the right to complain about outcomes A, B or C.

- 1) The appeal will be heard by a panel of three members from JASC. These members will not previously have been involved in the case.
- 2) The volunteer should begin the appeals process by writing to JASC stating that he/she wishes to appeal and clearly setting out the grounds and reasons why he/she does not agree with the decision, on no more than 4 sides of A4 paper.
- 3) The appeal must be made in writing within 21 days of the date of the result being given.
- 4) The Appeals Panel will meet with the volunteer and the investigator separately and each may be accompanied by another person (whose role will be to provide support but not to actively participate). The Appeals Panel should ideally meet within 30 days of an appeal being made. In some limited circumstances this may take up to 60 days.
- 5) The panel can uphold a volunteer's appeal against a written warning and a dismissal. However, any return to volunteering remains at the discretion of the ICV Scheme Administrator.
- 6) The Appeals Panel chair should inform the volunteer and the investigator of the outcome within 14 days.
- 7) The Appeals Panel's decision is final and conclusive.

Appendix 7: PERFORMANCE REVIEW PROCEDURE

The following procedures apply to the review of performance which is carried out at regular intervals during each Custody Visitor's membership of the Independent Custody Visiting Scheme in Cumbria

- A review of every Custody Visitor's performance will be carried out by the Panel Chairman and the Scheme Administrator at regular intervals throughout the visitor's membership of the Panel
- Formal reviews will be carried out at the end of the six months probationary period and at the end of each of the first two three-year terms of office. An exit review meeting will be held at the end of the final term. An informal review may also be arranged at eighteen months intervals if the visitor wishes to undertake one.
- A formal review may also take place at any other time if the Panel Chairman believes that there are matters of concern relating to the performance of an individual Custody Visitor, which might benefit from holding a performance review to help understand any problems and to set goals and objectives for improvement if necessary.
- Before a review meeting takes place, the Scheme Administrator will provide the Custody Visitor with a review questionnaire to assist the visitor to prepare for the review meeting.
- The Chairman of the Panel will also complete a review questionnaire for each reviewee. In addition, they will check:
 - the number of visits undertaken by the visitor and
 - how many, if any, have been missed;
 - whether the visitor has attended the meetings of the Panel and whether there have been any unexplained absences
 - whether the visitor has attended any conferences or training courses provided for them during the period under review
- The Scheme Administrator, Chairman and the Visitor will hold an informal meeting to discuss the review questionnaire and to set any new objectives that may be agreed between them to support the ICV to undertake their role in Custody and to provide any additional training which they may feel is necessary
- If all parties are in agreement, the Chairman will prepare a note of the agreed actions, which will be copied to the visitor. A copy of the note will be placed on the Visitor's file.
- If the visitor cannot agree to the proposed actions, they have the right to make a formal complaint to the Chief Executive of the Office of the Police and Crime Commissioner (see complaints resolution procedure)
- At the conclusion of a formal review, the Chairman will recommend to the Scheme Administrator whether or not to confirm or renew the Visitor's appointment.
- If the Chairman recommends that the appointment should be terminated, they must provide the Scheme Administrator with their reasons in writing and the terms of the appointment procedure will then apply, including the right to appeal. (see appointment procedure)

Appendix 8: PERFORMANCE REVIEW QUESTIONNAIRE

This questionnaire is designed to assist Custody Visitors to prepare themselves for appraisal as and when required. Initial appraisals take place on completion of the initial six-month probationary period and at least at three-year intervals thereafter. During the review consideration will also be given to the custody visitor's attendance at panel meetings, conferences and training; and whether they have achieved the required number of visits.

1. **Has the role of ICV met your expectations** YES NO
Please say why:

2. (For probationers only) **Do you believe that you were sufficiently well prepared to meet the requirements of the role?** YES NO

If not, please let us know how you believe the induction and initial training could be improved:

3. **Have you any comments to make, or concerns you wish to raise about:**

a) frequency of rostered visits?	YES	NO
b) making arrangements for rostered visits?	YES	NO
c) completion of the report form?	YES	NO

4. **Have you any comments to make, or concerns you wish to raise about:**

(a) the conduct of visits by other members of the panel?	YES	NO
(b) the conduct of visits by the custody staff?	YES	NO
(c) any other issues related to conduct of visits?	YES	NO

5. **Have you any comments or suggestions to make about the content, organisation, or conduct of the panel meetings?** YES NO

6. **Do you think that you need, or would benefit from, refresher or further training on:**

(a) making arrangements for rostered visits	YES	NO
(b) conducting visits	YES	NO
(c) aspects of PACE or other regulations/requirements	YES	NO
(d) completion of the report form	YES	NO

7. **Are there any other areas/subjects in which you feel you would benefit from further training?** YES NO

8. **Have you any concerns you wish to raise or comments to make about communications with:**

(a) the Panel Chair	YES	NO
(b) panel members	YES	NO
(c) the Scheme Administrator	YES	NO

9. Are there any concerns you wish to raise or comments to make about the provision of:

- | | | |
|--|-----|----|
| (a) support from the Office of the Police and Crime Commissioner | YES | NO |
| (b) expenses | YES | NO |
| (c) the annual conference | YES | NO |
| (d) the North-West Regional conference | YES | NO |

10. Have you any other issues/comments/concerns that you wish to raise at your appraisal meeting?

YES NO

Thank you for taking the time and trouble to complete this questionnaire.

Please return it to the Scheme Administrator by ____ / ____ / ____, either by e-mail, or in the reply-paid envelope provided.

If you would like to be sent a copy for your records, please tick this box.

Scheme Administrator

Office of the Police and Crime Commissioner
Carleton Hall
PENRITH
Cumbria, CA10 2AU

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E-mail: custodyvisitors@cumbria-pcc.gov.uk

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