

**INDEPENDENT CUSTODY VISITING PANEL – 27 JANUARY 2014**

**INDEPENDENT CUSTODY VISITING ASSOCIATION (ICVA) NATIONAL CONFERENCE**

**REPORT BY THE SCHEME MANAGER**

**PURPOSE OF THE REPORT**

*To inform Panel members about the ICVA National Conference which took place in Brighton on 2 November 2013.*

**1. BACKGROUND**

- 1.1 The annual conference of the Independent Custody Visiting Association (ICVA) was held at the Grand Hotel in Brighton on 2 November 2013. The conference was attended by delegates consisting of independent custody visitors, scheme administrators and officers.
- 1.2 Attendance at the conference this year was open to all visitors and attended by the Chairman of the ICV Panel, four independent custody visitors, the Scheme Manager and an OPCC officer.

**2. CONFERENCE SPEAKERS**

- 2.1 The conference speakers were:

- Kevan Downer, Chairman of ICVA and Scheme Manager from the Northern Ireland Policing Board
- Katy Bourne, Police and Crime Commissioner for Sussex
- Martin Richards, Chief Constable, Sussex Police
- Sue Berelowitz, Deputy Children's Commissioner
- Sarah Green, Commissioner, Independent Police Complaints Commission
- Andy Durrant, Home Office
- Deborah Coles, Inquest
- Rt Hon Norman Baker MP
- Ian Smith, Chief Executive, ICVA

Kevan Downer, ICVA Chairman and Scheme Manager from the Northern Ireland Policing Board

- 2.2 Mr Downer welcomed the delegates to the conference acknowledging the important and professional role of custody visitors and the part they played in ensuring the welfare of the detainee. He also touched on the necessity of visitors conducting visits in pairs and how essential good communication skills were, particularly the ability to 'listen and hear' to what had been said.

Katy Bourne, Police and Crime Commissioner for Sussex

- 2.3 Mrs Bourne reminded delegates that the role of the Independent Custody Visitor had received worldwide recognition as part of the Optional Protocol to the Convention against Torture (OPCAT). She added that visitors delivered independent oversight of what happened behind closed doors, increasing the trust and confidence the public had in their force.

Martin Richards, Chief Constable of Sussex Police

- 2.4 Mr Richards welcome the delegates to Brighton and provided them with information on his background.

Sue Berelowitz, Deputy Children's Commissioner

- 2.5 Ms Berelowitz informed delegates about the role of the Office of the Children's Commissioner. The post of Children's Commissioner for England was established by the Children Act 2004. It requires the Commission to refer to the United Nations Convention on the Rights of the Child (UNCRC) when planning and carrying out their work.

- 2.6 The Children's Commissioner has a duty to promote the views and interests of all children in England, in particular those whose voices were least likely to be heard, to the people who make decisions about their lives. One of the Commissioner's key functions was encouraging organisations that provide services for children always to operate from the child's perspective. Among the powers of the Commission was the power of entry to premises where children were being held (eg. Children's Homes, residential units) and, with the agreement of the child, to have had a private conversation with them to hear first hand what the issues were.

- 2.6 She added that they were about to complete an investigation report into the mental health needs of young people in the youth justice system entitled 'I think I must have been born bad'. This report could be downloaded via this link [http://www.childrenscommissioner.gov.uk/content/publications/content\\_503](http://www.childrenscommissioner.gov.uk/content/publications/content_503)

- 2.7 The Commission had also led a 2 year inquiry into Child Sexual Exploitation in Gangs and Groups, where they had heard from young people who had been raped in the most unbearable ways. She added that these included children who had been abducted, trafficked, beaten and threatened after being drawn into a web of sexual violence by promises of love, and others who had suffered in silence for years as they were casually and routinely raped by the boys in their neighbourhoods – as they come out of school, as they walk to the shops, as they play in their local park.

- 2.8 She added that a vast majority of the perpetrators of this terrible crime were male. They range in age from as young as fourteen to old men. They come from all ethnic groups and so do their victims – contrary to what some may wish to believe. The failure of agencies to recognise this meant that too many child victims were not getting the protection and support they needed. A copy of the interim report could be downloaded from the following link to their website. [http://www.childrenscommissioner.gov.uk/content/additional\\_promos/content\\_30](http://www.childrenscommissioner.gov.uk/content/additional_promos/content_30)  
The full report was due to be published at the end of November 2013.

- 2.9 She asked visitors to think about what the juvenile they had visited might had experienced that had led them to be sat in a custody cell in the first place.

- 2.10 Whilst visitors could not involve themselves in any way, any disclosure made by the detainee must be shared with the custody staff.

