

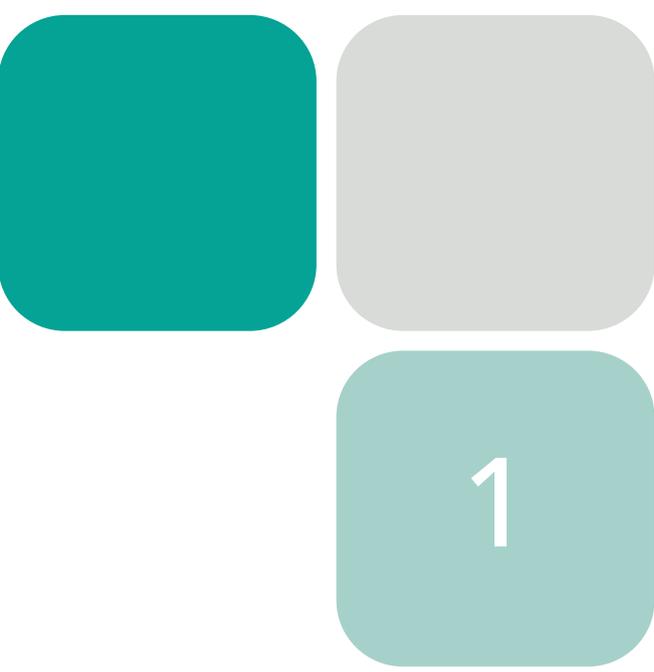
# PRE-READ MANUAL

FOR STUDENTS AND TRAINERS

**ICVA**  
The Independent Custody  
Visiting Association

# INDEX

1. WELCOME AND INTRODUCTION
2. THE HISTORY OF INDEPENDENT CUSTODY VISITING
3. WHO IS WHO IN THE CUSTODY VISITING PROCESS
4. THE HUMAN RIGHTS ACT AND ITS ARTICLES



## WELCOME AND INTRODUCTION

Welcome to the training for your new role as an independent custody visitor (ICV). We are sure that you are keen to get on with your training and start your visits.

ICVs make unannounced visits to police custody where they check on the rights, entitlements and welfare of detainees as well as the conditions of custody. ICVs will report on their visit, feeding back to both staff at the time and to their scheme manager to highlight themes or significant issues. This public oversight helps to prevent harm, it provides public reassurance that custody is safe and contributes to the UK's human rights obligations.

This document provides some initial information about independent custody visiting before you attend classroom training. It outlines our history, introduces you to key people in the custody suite and lets you know how custody visiting fits into wider work to protect the rights, entitlements and wellbeing of detainees. This will give you some initial context and prepare you for your additional training as you start your journey on custody visiting.



**THE HISTORY OF**  
INDEPENDENT  
CUSTODY VISITING

# THE HISTORY OF INDEPENDENT CUSTODY VISITING

There have been several key events and milestones that have contributed to the development of independent custody visiting and these include:

- The Civil Disorders of 1981.
- The Scarman Report of 1981.
- The Police & Criminal Evidence Act 1984.
- The European Convention on Human Rights 2000.
- The Police Reform Act 2002.
- Optional Protocol to the Convention Against Torture (OPCAT) 2002.
- Other Influences

## CIVIL DISORDERS 1981

During the first half of 1981 several outbreaks of unrest occurred in major cities throughout the country – in Bristol, Liverpool, Manchester, the West Midlands and London. The most significant of these disorders took place in Brixton between the 10th and 12th of April when hundreds of young people attacked property and the police.

The cause of these disorders centred around people protesting about oppressive policing and in particular the alleged harassment of people, especially young black people, by the police – in short, these incidents were anti-police and voiced a lack of trust in the law and order authorities.

After days of unrest, these serious incidents led to the government ordering an urgent inquiry and appointing Lord Scarman to conduct a comprehensive investigation into the events.

## THE SCARMAN REPORT

The resulting investigation – the Scarman Report – included several recommendations about reforming the law, community relations and policing practices to help tackle the central problems which caused the civil disorders.

