



15 October 2015

Expectations for Police Custody – consultation on revised draft

Her Majesty's Inspectorate of Prisons (HMIP) and HM Inspectorate of Constabulary (HMIC) have been leading a review of the Expectations for police custody over the last year. The Expectations set out the assessment criteria, or indicators, for our joint inspections of police custody and also 'what we expect to see' in those areas during the inspection. The revised draft draws on over six years of experience of police custody inspections conducted jointly by HMIP and HMIC and is informed by the findings of the thematic inspection of the welfare of vulnerable people in police custody, published by HMIC in March 2015. In particular we have:

- extended the scope of the custody inspections to the first point of contact i.e. pre-arrest;
- included expectations of diversion from custody for children and vulnerable adults wherever possible;
- strengthened the focus on vulnerability and risk throughout; and
- incorporated expectations flowing from the public sector equality duty under the Equality Act 2010.

Our consultation questions reflect these changes.

- 1. Do you agree that the scope of custody inspections should be extended to include the first point of contact (ie arrest/pre-arrest)?
- 2. Do you think that the new criteria have sufficient focus on diverting children and vulnerable adults from police custody?
- 3. Do you think there is anything else we should examine in inspections of police custody to strengthen the focus on vulnerability and risk?
- 4. Do you think that the new criteria have sufficient focus on implementation of the public sector equality duty responsibilities in the use of police custody in particular the requirement to eliminate unlawful discrimination, harassment and victimisation?
- 5. Are there any further comments you would like to make on the proposed new criteria for inspection of police custody?

We would welcome your feedback on these areas as well as any other comments you may wish to offer. Please respond to

hmiprisons.enquiries@hmiprisons.gsi.gov.uk by Friday, 11 December 2015. This information is accessible on our website at: http://www.justiceinspectorates.gov.uk/hmiprisons/about-hmi-prisons/current-consultations/#.VhKRi6OMDxU. Please encourage anyone with an interest in this area to comment.

Yours sincerely

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Expectations for Police Custody – consultation on revised draft

Section 1: Leadership, Accountability and Partnerships

- · Strategies in place that are accessible to staff
- Robust performance management structures
- Accountability through governance structures, including obligations under the Equality Act.
- Evidence of delivery of change and outcomes through partnerships

Section 2: Pre-custody - First point of contact

Assessment at first contact and transport to next destination

Section 3: Booking-in and Individual and Legal Rights while in custody

- Respect and Treatment
- Implementation and delivery of equality policies for detainees
- Risk Assessments
- Individual and Legal Rights (includes complaints)

Section 4: - In Custody Cell, Safeguarding and Healthcare

- Safety (physical conditions, use of force)
- Detainee Care (inc PACE reviews)
- Safeguarding
- Healthcare

Section 5: Release and transfer from custody

- Pre release Risk assessments (inc PER)
- Courts

Section 1: Leadership, accountability and partnerships

There is a strategic focus on custody, including arrangements for diverting the most vulnerable from custody. There are arrangements to ensure custody-specific policies and procedures protect the wellbeing of detainees.

Indicators	What we expect to see
Leadership There is leadership by the	 There are force wide objectives in relation to the diversion of vulnerable adults and children away from custody which are promoted and accessible to staff
Chief Officer Group which communicates a clear focus on protecting and diverting vulnerable people from custody, wherever possible, and promotes the safe and respectful delivery	 There is an effective management structure that ensures appropriate policies and procedures for the end to end custody process are in place, fully implemented and reviewed regularly. Policies and procedures are accessible and staff understand them
of custody.	 There are sufficient resources to carry out the custody functions to ensure the safety and well being of detainees.
	 Functions provided externally to support custody are monitored and scrutinised to hold providers to account.
	 Custody suites are staffed with personnel who are trained, with the right skills, who understand how to respond to detainees and whose training needs are assessed, met and evaluated to perform the requirements of the role.
Leadership There is an evident and effective focus on the protection of children and vulnerable adults.	Safeguarding of children is embedded at a strategic level supported by clear policies and procedures. Police officers and staff are trained to understand the need to safeguard and promote the welfare of children and are supported to do so (see section 4)
 In particular: the welfare of children is promoted and where possible this avoids 	The strategic approach recognises the importance of avoiding the criminalisation of children and sets clear objectives in relation to this
their criminalisation The welfare of vulnerable adults is promoted and police	Staff are provided with training and awareness of human trafficking, extortion and smuggling. All staff are alert to the signs that a detainee has potentially been a victim of trafficking and know how report it and do so appropriately

custody is only used as
a place of safety for
Section 136 Mental
Health Act (1983) (MHA)
assessments in the
most exceptional
circumstances

