

Independent Custody Visiting Association

Virtual Remand Hearings in Police Custody

April 2020



Purpose of Briefing

During the Covid-19 pandemic, police custody suites in many areas are moving to holding Virtual Remand Hearings (VRHs) which means that a detainee could be remanded via video-link and then be held in police custody until such time as transport can be arranged to the prison estate.

This briefing is to give schemes and ICVs an overview of the rights and entitlements of those held on remand following a VRH in police custody, covering areas that might be different or additional to that of PACE detainees. This will help ICVs answer questions they may get asked by this group, which PACE Code C detainees may not typically ask. There is an accompanying checklist for ICVs to use alongside of the briefing.

Monitoring detainees

Detainees who have been remanded will normally be monitored by Lay Observers in court custody and transport, or Independent Monitoring Board (IMBs) in prisons. VRHs mean that some detainees will remain in police custody until they are transported to prison or released after court. ICVs will monitor these detainees whilst they are in the police custody environment.

If ICVs are undertaking face to face visits, prisoners on remand should be asked whether they consent to a visit from an ICV, and whether they consent to the viewing of their custody record similarly to any other detainee. For those schemes undertaking remote monitoring of any kind, detainees of all detention types should be monitored.

Are prisoners who have been remanded via VRH in Police Custody subject to PACE?

No. However PACE Code C states the following:

1.12 This Code does not apply to people in custody:

(iv) who are convicted or remanded prisoners held in police cells on behalf of the Prison Service under the Imprisonment (Temporary Provisions) Act 1980;

The Code goes on to state:

The provisions on conditions of detention and treatment in sections 8 and 9 must be considered as the minimum standards of treatment for such detainees.

This means that all of those who are detained in police custody should get very similar rights and entitlements as those detained under PACE Code C, even if they are remanded. This will

include rights you are familiar with such as letting someone know where they are, access to medical care, access to legal advice etc. and entitlements such as reading materials, showers and exercise. You can get a copy of the rights and entitlements notice [here](#).

Something to note:

Some detainees may have a VRH and then be released from police custody as they have not been remanded into the prison estate by the court. These detainees should have the same release arrangements made from custody as you would expect for those released from police custody under other circumstances.

Detainees may well find the process of attending virtual courts or being remanded into prison upsetting. If ICVs have concerns with regard to low mood, or the detainee/remanded prisoner states they have any intention to self-harm, custody staff should be made aware as a priority.

Rights and Entitlements

In the custody suite - similar to PACE and should be monitored:

- All detainees should be treated with respect and dignity regardless of detention type.
- All detainees should have access to medical care when requested/needed.
- All detainees should be able to understand the criminal justice process in a language of their choosing, and interpreter services/printed materials in a range of languages should be used to ensure this is in place.
- All detainees should have access to effective menstrual care, offered to them routinely and noted as being free of charge.
- All detainees should also have access to washing facilities and be made aware that the toilet areas of their cells are pixelated for dignity purposes.
- All detainees should be offered reading materials and distraction items where possible to do so.
- All detainees should have food and drinks offered regularly and according to their dietary requirements, drinking water should be provided.
- All detainees should be able to observe their religion and have the use of appropriately stored religious books/prayer mats etc. in order to do so effectively.
- All cells should be well lit and of a comfortable temperature, with no graffiti.
- All detainees should be aware of the cell bell and it should be in good working order.

In the custody suite - some areas that may be different from PACE detainees and should be monitored:

- Detainees who are attending court are able to have access to personal documents that they might wish to present to the court, or that representatives may have given them.
- Detainees who are remanded to prison with caring responsibilities are able to make a telephone call to dependants to organise care if this is not yet in place.

- Although currently suspended due to Covid-19, remanded prisoners would normally be able to have visits from family and friends which is unlikely to be provided in police custody, unless the custody staff agree that this is optimal and have capacity to do so. This would usually be considered for those who are vulnerable.

Depending on length of stay in custody:

- Remanded prisoners would often have access to daily newspapers and custody suites should give thought as to providing these depending on length of time prior to transfer.
- Remanded prisoners would be able to have access to fresh fruit in custody, suites should give thought to providing this dependent on length of time in police custody prior to transfer.
- Remanded prisoners may be able to vape in the prison environment but will not be able to do so in police custody. Consideration should be given to providing smoking replacement therapies.

Waiting for transport to the prison estate – areas to monitor:

- Prior to any transfer, remanded prisoners should have an opportunity to eat, use facilities and exercise in anticipation of a journey time of up to 4 hours.
- The transfer or release of detainees is not delayed unnecessarily.
- Detainees remanded to prison are given information, in a format they can understand, about the place to which they are being transferred.

Something to note

You may hear Prisoner Escort Records (or PERs) being discussed. These are records which go with a remanded prisoner from the court (in this case police custody) to the prison they will be remanded at. PERs contain details of risk assessments and medical information that needs to be passed on. ICVs do not have access to PERs and do not monitor them.

Reporting for ICVs

ICVA has produced a checklist for ICVs visiting those remanded to prison after a VRH, so please do use this to help guide your visits and interactions. ICVs should report on detainee welfare as well as arrangements and timeframes for transfer to prison for those who are remanded.

Please consider the additional entitlements in the checklist and let your scheme manager know in the normal way if there are any problems.

ICVs provide a valuable role in reporting on the challenges in custody and impact on detainees. This is increasingly important as new processes are introduced. ICVs should also consider reporting on the impact on VRHs on custody as well as the conditions of custody.

Reporting for Scheme Managers

Scheme managers should use the feedback from ICVs to resolve problems and hold the police to account as normal.

ICVA is working with national partners over the pandemic and there is a particular interest in understanding how VRH is being implemented. We would be very grateful for your feedback on this area. Where possible, please could scheme managers provide detailed feedback on VRH, which we can then pass on to alert national bodies to problems or highlight good practice.

Thank you to both ICVs and scheme managers for your continued work to keep effective monitoring in place.