As part of these recommendations, Lord Scarman advocated a system for members of the public from local communities to inspect the way the police detained people in their custody.

Originally referred to as lay visiting, independent custody visiting is the system that has been developed to meet this recommendation.

## THE POLICE & CRIMINAL EVIDENCE ACT

At the time, the majority of the Scarman Report recommendations, found favour with the opinion makers and were included in the Police and Criminal Evidence Act which was made law in the mid-1980s and revised in 2008. This act of parliament set out the way in which the police officers must carry out their roles and stated specific codes of practice for police procedures. It also established the rights of people who are detained by the police for a suspected crime or offence.

**MOST COMMONLY, CODE C OF THE POLICE AND CRIMINAL EVIDENCE ACT DEALS WITH THE DETENTION, TREATMENT AND QUESTIONING OF PERSONS BY POLICE OFFICERS AND CONTAINS DETAILED PROCEDURES FOR THE POLICE TO FOLLOW.**

These guidelines and codes of practice also provide a way of measuring actions taken by the police and a means of checking that people being detained are treated properly. The Police and Criminal Evidence Act – PACE – is a major reference for independent custody visitors as they carry out inspections of police custody suites.

There is an overview of PACE Code C at the end of this document for you to read – it will also be covered in your training with a link given to the full Code for further reading.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

In the year 2000 European Human Rights legislation was adopted within the United Kingdom and there are significant implications for all involved in the custody visiting process. In particular, the legislation requires that:

- Detainees are treated according to UK legislation and that their basic human rights are being respected.
- Independent custody visitors are aware of appropriate Human Rights Articles and that they perform their duties in accordance with them.
- Police and Crime Commissioners operate their recruitment and selection policies having regard to the European Human Rights.

## THE POLICE REFORM ACT 2002

Section 51 of the Police Reform Act made custody visiting a statutory obligation for Police Authorities in England. In 2011 the Police and Social Responsibilities Act was passed, meaning that Police Authorities were transferred to Police and Crime Commissioners, first elected in 2012 in England and Wales. A Code of Practice for custody visiting was also introduced to provide further clarification about the roles and responsibilities of those involved in the custody visiting process. The Code of Practice is updated regularly and outlines the statutory obligations of Police and Crime Commissioners in England and Wales.

## OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT 2002 (OPCAT)

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment (OPCAT) is an international human rights treaty designed to strengthen the protection of people deprived of their liberty. It was adopted by the United Nations in 2002,

reflecting an international consensus that people deprived of their liberty were particularly vulnerable to ill-treatment. It established a system of regular, independent visits to detention as a preventative safeguard against abuse.

The UK established a National Preventive Mechanism (NPM), as required by OPCAT, in 2009. It comprises 21 bodies who independently monitor places of detention. ICVA represents ICVs in the partnership alongside the schemes in Scotland and Northern Ireland. The UKNPM brings together partners to share learning, and develop joint research and guidance. ICVA raises issues and problems reported by ICVs to the NPM, linking local work to national and international partnerships.

## OTHER INFLUENCES

Police custody is influenced by a range of additional partnerships, reports and bodies that consider police policy and practice. They have ongoing influence on custody visiting and include:

- The College of Policing Authorised Professional Practice (APP) on Detention and Custody. The APP provides practical, and regularly reviewed, guidance for custody staff on detention and custody. It brings together pre-existing guidance, current legislation and consensus of expert opinion.
- The Independent Review of Deaths and Serious Incidents in Police Custody, chaired by Dame Elish Angiolini.
- The PACE Strategy Group – a partnership of stakeholders in police custody for England and Wales such as the National Police Chiefs' Council and the Home Office. ICVA represents custody visiting in this partnership and seeks to raise concerns flagged by ICVs and develop solutions to them.
- ICVA also works with organisations interested in custody including Her Majesty's Inspectorates of Constabulary and Prisons (HMIC/P), INQUEST, and the Independent Police Complaints Commission (IPCC) to continually respond and improve our work in custody.