- The force is represented on liaison groups or a local multi-agency Section 136 group, which monitors the use of Section 136, identifies any problems with interagency working and develops effective solutions to ensure police custody is not used for Section 136 MHA assessments or other people in need in specialist mental health care unless in exceptional circumstance
- The force has a robust safeguarding policy for vulnerable adults (also see section 4) which is informed by the underlying five principles of the Mental Capacity Act 2005:
 - a presumption of capacity
 - the right for individuals to be supported to make their own decisions
 - that individuals must retain the right to make what might be seen as unwise decisions
 - best interests
 - least restrictive intervention.

Accountability

Performance Management data supports the safe delivery of custody.

- Data is collated (including custody throughput, demographics, adverse incidents, strip searching, complaints, etc) and analysed to identify trends, and used to inform organisational learning and improve outcomes for detainees.
- The force has mechanisms in place to assure itself, the PCC and the public that the use of force in relation to arrest, detention and custody is safe and proportionate".
- Quality assurance processes promote the safe and respectful treatment of detainees and continuing professional development of staff.
- Effective mechanisms are in place to learn from adverse incidents and to identify and share good practice within and across police forces and partnerships.

Accountability

The force is meeting its

 There is effective and regular monitoring in place, including analysis of data on custody throughput by ethnicity.

obligations under the
Equality Act 2010 and the
public sector equality duty.
The force promotes respect
for people from all
backgrounds and with diverse
needs and raises awareness

The force promotes respect for people from all backgrounds and with diverse needs and raises awareness of the discrimination that can be faced by people because of their protected characteristics.

- Regular equality impact assessments are conducted across detention and custody operations which include an element of external challenge and are published and used to develop improvement action plans
- A race equality governance and accountability framework is established, linked to the force's risk register which includes:
- collection of core data sets by ethnicity as above including strip searching/use of force
- arrangements for periodic reviews of the data with the force's Independent Advisory Group and/or relevant local community groups;
- plans to make improvements to practice where this is identified as being necessary; and
- appropriate leadership and governance structures to oversee and make sure the work is carried out
- Staff are able to demonstrate their understanding of the disproportionate outcomes for Black Asian and Minority Ethnic communities in the Criminal Justice System. Where staff come across unfair or discriminatory treatment they are able and required to take action in challenging, eliminating and reporting it (also refer to section 3)
- Results of race equality monitoring, and any other monitoring required by protected characteristics, are communicated to all staff and staff understand how they can implement and monitor appropriate action.
- Staff have been trained on recognising and meeting the needs of people who have one or more of the protected characteristics. There are policies and procedures in place to ensure staff understand their obligations under the Equality Act 2010.

Accountability

The force facilitates access as required for effective external scrutiny.

- There is an effective independent custody visitor scheme, staffed by visitors who are trained and able to perform their monitoring function.
- The Chief Officer Group reports routinely to the PCC on custody, including relevant management information and data. This includes the use of force and equality and diversity information.

Partnerships

• There is constructive engagement with all relevant

Partnership arrangements
effectively support the
identification and
management of risks to the
welfare of vulnerable
detainees (including children)
in police custody

partner agencies (including Local Safeguarding Children's Board, Health and Wellbeing Board [or equivalent structure in Wales] health care providers and commissioners, local authorities, youth offending services, criminal justice agencies, escort providers, immigration authorities, ambulance service, courts etc) to protect and divert vulnerable people from custody, where possible, and to support the safe and respectful delivery of custody. Outcomes can be clearly demonstrated

 Partners have agreed shared aims and objectives to support vulnerable people and children to avoid detention in custody and criminalisation, wherever possible.

Section 2: Pre – Custody: First point of contact

Police officers and staff actively consider alternatives to custody and in particular are alert to, identify and effectively respond to vulnerabilities that may increase the risk of harm, diverting vulnerable people away from custody whose detention may not be appropriate.

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Assessment at First point of contact.