- 2.11 Ms Green outlined her role as an IPCC Commissioner, currently responsible for IPCC oversight of Suffolk, Norfolk, Lincolnshire and West Midlands forces, working with them to improve care in custody. She added that she had responsibility for IPCC investigations, casework and the promotion of public confidence in the police complaints system.
- 2.12 She informed the delegates that the overall role of the IPCC was to:
- Set standards for dealing with police complaints and monitor performance
  - Ensure lessons learned throughout police service and by others
  - Provide the right of appeal in certain cases
  - Independently investigate the most serious matters
- 2.13 Specifically relating to improving the care of detainees she added that the IPCC's role was to:
- Conduct or oversee investigations
  - Consider appeals regarding complaints in some cases
  - Produce annual statistics on deaths and then research
  - Identify learning and ensure this was reflected in PACE, police guidance and training
  - Work with others to ensure changes were implemented
- 2.14 Following on from the above, Ms Green highlighted that focus more recently had been around the use of restraint or force prior to or during arrest and the oversight of that. Visitors could assist by monitoring the situation by the checking of custody records to see if any detainee claims of restraint were corroborated within their record and whether the method of restraint had been recorded.
- 2.15 Extra care would also need to be taken when detainees were under the influence of alcohol or drugs. The phrase 'intoxication' had now changed to 'drunk and incapable', and if a detainee was 'under the influence' of alcohol or drugs (ie. impaired rather than drunk and incapable) then this needed to be recorded as such, the officers would need to take a common sense approach to this. It was important that visitors checked records to see if cell visits and checks had been completed at appropriate intervals – including rousing. If the detainee could not be roused then they should be treated as a medical emergency.
- 2.16 In reference to physical and mental health issues for detainees, Ms Green reiterated the view of many visitors that police custody should only be used as a place of safety as a last resort. She added that visitors could well spot the symptoms of a serious illness or injury, especially in someone who may be familiar to custody officers, who could be overlooked.
- 2.17 With regard to the risks relating to suicide by detainees following police custody, Ms Green informed the delegates that fatalities by apparent suicide had increased in 2012/13 to a total of 64 and were now at their highest levels since recording began.
- 2.18 The IPCC were currently reviewing their work relating to the investigating deaths. The aim of the review was to identify and implement changes to ensure that their work in investigating deaths was:
- thorough, transparent and effective
  - sensitive to the needs and expectations of bereaved families
  - able to build and sustain public confidence
- 2.19 A progress report on that review had been published in September 2013 with the final report due in December 2013. The main themes related to:
- Independence of the IPCC
  - IPCC engagement with bereaved families

- Effectiveness of IPCC investigations

- 2.20 Ms Green went onto stress that independence was at the heart of what the IPCC do and it was one of their core values. However, there had been suggestions that they were too close to the police, something that they were now addressing. Although there had been feedback suggesting that the IPCC were too close to the police and the police too involved in their investigations (some IPCC staff were ex-police officers). The IPCC had taken this on board and were diversifying their workforce, strengthening the role of Commissioner and publish their expectations of the Force. They were hoping to expand their resources and ensure that ex officers would not investigate their previous force, they intend to use more internal specialists and external experts.
- 2.21 With regard to engaging with families during an investigation following a death in custody, the IPCC had received feedback that suggests they had a lack of sensitivity and families had not been approached to be involved or not provided with sufficient information or meaningful updates.
- 2.21 Effectiveness was another area that had been considered. The public appear to want all deaths investigated by the IPCC. However, because of resource issues the IPCC need to be clear about which cases they would look at. They had decided to look at any death where there might had been a breach of article 2, they would also publish decision making criteria and pilot a central decision making unit.
- 2.22 It had also been acknowledged that investigations could take too long, the quality was variable and could lack robust analysis of evidence and sufficient challenge of police accounts. To rectify this they were reviewing the investigations directorate and recruiting more staff, providing staff with further training and improving quality assurance.
- 2.23 They acknowledge that they need to do more to share good practice and enforce recommendations. Currently they were seeking new powers to require forces to respond to learning recommendations, continuing to work with ACPO and the College of Policing to ensure that national recommendations were reflected in guidance, feeding into the HMIC/HMIP custody inspections, and working with PCCs and custody visitors to ensure those recommendations were implemented.
- 2.24 Ms Green finished by informing the delegates that the IPCC publish a bulletin entitled 'Learning the Lessons'. The most recent one referring to custody was issue 16.

Andy Durrant, Home Office

- 2.25 Mr Durrant presented information on the latest revisions to the Police and Criminal Evidence Act 1984 Codes of Practice.
- 2.26 Six of the PACE Codes of Practice had been revised and brought into force on the 27 October 2013. They were:  
A – Stop and Search  
B – Search of premises and seizure of property)  
C – detention of suspects  
E – audio recording of interviews  
F – visual recording of interviews  
H – detention of terrorism suspects
- 2.27 Of most concern to visitors would be Codes C and H. There were two principle reasons for the changes: the Hughes Chang court case and the EU directive 2010/64/EU on the right to interpretation and translation in criminal proceedings