**WHO'S WHO IN THE**  
CUSTODY VISITING PROCESS



# WHO'S WHO IN THE CUSTODY VISITING PROCESS

## THE INDEPENDENT CUSTODY VISITING SCHEME MANAGER

Administers and organises local visiting scheme. Scheme Managers will be the first point of contact within the Office of the Police and Crime Commissioner. Scheme Managers or Co-Ordinators are the first point of contact for local independent custody visitors depending on local structures.

## THE HOME OFFICE

The government department responsible for police powers and procedures. It also oversees the policy development of independent custody visiting and other volunteers working in the criminal justice system.

## THE POLICE AND CRIME COMMISSIONER (PCC)

An elected person whose remit includes delivering an effective, efficient and accountable police service within his or her force area. He or she is responsible for the local independent custody scheme.

## INDEPENDENT CUSTODY VISITING ASSOCIATION

An organisation of independent custody visiting scheme members. ICVA leads, supports and represents custody visiting schemes. It does so by developing training, guidance and support structures. ICVA also collates custody data and reports issues highlighted by custody visitors to national and international partners.

## IN THE CUSTODY SUITE

### THE ESCORTING OFFICER

The member of police staff who accompanies independent custody visitors during a visit. This role can be carried out by a uniformed or civilian member of police staff, (such as a detention officer).

### THE CUSTODY OFFICER

Responsible for the day to day running of the custody suite and authorises the detention of people. This role is usually carried out by a police sergeant.

### THE DUTY INSPECTOR

The senior duty manager in a police station and is responsible for reviewing the detention of people.

### THE SUPERINTENDENT

A senior officer and can authorise the delaying of detainees' rights and extending detention periods.

### CIVILIAN DETENTION OFFICERS

Assists the custody staff with all duties associated with the welfare of people detained in police care.

### CUSTODY NURSES, DOCTORS AND POLICE SURGEONS

They provide medical assistance for detainees.

### LIAISON AND DIVERSION TEAMS

Aim to identify vulnerable people early on to help improve health and criminal justice outcomes. Teams like this may divert detainees to mental health or substance abuse services.

### LEGAL REPRESENTATIVES

Provide legal advice for detainees.

### APPROPRIATE ADULTS

Adults nominated to safeguard the rights, welfare and effective participation of children and vulnerable adults who are detained or questioned by police.

## POLICE OFFICER ROLES YOU MAY SEE IN CUSTODY



### SUPERINTENDENT

Superintendents have a range of senior roles across custody. They are responsible for oversight of certain processes in custody including extending the time a detainee will spend in police custody.



### POLICE INSPECTOR

Custody inspectors are responsible for the supervision and support of all custody staff. Inspectors perform senior operational roles in custody. For example, authorising processes, denying or delaying rights such as making a telephone call or taking complaints.



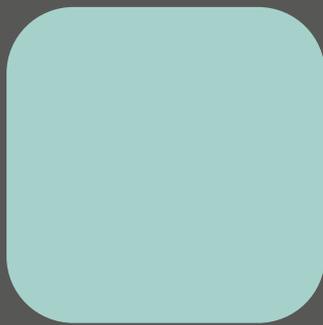
### POLICE SERGEANT

As with police constables, you may see sergeants bringing detainees into the custody suite. When working as custody staff, sergeants commonly perform the Custody Officer role outlined in PACE and are responsible for the day-to-day running of the custody suite and authorising detention.



### POLICE CONSTABLE

You may see police constables bringing detainees into the custody suite following arrest. You may also see police constables working in the custody suite.



**THE HUMAN RIGHTS ACT**  
AND ITS ARTICLES

# THE HUMAN RIGHTS ACT AND ITS ARTICLES

The Human Rights Act is a UK law passed in 1998. It means that you can defend your rights in the UK courts and that public organisations (including the Government, the Police and local councils) must treat everyone equally, with fairness, dignity and respect.