From the first point of contact with the police service, officers and staff are alert to, identify and make effective assessments of risk and vulnerability and divert individuals, whose detention might not be appropriate, from custody.

What we expect to see

- All staff having contact with people with vulnerabilities are trained to identify risk and have access to training to improve decision making on diversion, detention, custody provision and their own practice.
- Call handlers and dispatchers provide relevant information in a timely manner to assist officers in assessing an individuals risk and vulnerability.
- There are systems and protocols in place to support police officers and staff in identifying individuals with known vulnerabilities and relevant history
- There are evidence-based assessment approaches used by all police officers to help them respond effectively to an individual's risk and/or vulnerability.
- Police officers apply the principles of the Mental Capacity Act in their decision making where appropriate (also refer to sections 3 and 4).

 Police officers divert vulnerable people, including children; away from custody when appropriate (also refer to sections 3 and 4).
 Police officers are familiar with and use alternatives to custody.
Detainees in need of mental health care who are restrained for their own or others' safety are treated as a medical emergency
All staff are trained in and use effective de- escalation techniques.
 All staff are trained in the safe use of restraint techniques and any use of force is recorded (see section 4)

information to custody staff to contribute to the risk assessment process see section3)

Police officers communicate all relevant

 There are systems in place to ensure that transport is safe, clean and appropriate for travel to next destination, whether hospital, home or police custody.

Section 3 : In the custody suite – Booking-in, Individual Needs and Legal Rights.

Detainees receive respectful treatment in the custody suite, their individual needs are reflected in their care plan and risk assessment. Detainees are informed of their legal rights and can freely exercise these rights while in custody. All risks are identified at the earliest opportunity

Indicators	What we expect to see
Respect Detainees are treated with dignity and their diverse	Staff interact with detainees courteously and all detainees are treated with dignity from the first point of contact.
needs, while in custody, are met.	 Detainees are able to disclose any situation or condition that makes them vulnerable and confidential information in private.
	Staff are alert to and understand the impact of detention, particularly for those detainees identified as vulnerable, and effective support to cope with their detention is provided.
	Staff positively engage with detainees during their detention and in particular those who are

vulnerable and high risk.

Staff show an understanding of equality and diversity and how to respond to the needs of people with one or more of the protected characteristics, or from particular communities.

There are arrangements that enable detainees with protected characteristics to be treated according to their individual needs.

The protected characteristics are:

- Women
- Different racial groups
- physical disability and intellectual impaired (learning disabilities)
- religious groups
- older people
- sexual orientation
- transgender identity

- There is provision for detainees to have access to information in a language and format they can easily understand for example easy read format, Braille, DVD and they are helped with clear explanations by staff when needed (see also section on Communication below)
- There are sufficient female custody members of staff and appropriate facilities to respond to the welfare needs of women detainees and women are strip searched only in the presence of two competent female staff
- Custody staff are equipped to assess mental capacity and to identify detainees with intellectual impairments (learning disabilities) to ensure that effective safeguards are appropriately implemented.
- There is an adequate range of facilities and adaptations for disabled detainees and staff know how to use them.
- Staff show a good understanding of needs that can arise from the different protected characteristics and show awareness of, for example:
 - appropriately responding to detainees' religious observations
 - Searching detainees in a religiously and culturally sensitive manner and taking account of gender and transgender
 - Recognising the distinct needs of older detainees, such as signs of mental and physical health problems and the onset of dementia and any safeguarding issues.
- Inappropriate language and behaviour is addressed by staff and there is strong leadership to enable a culture of challenge in relation to this. Homophobic and other derogatory language and behaviour is not tolerated.
- There are effective arrangements to raise the awareness of staff to adequately respond to the needs of transgender people.