- 2.28 The Hughes Chang court case concerned the provision of Appropriate Adults to 17 year olds. The court ruled that it was unlawful to treat 17 year olds in the same way as adults. This led to a decision to amend Code C of PACE, and by extension Code H too, extending the provision of Appropriate Adults to 17 year olds and requiring that a person responsible for their welfare be informed. There were 3 provisions that would not apply, detention for their own interests, transfers to local authority accommodation after charge and consent to certain procedures without also requiring consent of a parent.
- 2.29 The EU directive requires that 'essential documents' (ie. authorisations of detention under PACE given by police and courts, details of offences charged and written interview records) were translated into the detainees own language, whether or not the detainee was an EU citizen.
- 2.30 Other changes to the Codes of Practice included:
- Reduction of threshold for searching individuals on school premises (Codes A and B)
  - Tidying up in relation to terrorism (Codes A and B)
  - Amended summary of Equality Act (Codes A and B)
  - Recording of voluntary interviews (Codes E and F)
- 2.31 Mr Durrant went on to add that there may be a possible update of legislation for PACE and other acts and the Home Office were planning to draft templates for essential documents and update the Notice of Rights and Entitlements.

Deborah Coles, Co-director, Inquest

- 2.32 Ms Coles outlined the role of Inquest as a charity providing free advice to bereaved people facing an inquest, with a focus on deaths in custody. They work for truth, justice and accountability for families and for policy change at the highest level.
- 2.33 She went on to share statistics on the number of police custody deaths stating that in the last 10 years there had been 269 deaths and of those 47 were deaths of black and minority ethnic detainees. Inquest had worked on 206 of those deaths.
- 2.34 Ms Coles shared a number of case studies with the delegates including the cases of Andrzej Rymarzak and Thomas Orchard. . She added that had the detainees been checked on by visitors, the outcome might had been different for them, as the need for rousing checks might had been spotted, as may the incorrect use of restraint devices. Mr Orchard had mental health issues and custody was probably not an appropriate place for him to be held.
- 2.35 The key issues arising from Inquest casework on deaths in police custody were:
- Mental health and the use of police custody as a place of safety
  - Restraint including the increased use of tasers as a default rather than using de-escalation techniques
  - Drug and alcohol intoxication
  - Drug swallowing
  - Medical care and the role of the Force Medical Examiner
  - Self-harm and self-inflicted deaths
  - Communication problems
  - Training
  - Record keeping / monitoring
  - Cell design / risk assessments / custodial health and safety
- 2.36 She called on the visitors to ensure that the vulnerable in police custody had their basic needs and Human Rights met, and that officers treated them appropriately during their detention, this in turn would increase public confidence.

- 2.37 With reference to the HMIP/HMIC inspections of police custody, Ms Coles highlighted the following issues for the visitors to be aware of:
- Poor recording and analysis of the use of force
  - Authorisation and incidence of strip searches and use of force – use of strip clothing
  - Too many mental health detainees in police custody
  - Unsatisfactory risk management

- 2.38 Ms Coles summarised by sharing what could be learnt from deaths in custody. The first was the need for a more co-ordinated role on post-inquest learning from regulation, inspection and monitoring bodies, second was the integration of investigation and inquest findings and follow up and lastly, to incorporate post inquest learning in the role of the custody visitor.

Rt Hon Norman Baker MP, Minister of State for Crime Prevention

- 2.39 The Minister stated that the death of an individual in custody was always a tragedy and must always be referred to the IPCC. Following investigation the lessons learnt should be shared to prevent a repeat.

Ian Smith, Chief Executive, ICVA

- 2.40 Mr Smith updated delegates on the changes that had taken place and the implications of those changes, which include:  
From 31 July 2013 ICVA became a company limited by guarantee.  
Revised Codes of Practice including guidance on TACT  
Revised training modules  
Redesign of the company's website

- 2.41 With regard to the revised training modules, he advised that they now included not only revised initial training, but specifically mental health and juvenile modules

- 2.42 During the summer of 2013, ICVA held a consultation process into the updating of the national standards with the main objectives to include legislative updates, ensure that the standards reflect the experiences of all involved in the custody visiting process and to incorporate good practice developed locally.

- 2.43 The Acts, Codes of Practice and updated National Standards give clear information to PCCs on the following:
- Publicity
  - Recruitment, Selection and Retention
  - Training
  - Working Protocols
  - Working Practices
  - Feedback

- 2.44 He added that there were still a number of differences to the schemes including:
- No standard application form
  - Vetting
  - Application of upper age limit
  - Tenure
  - How and by whom the visitors were trained
    - What was included in training
    - Training objectives
    - Evaluation of training
  - Access to the custody suite
    - What formal arrangements were in place for out of hours visits
  - Access to detainees
  - Self-introduction

- 2.45 In relation to feedback he reported that the key areas in the process remain the reporting of the issue to the police and the PCC and how those issues reported were responded to.
- 2.46 Copies of the presentations were available on request from the Scheme Manager or be downloaded from the ICVA website ([www.icva.org.uk](http://www.icva.org.uk)).

### **3. RECOMMENDATION**

- 3.1 Panel members are asked to note the contents of this report.

**Yvonne Fenwick**  
**Scheme Manager**

*Any members' queries to Yvonne Fenwick on (01202 or 01305) 223966*