



Home Office

Summary of responses received to the Home Office consultation on the revised Code of Practice on Independent Custody Visiting

March 2013

No	Organisation	Response and purpose	Accept	Reason/Comment
1	West Yorkshire Police Office of the Police and Crime Commissioner for Surrey Independent Custody Visitor Association (ICVA) Office of the Police and Crime Commissioner for Norfolk Office of the Police and Crime Commissioner for South Yorkshire Office of the Police and Crime Commissioner for Hertfordshire Kent police ICVA Office of the Police and Crime Commissioner for Hertfordshire	<p>Interpreters for ICVs – para 19 of draft Code.</p> <p>The draft Code had been amended to reflect that all reasonable adjustments, as defined in the Equality Act 2010, must be made to accommodate those with a disability. It also stated that interpreters should be provided for ICVs who could not speak English as first language. Concerns were raised over the practicalities and costs of this given it would mean that interpreter/translation services would need to be available for:</p> <ul style="list-style-type: none"> • The introduction to the detainee • The interview with the detainee • Checking custody records • Discussing issues of concern • Writing and signing the visit report • Panel meetings 	Yes	<p>All reasonable adjustments, as defined in the Equality Act 2010, must be made to accommodate those with a disability.</p> <p>Recognise it would be impractical for a translator to be available for ICVs, and potentially costly.</p> <p>Replaced with the following wording in the new Code, as suggested by ICVA.</p> <p>"Where it is proposed to appoint as an ICV an individual who does not have English as their first language, but who is able to communicate effectively so as to be understood, and is otherwise considered to be a suitable candidate, he/she must be informed that visits with detainees are carried out in English as is all documentation relating to detainees."</p>

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2	Kent police ICVA Office of the Police and Crime Commissioner for Hertfordshire	<p>Which ICVs can visit TACT detainees? Geographical area – Para 17</p> <p>The draft Code stated that ICVs accredited to visit TACT detainees will only be drawn from those police areas that have specialist TACT detention suites. Responses received pointed to the circumstances where other areas without regional TACT facilities may also hold TACT detainees for a short period, and may be visited by ICVs.</p> <p>Experience of ICVs visiting TACT detainees – para 17 and 38 of draft Code</p> <p>The draft Code states that ICVs must have completed one year of PACE visits prior to visiting TACT detainees. Responses thought this should be lengthened to 2 years of PACE visits, as even in urban schemes an ICV may have only made 12 visits in a year</p>	Yes	Recognise that all forces could hold a TACT detainee for a short time prior to being transferred to a regional CT suite. It is therefore important that they can be visited by an ICV. We have removed reference to the five regional areas from the Code.
	Office of the Police and Crime Commissioner for Norfolk Office of the Police and Crime Commissioner for Hertfordshire	<p>Residency requirements – Para 17 of draft Code</p> <p>Current ICV Code states that ICVs must have been resident in the UK for three years. Response received requested that this should be changed to all ICVs must have been resident in the UK for 3 years (not 2). This is required in order to carry out Non-Police Personal Vetting checks.</p>	Yes	Code has been amended so that all ICVs must have been resident for three years.
3	Office of the Police and Crime Commissioner for West Midlands ICVA	<p>Vetting for ICVs visiting PACE detainees - Para 16 of draft Code</p> <p>The draft Code states that ICVs who visit TACT detainees must be security cleared to SC level. Requested that security clearance level for ICVs who visit PACE detainees is clarified in the Code.</p>	No	<p>SC is a nationally agreed level of vetting in the interests of national security. There are not equivalent standards at the basic level.</p> <p>The level at which PACE ICVs are vetted will be a matter for the PCC to determine at a local level.</p>