Detainees of all nationalities are treated according to their individual needs	 Detainees are provided with information about the reason for their detention (where relevant) and are given their immigration status and immigration procedures in a language/format they can understand, and helped to understand them. Detainees can access the relevant Consulate, Embassy or High Commission where necessary
Risk Assessments All detainees are held safely and any risk they pose to themselves and or others is competently assessed and kept under review.	 Detainees are not made to wait outside the police station in vehicles. There is an ongoing risk assessment of all detainees where there is a delay in booking in. Staff know how to effectively assess and respond to any risk detainees pose to themselves and/or others. Staff use all existing up to date information about a detainee to complete any risk assessment. All staff demonstrate awareness and understanding of the different ways in which detainees may present mental health problems and vulnerabilities and respond appropriately. Care plans reflect risk and assessments are ongoing and reviewed throughout the period of detention. Staff have knowledge and understanding of self-harm and how to support detainees at risk of harming themselves or others. Handovers involve all custody staff, are conducted in private and result in the accurate sharing of relevant information.
Individual and Legal Rights Detention is appropriate, authorised and lasts no longer than is necessary.	 Detention is authorised by custody officers who understand and recognise the needs of people with vulnerabilities and make decisions which take these needs into account. Alternatives to custody are considered and used when appropriate. Appropriate grounds for detention are established and recorded. Information on vulnerability and associated risk

	 factors is communicated between custody officers and investigation teams to inform decisions on prioritisation and progress. Cases are progressed to allow detainees to be released or transferred at the earliest opportunity. In the case of immigration detainees there are effective arrangements with Home Office Immigration Enforcement to ensure alternative disposals are expedited.
Individual and Legal Rights Detainees understand and receive their rights while in police custody.	 All detainees receive and are helped to understand their rights and entitlements. Any delay in being able to exercise this entitlement is authorised. Detainees, including immigration detainees, are told that they are entitled to have someone concerned for their welfare informed of their
	whereabouts and these contacts can be made as soon as possible.
	All detainees, including immigration detainees, are able to speak with legal representatives in private, free of charge and as soon as possible. If detainees decline the right to speak to a legal representative, the reasons for this are recorded.
	Detainees are not interviewed while under the influence of alcohol or drugs, or if medically unfit, unless exceptional circumstances prevail.
	Detainees are informed during the review of the necessity to detain and this is clearly recorded.
	Detainees or their legal representatives are able to obtain a copy of their custody record.
	Staff explain to detainees, in a language they can understand, documents that have important consequences or that address rights of appeal.
	Detainees are informed of the force retention and disposal policy for DNA.
Communication The needs of detainees	 Staff have access to accredited translation and interpreting services wherever accuracy or confidentiality is important.
who experience difficulties communicating are met.	Telephone translation is conducted using equipment that enables effective communication in reasonable privacy.
	Legal rights and entitlements and other relevant

	documents are provided in a range of formats and languages that meet the different needs of detainees.
Complaints Detainees know how to make a complaint and are enabled to do so before they leave police custody.	 Detainees are told about how to complain and provided with relevant information. Complaints are taken before detainees leave custody. Detainees' complaints are investigated fairly and swiftly and are monitored, with any significant concerns addressed and outcomes recorded. Detainees are not victimized because they have made a complaint. Detainees do not come to any harm as a result of speaking to inspectors or custody visitors, and custody visitors inform inspectors of any repercussions against detainees outside inspections.

Section 4- In custody cell, Safeguarding and Healthcare

Detainees are held in a safe and clean environment in which their safety is protected at all points during custody

Indicators	What we expect to see
Physical environment is safe Detainees are held in a custody suite that is and feels safe, and in a good state of repair.	 All cells are equipped with working call bell systems that cannot be permanently muted. Staff explain to detainees how to use the call bell and activations are responded to promptly. Cells and communal areas are, clean, free from ligature points and graffiti, of a suitable temperature and well ventilated. Staff carry out daily cell checks to maintain these standards and records are maintained and monitored. There are adequate arrangements in place for daily cleaning, removing any biological hazards, deep cleaning, and prompt repair of any defects. There is written guidance on the use of cells with restricted natural light and facilities. Staff can safely evacuate the custody area in the event of an emergency and evacuations are regularly practiced and recorded.

Safety Use of force

Any force used from first point of contact is strictly necessary, proportionate and lawful, used as a last resort and subject to robust accountability. Any force used is proportionate and is carried out by trained staff using approved techniques.

- All staff are trained in and use effective deescalation techniques.
- Where force is used, staff use only approved techniques in line with their training, with no more force and for no longer than is necessary.
- Staff can demonstrate awareness of risks associated with particular forms of restraint and of how these risks can be minimised. When force is used detainees are examined by an appropriately qualified health care professional if requested, or if there are health care concerns.
- Use of force prior to arrival and within custody suites, including the use of control and restraint equipment, is documented within the individual custody record and a separate 'use of force' form is submitted.
- Tasers and incapacitant sprays are never used in a custody suite.
- Strip-searching is conducted only when absolutely necessary, appropriately authorised, carried out in private by members of staff of the same gender and is monitored at a senior level to ensure appropriate use.