PIVOTAL ARTICLE

## ARTICLES 1 AND 13

Articles 1 and 13 of the European Court of Human Rights do not feature in the Act. This is because the Human Rights Act in itself fulfils these rights. For example, Article 1 says that states must secure the rights of the Convention in their own jurisdiction. The Human Rights Act is the main way of doing this for the UK.

Equally, Article 13 ensures that if people's rights are violated they are able to access effective remedy – this means they can take their case to court to seek a judgment. The Human Rights Act is designed to ensure that this happens.

ICVs SHOULD READ AND TAKE NOTE OF THE HUMAN RIGHTS ARTICLES AS THEY WILL HELP TO INFORM YOUR PRACTICE WHILST CARRYING OUT CUSTODY VISITS.

## ! ARTICLE 2 - RIGHT TO LIFE

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
  - a. In defence of any person from unlawful violence;
  - b. In order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - c. In action lawfully taken for the purpose of quelling a riot or insurrection.

## ! ARTICLE 3 - PROHIBITION OF TORTURE

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

## ARTICLE 4 - PROHIBITION OF SLAVERY AND FORCED LABOUR

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term "forced or compulsory labour" shall not include:
  - a. Any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - b. Any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
  - c. Any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - d. Any work or service which forms part of normal civic obligations.

## ! ARTICLE 5 - RIGHT TO LIBERTY AND SECURITY

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
  - a. The lawful detention of a person after conviction by a competent court;
  - b. The lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
  - c. The lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
  - d. The detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
  - e. The lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
  - f. The lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3. Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

## ! ARTICLE 6 - RIGHT TO A FAIR TRIAL

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
  - a. To be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - b. To have adequate time and facilities for the preparation of his defence;
  - c. To defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
  - d. To examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - e. To have the free assistance of an interpreter if he cannot understand or speak the language used in court.



**! ARTICLE 7 - NO PUNISHMENT WITHOUT LAW**

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

**ARTICLE 8 - RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

**ARTICLE 9 - FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION**

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

**ARTICLE 10 - FREEDOM OF EXPRESSION**

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

**ARTICLE 11 - FREEDOM OF ASSEMBLY AND ASSOCIATION**

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

**ARTICLE 12 - RIGHT TO MARRY**

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

## ARTICLE 14 - PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## ARTICLE 16 - RESTRICTIONS ON POLITICAL ACTIVITY OF ALIENS

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

## ARTICLE 17 - PROHIBITION OF ABUSE OF RIGHTS

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

## ARTICLE 18 - LIMITATION ON USE OF RESTRICTIONS ON RIGHTS

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

### PACE CODE C:

The brief rights and entitlements of a detainee when in police custody are:

- Get free legal advice.
- Tell someone where they are.
- Have medical help if they are feeling ill.
- They can see the rules the police must follow.
- See a written notice telling them about their rights, e.g. regular breaks for food and to use the toilet (they can ask for a notice in their language or an interpreter to explain the notice).
- An appropriate adult if they are a child aged 17 or under or a vulnerable adult.

The custody officer at the police station must explain the detainee's rights. They will be searched and their possessions will be kept by the police custody officer while they are in a cell/being interviewed.

THESE ARE THE RIGHTS THAT YOU WILL BE CHECKING ON WHEN YOU COMPLETE YOUR VISITS.

THANK YOU FOR TAKING THE TIME TO READ THROUGH THIS INFORMATION, THERE WILL BE A QUIZ AT YOUR INDUCTION SESSION BUT DON'T WORRY, WE WILL LET YOU DO IT AS A GROUP!

PLEASE KEEP THIS PRE-READ SO THAT YOU CAN REFER BACK TO IT.

The logo for the Independent Custody Visiting Association (ICVA). It features the acronym 'ICVA' in a large, white, serif font. The letter 'A' is stylized with a thin white line extending from its top right corner. Below the acronym, the full name 'The Independent Custody Visiting Association' is written in a smaller, white, sans-serif font.

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