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4	<p>Office of the Police and Crime Commissioner for Surrey</p> <p>ICV for Strathclyde Police</p> <p>Office of the Police and Crime Commissioner for Norfolk</p> <p>ICVA</p> <p>Office of the Police and Crime Commissioner for Wiltshire</p>	<p>Method of introduction of ICV to detainee – Para 53 of draft Code</p> <p>Rewording of the Code was requested to clarify who has responsibility for establishing whether a detainee consents to speak to an ICV. It should also state that self-introduction to the detainees was an option for the ICV.</p>	Yes	<p>Replaced with the following wording in the new Code, as suggested by ICVA.</p> <p>"Subject to the exceptions referred to in paragraph 55 of the Code, ICVs must be allowed access to any person detained at the police station. However, only ICVs who have undergone the appropriate security vetting and training will be permitted access to TACT detainees. Detainees may only be spoken to with their own consent which will be established either by:</p> <ul style="list-style-type: none"> i) self-introduction – the ICVs will introduce themselves and their purpose and seek permission to speak to the detainee; or ii) the escorting officer explaining the purpose of the ICV visit and asking the detainee whether they are willing to speak with the visitors."
5	<p>ICV for Strathclyde Police</p> <p>ICVA</p> <p>Office of the Police and Crime Commissioner for Hertfordshire</p>	<p>Where the interview with detainee should take place – Para 56</p> <p>Responses received on how an ICV may be given some limited form of access to a detainee if the circumstances in para 55 apply. Para 55 allows access to detainees to be limited or denied in certain circumstances. One of these circumstances, set out at paragraph 55(ii), is if the officer reasonably believes that such access could interfere with the process of justice. Responses raised a concern about the compatibility between this section and paragraph 56. Paragraph 56 states that consideration should be given to allowing the visitors some limited form of access to the detainee, such as speaking through the cell hatch.</p> <p>Response from an ICV who is opposed to the suggestion in para 56 (providing ICVs some limited form of access to detainee, such as speaking through the cell hatch), particularly where an open-door interview has been deemed inappropriate to ensure the visitors' safety. The response suggested that such an interview would expose the visitors to considerable risk, such as having an object or fist thrust through the hatch or being spat at, without the escorting officer being able to anticipate or predict the risk and intervene.</p>	Yes Partially	<p>Replaced with the following wording in the new Code, as suggested by ICVA.</p> <p>"Where any of the circumstances referred to in paragraph 55 apply, consideration should be given to allowing the visitors some limited form of access to the detainee, such as speaking through the cell hatch or seeking consent to view the custody record."</p> <p>But do not agree that para 55(ii) and para 56 contradict each other.</p> <p>Do not agree that considering a limited form of access to a detainee such as speaking through a cell hatch should be removed. Would expect the escorting officer to assess any potential risks as part of the consideration.</p>

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6	Office of the Police and Crime Commissioner for Staffordshire	Authorisation level for denying ICVs access – paras 49 and 55 of the draft Code	Yes partially	The reference to authorisation at Inspector rank at paragraph 49 has been removed from the Code as this was added in error. Authorisation at Inspector rank at paragraph 55 must remain in the Code as this a legislative requirement in the Police Reform Act 2002.
	Office of the Police and Crime Commissioner for Sussex	Concerned about the reference in para 49 and 55 to authorisation at Inspector rank, as these ranks are no longer readily available, and in the current police structure the Custody Officer is the most senior officer present.		
	Office of the Police and Crime Commissioner for Norfolk	Para 49 relates to delaying an ICV access to the custody suite. Para 55 relates to limiting or denying ICVs access to a specific detainee.		
7	Office of the Police and Crime Commissioner for Hertfordshire	Reasons for delaying access – para 49 of the draft Code	Yes	Accepted. Paragraph 49 amended to reflect that if there is a risk of danger to others within the custody suite, delaying ICV access to the custody suite may be appropriate.
	Office of the Police and Crime Commissioner for Cumbria	Response requested a change to para 49 to 'Delay will only be permitted when immediate access may place anyone in the custody suite in danger', rather than 'visitors'. Suggestion that if a member of custody staff is deployed to permit access to ICVs at a time when they would otherwise be dealing with, or helping to deal with, a situation which may put a detainee or member of staff at risk of danger or harm this should be taken into account.		