Detainee Care and PACE Reviews

- Detainees are offered sufficient food and drink
- Detainees are able to be clean and comfortable, with alternative clothing available while in custody.
- Detainees are offered outside exercise and suitable reading materials. Children and other vulnerable detainees are provided with the opportunity to have visits.
- PACE Reviews are conducted timely and focus on safeguarding interests on the detainee and progression of case.

Officers understand the obligations and duties arising from Safeguarding (protection of children and adults at risk).

• Staff are trained in safeguarding and have the

knowledge required to protect vulnerable groups in their care, including arrangements for contacting **Detainees are protected** appropriate adults and making appropriate from harm and neglect. referrals. They receive effective care and support Current government and local guidance about safeguarding children and adults is accessible and safeguarding procedures are known and used by all staff. For those under 18, parents or guardians are used whenever they are willing, able and suitable for the Independent appropriate role, are given guidance in writing on the role and adult schemes for children are encouraged to be active in protecting the and vulnerable adults are in child's rights. place, operate to relevant national standards and are There are no delays in securing an Appropriate used. Adult and they are available 24 hours a day. Staff receive regular safeguarding training and know how to implement the agreed safeguarding procedures. Any child suspected of committing a criminal offence is treated under the safeguarding procedures and appropriate authorities are notified immediately (see also section1). Custody officers ensure that concerns (for example disclosure of abuse, welfare concerns, etc) are referred to the appropriate agency in accordance with multi-agency arrangements for safeguarding as part of their in custody and post release assessment (see also section 5). Safeguarding issues concerning children are Children are diverted from custody where identified at the earliest possible. opportunity including at the Staff understand and respond to the distinct needs first point of contact (see of children, recognising levels of maturity and how also Section2) physical, sexual and emotional abuse and exploitation might affect a child's behaviour, and any subsequent decisions take about their care and welfare. Risk assessments are based on all relevant information. Particular attention is given to

recognised risks associated with:
- looked after children

- disabilities, including intellectual impairment (learning disabilities), communication difficulties, health conditions and substance misuse
- a previous history of abuse
- those in custody for the first time.

Children are detained in police custody only as a measure of last resort and for the shortest appropriate period of time. While in custody they are protected from harm and every effort is made to release them or transfer them to more appropriate accommodation

- Children are not held in custody overnight except as a measure of last resort. There are effective arrangements with the local authority that covers the provision and accessible safe accommodation for children.
- Children are kept separate from those who might pose a risk to them. Where it is safe to do, children are not held in cells.
- Female detainees under the age of 18 are allocated, and informed of, the identity of a named female officer who is responsible for meeting their welfare needs while detained.
- Only age-appropriate approved restraint techniques are used for children. Pain compliance techniques are never used on children.
- When force is used children are always examined promptly by an appropriately qualified health care professional.
- No child is subjected to a strip search unless it is intelligence led, authorised by an officer of Chief Inspector rank or above and conducted in the presence of an appropriate adult.

Detainees have access to competent health care practitioners who meet their physical health, mental health and substance use needs in a timely way.

Governance

Detainees are cared for by health care practitioners and substance misuse workers, who have the appropriate skills and training, in a safe, professional and caring manner that respects their decency, privacy and dignity.

- The requirement for health services for detainees in police custody is assessed and the services provided are appropriate to need.
- Clinical governance arrangements include the management, training, supervision and accountability of staff.
- Detainees are treated by health care practitioners who receive ongoing training, supervision and support to maintain their professional registration and development.

- Health care practitioners have the skills, knowledge and competencies to meet the health care needs of all detainees.
- Health care practitioners and substance misuse workers are sensitive to detainees' situations and diverse needs, including language needs.
- Information sharing protocols exist with appropriate agencies to ensure efficient and confidential sharing of relevant health and social care information.
- Clinical examinations are conducted confidentially unless risk assessment suggests otherwise.
- Clinical rooms provide conditions that maintain decency, privacy and dignity.
- Clinical rooms are in compliance with current infection control standards.
- There is at least one room that is appropriate for taking forensic samples, and it is forensically clean.
- All equipment (including the resuscitation kit) is appropriate, ready for use and regularly checked and maintained.
- All staff understand how to access and use the emergency equipment effectively.
- Detainees can see a health care practitioner of the gender of their choice on request. There are arrangements for a chaperone to be present if required.
- Providers of health services have registered with the Care Quality Commission/Healthcare Inspectorate Wales.