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8	Office of the Police and Crime Commissioner for Cumbria Office of the Police and Crime Commissioner for Cheshire, writing on behalf of the NW (Cheshire, Cumbria, Greater Manchester, Lancashire and Merseyside) and North Wales. Office of the Police and Crime Commissioner for South Yorkshire	Access to medical facilities – para 50 of the draft Code Para 50 states that ICVs must have access to all parts of the custody area, including medical rooms. Some constabularies are transferring their medical care arrangements to the NHS Commissioners on 1 April 2013 and this transfer means that NHS Commissioners will take over responsibility for medical rooms from the constabulary. This will mean that medical rooms will normally be locked unless a healthcare practitioner is present on site and custody staff will not ordinarily have access to medical rooms. Suggest amend to state that ICVs should have access to medical rooms provided that a healthcare practitioner is present to facilitate the visit. Custody staff should not, under the new arrangements, supervise visits to the medical rooms.	Yes	Para 50 has been amended to state that medical facilities in some cases may only be accessible when the force's healthcare practitioner is present.
9	Office of the Police and Crime Commissioner for Hertfordshire	Access to CCTV cameras – para 50 of the draft Code The draft code states that ICVs will be allowed access to CCTV cameras to check that they are working. The response said that carrying out equipment checks is not part of the duties of ICVs – these are carried out by the force custody managers. The second sentence should be removed.	No	This derives from the legislation regarding an ICV's role. ICVs may need to make sure that facilities are working to ensure the welfare of detainees. This would include whether the CCTV is working (so that custody staff can monitor what's going on in cells) but also the recording aspect is important e.g. for the Independent Police Complaints Commission's (IPCC) purposes if needed.
10	ICV for Strathclyde Police Office of the Police and Crime Commissioner for Norfolk Office of the Police and Crime Commissioner for Hertfordshire	Location of interview – para 58 of the draft Code It is unrealistic that discussions between detainees and ICVs must take place in the sight, but out of hearing of the escorting police officer.	Yes	The Code has been amended to clarify that escorting officers must not actively listen to conversations between a detainee and an ICV.
11	Office of the Police and Crime Commissioner for Norfolk ICVA	Definition of 'incapable' – para 65 of the draft Code Police custody staff may sometimes want to consider degrees of incapability. Suggest replacing with: "If a detainee is for any reason either unable or incapable of deciding whether to allow access to their custody record, the presumption must be in favour of allowing ICVs to examine it."	No	This is a broad term that may cover a variety of situations (including the detainee being intoxicated with either alcohol or drugs). It should remain broad and be a matter of case by case judgment.

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12	ICVA	<p>Purpose of viewing custody record – para 64 of the draft Code</p> <p>ICVs should check the custody record's contents against what they have been told by the detainee. It helps ICVs formulate a picture of how detention has been conducted and managed.</p>	Yes	<p>Replaced with the following wording in the new Code, as suggested by ICVA.</p> <p>“Subject to obtaining the detainees consent to examine their custody record, the ICVs should check its contents against what they have been told by the detainee. This will provide ICVs with an overview as to how the detention has been carried out.”</p>
13	Office of the Police and Crime Commissioner for Norfolk Police and Crime Commissioner for Greater Manchester Office of the Police and Crime Commissioner for Hertfordshire	<p>ICVA role in providing training – para 37 of the draft Code</p> <p>Concerned about proposals for ICVA to produce a training package. Concerned how it will work in practice and the cost implications, as not all Office of the Police and Crime Commissioners (OPCCs) are members of the ICVA.</p>	Yes	<p>The Home Office has funded the ICVA training and it will therefore be available to all police force areas, regardless of whether they belong to ICVA.</p>
14	Office of the Police and Crime Commissioner for Norfolk Office of the Police and Crime Commissioner for Hertfordshire	<p>ICVA role in producing visit report form – para 79 of the draft Code</p> <p>The development of the visit report form is a task and should not be in the Code. The responsibility of oversight lies with the IRTL in conjunction with PCCs.</p>	Yes	<p>Reference to who develops the visit report form has been removed from the Code.</p>
15	Office of the Police and Crime Commissioner for Norfolk ICVA Office of the Police and Crime Commissioner for Hertfordshire	<p>When should ICVs visit suspected terrorist detainees – paras 43-47 of the draft Code</p> <p>Various comments received on how often an ICV should visit TACT detainees, and whether the Code should state the frequency of visits.</p> <p>‘Agreeing a suitable time’ for a visit is open to abuse and undermines unannounced and random.</p> <p>Need to clarify how often individual detainees should be visited. Should remove reference to ICVs being able to make unannounced visits to TACT detainees – consideration about the safety and security of the ICVS concerned would suggest that unannounced visits should not take place to TACT detainees.</p>	Yes	<p>The Code has been amended to state that at para 46 that ‘one of the nominated ICVs will make contact with the police custody detention suite to inform them of their intention to visit’ but not when.</p> <p>The Code has been amended at para 47 to say ‘subsequent visits may take place until the detainee is charged or released.’ I.e. reference to ‘intervals’ has been removed.</p> <p>These changes ensure that one of the most inherent principles of independent custody visiting, the ability to undertake unannounced visits, is not undermined.</p> <p>As above, ICVs must be able to make unannounced visits, including to TACT detainees.</p>

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16	CVA	<p>Reviewing renewal of appointment – para 29 of the draft Code.</p> <p>Request to clarify how a decision not to renew an ICVA appointment is made.</p>	Yes	<p>Replaced with the following wording in the new Code, as suggested by ICVA.</p> <p>“Appointments as an ICV must initially be for three years and must not be confirmed until a six-month probationary period has been satisfactorily completed. Full re-assessments of suitability must take place at regular intervals but no longer than three years apart. They key factors in renewing appointments for further periods must be the continuing ability and willingness of the individuals involved to do the job effectively. Any decision not to renew the appointment must follow the principles of natural justice and must be publicised in the scheme’s memorandum of understanding or guidance. There are additional training and selection requirements for TACT ICVs as set out in paragraphs 37-38.”</p>
17	ICVA	<p>Termination of employment – para 30 and 31 of the draft Code</p> <p>Responses received requested that in the case of poor performance or misconduct the PCC should terminate the appointment of the ICV. Request the removal of the reference to ‘not renew’ as this facilitates poor volunteer management.</p>	Yes	<p>Replaced with the following wording in the new Code, as suggested by ICVA.</p> <p>“A PCC can terminate an ICVs appointment because of misconduct or poor performance.”</p>
18	ICVA	<p>Assessing performance – para 86 of the draft Code</p> <p>The examples given are about ICVs performance rather than that of the scheme. Suggest replace with: “PCCs must take steps to assess how effectively their independent custody visiting arrangements are working. Key aspects of that process will be benchmarking against the more detailed National Standards and include: reviewing the quality of reports and police response to issues raised, the impact of the reports on procedural/strategic issues, the frequency with which visits take place and the number of occasions on which detainees refuse to speak to visitors.”</p>	Yes partially	<p>Concerned about additional burdens on police, such as looking at how issues have impacted on “strategic” matters.</p> <p>Replaced with the following wording in the new Code.</p> <p>“PCCs must take steps to assess how effectively their independent custody visiting arrangements are working. Key aspects of that process will be having regard to the National Standards, including quality assurance in respect of reports, remedial actions taken by the police in response to issues raised, the frequency with which visits take place and the number of occasions on which detainees refuse to speak to visitors.”</p>

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19	Office of the Police and Crime Commissioner for South Yorkshire	<p>PCC meeting ICVs – paras 85-86</p> <p>The response requested that these paragraphs be expanded to include an obligation for the PCC to meet annually with ICVs or their chosen representatives to review all aspects of this scheme.</p> <p>Roles of volunteers – para 10 of the draft Code</p> <p>The Code states that every group of volunteers should have its own co-ordinator locally who is supported by the PCCs staff. The Commissioner fully supports the use of volunteers but reserves the right to decide in which roles volunteers are used. The sentence should be amended to: 'it is recommended that every group or panel has its own co-ordinator locally'.</p>	No	<p>An explicit reference to at least once a year as opposed to regularly could mean in practice that there are fewer occasions that ICVs meet with PCCs – meaning that there are fewer opportunities to address any concerns, issues or other matters raised by ICVs.</p> <p>For effective organisation a co-ordinator is needed. ICV visits need to be coordinated and they need to be supported by PCCs, who must do this to ensure they (PCCs) meet their statutory obligation to arrange for ICV visits to detainees. It is considered that the original wording should remain to provide a practical steer to forces in making their ICV arrangements. Without central coordination an effective ICV scheme would be difficult – impacting on detainees and forces.</p>
20	Office of the Police and Crime Commissioner for Hertfordshire		No	