Patient care

Detainees are asked if they wish to see a health care practitioner, are able to request to see one at any time for both physical and mental health needs, and are treated appropriately in a

- Consent is sought from detainees for health care interventions and health care professionals apply the principles of the Mental Capacity Act during this process
- Each detainee has a single clinical record containing an up to date assessment and any care plan conforms to professional guidance from authoritative sources. The ethnicity of the detainee is also recorded.

timely manner. The use and storage of clinical records is in compliance with contemporary good practice. Any contact with a doctor or other health care professional is also recorded in the custody record and relevant information is shared with custody staff, including any medication provided or required. The results of any clinical examination are made available to the detainee and, with detainee consent, his/her legal representative. Treatments are appropriate to the clinical needs of the detainee and in line with national guidance Health care professionals liaise with other agencies, as necessary, to ensure continuity of care **Detainees receive** Detainees are prescribed medication to treat any clinical signs, symptoms or conditions. prescribed medication if needed and, subject to Detainees receive medication to provide relief for validation, detainees are drug and alcohol withdrawal symptoms if able to continue with clinically indicated, and can continue community previously prescribed prescribed opiate substitution treatment in medications. custody, subject to validation. Prescribed medication is administered by competent staff members, received at the designated times and appropriate records are made of the receipt of medications. Detainees being transferred to court custody receive medication to take while in court custody with appropriate authority and instructions for administration. All medications on site are stored safely and securely, and are disposed of safely if not consumed. There is safe pharmaceutical stock management and use. Substance misuse A service is provided to all drug and alcohol users. All detainees have access to The substance misuse service affords access to timely drug and alcohol the range of care services. services that meet their needs. Any contact with a drug or alcohol worker is recorded in the custody record.

•	Detainees are made aware of how to access
	harm minimisation supplies on release.

Mental health

Detainees have prompt access to mental health practitioners who are able to assess their clinical needs, divert to/refer to mental health services and/or advise on treatment as necessary

Police custody, unless in exceptional circumstances, is not used as a place of safety for Section 136 Mental Health Act (1983) (MHA) assessments.

- Custody staff receive regular training on mental health and learning disability issues, their identification and how to support detainees who are experiencing problems.
- Local arrangements with the relevant mental health trust, ambulance service and local authority ensure that timely services are provided to people in urgent need of specialist mental health care, including prompt assessment of those detained on Section 136 of the Mental Health Act 1983.

Section 5: Release and transfer from custody

Pre release risk assessments reflect all risks identified during the detainee's stay in custody. Detainees are offered and provided with advice, information and onward referral to other agencies as necessary to support their safety and wellbeing on release. Detainees appear promptly at court in person or by video.

Indicators	What we expect to see
PRRA	
	 Good quality pre-release risk

Pre-release risk management planning for detainees is conducted to ensure they are released safely. assessments are completed with the detainee: they are documented and identify and risks and vulnerability throughout their period of detention. Action is taken to reduce any risks and welfare concerns prior to release.

- Appropriate relevant information about risk, vulnerability or safeguarding is communicated to relevant agencies and support organisations.
- Particular attention is given to safely managing the release of vulnerable detainees.
- There is up to date information, including contact details for support organisations, and this is provided to detainees in a format and language they can easily understand.
- Person Escort Records are completed with all relevant detail, especially any issues relating to risk or self harm.

Courts

Detainees who have been arrested on warrant, or who have been charged and refused bail, appear at court promptly either in person or via video link.

- Detainees are able to appear in court in a timely manner and are not held in police custody for longer than is necessary.
- Detainees who are being transferred to another custody facility or court are escorted safely and with consideration to their individual need. Person escort records are completed clearly and accurately.
- Detainees appearing at court in person and via video link are suitably dressed.
- Detainees who appear at court via video link are held in police custody for no longer than necessary after the hearing has concluded.