



VERA BAIRD^{QC}
POLICE & CRIME COMMISSIONER

PROCEDURES FOR CONSIDERATION OF COMPLAINTS OF MISCONDUCT, POOR PERFORMANCE OR INAPPROPRIATE BEHAVIOUR AND TERMINATION OF APPOINTMENT OF INDEPENDENT CUSTODY VISITORS

As stated in the Home Office Code of Practice for Independent Custody Visiting, Section 51 of the Police Reform Act 2002 requires Police and Crime Commissioners in England and Wales to make arrangements for detainees to be visited by Independent Custody Visitors.

Although the work of an Independent Custody Visitor is entirely voluntary, the Police and Crime Commissioner for Northumbria has the right to terminate the appointment of any independent custody visitor whose conduct, performance or behaviour does not meet the required standards.

Procedures for considering the possible termination of an appointment must follow the principles of natural justice and are set out below.

Performance

In Northumbria, the Independent Custody Visiting Panel Co-ordinators have been appointed following a selection process within the Independent Custody Visiting Panels. Each of the panels, therefore, have an elected Panel Co-ordinator.

The Panel Co-ordinator should notify the Scheme Administrator of any independent custody visitor who fails to make a visit within a six month period.

The Scheme Administrator will contact the visitor concerned to establish whether this is an oversight (eg because report forms have not been submitted), or to seek an explanation.

If no reasonable explanation is given, the Scheme Administrator will notify the independent custody visitor that their appointment has been withdrawn.

Misconduct

In the event of misconduct, the Scheme Administrator and lead for independent custody visiting, will consider whether it is appropriate to terminate the appointment of the independent custody visitor concerned.

Misconduct will encompass:-

- Conviction of a criminal offence
- Breach of the independent custody visitor code of conduct
- Abuse of position as an independent custody visitor
- Misuse of independent custody visitor identity card

Independent custody visitors must notify the Scheme Administrator if they are arrested, cautioned or charged with a criminal offence. This will result in the suspension of the independent custody visitor concerned until the outcome of any criminal proceedings are known.

If the independent custody visitor is subsequently found to be not guilty, they may be reinstated. In the case of a caution being given, the independent custody visitor's appointment will be reviewed with regard to the nature of the offence.

Inappropriate behaviour

The national standards for independent custody visiting sets out the following types of behaviour that have the potential to create tension and conflict:-

- Failing to appreciate Police priorities
- Engaging in petty criticism
- Criticising officers in reports without bringing that criticism directly to their notice
- Adopting an overly adversarial approach
- Concentrating on finding fault and trying to catch the Police out
- Becoming involved in an investigation or advising the detainee on that investigation
- Criticising Police action or questioning their judgement in areas outside the remit of an independent custody visitor
- Telling or suggesting to the Police what they should do
- Making promises to a detainee on behalf of the Police
- Breaching confidentiality

Complaints of misconduct, poor performance or inappropriate behaviour by an independent custody visitor

All complaints or issues of concern regarding an individual independent custody visitor should be reported to the Scheme Administrator.

The Scheme Administrator, after consideration and discussion with the relevant Panel Co-ordinator, will decide if the complaint should be dealt with locally by the Panel Co-ordinator. In these cases the Panel Co-ordinator will arrange to discuss the complaint or issue with the individual independent custody visitor concerned. The Scheme Administrator will be informed by the Panel Co-ordinator of the outcome of the discussions.

If the independent custody visitor is unhappy with the outcome of the discussion with the Panel Co-ordinator, they must contact the Scheme Administrator who will decide how best to deal with the situation.

Complaints or issues of a more serious nature or repeated complaints must be made in writing to the Scheme Administrator. The Scheme Administrator will decide how best to deal with these complaints. The appointment of the independent custody visitor concerned will be suspended by the Scheme Administrator whilst an investigation is carried out into the issue or complaint. The individual concerned will be notified in writing and will remain suspended until the complaint or issue has been resolved.

Referral of complaints for consideration to the Business Manager of the Police and Crime Commissioner

The Business Manager of the Police and Crime Commissioner as lead for independent custody visitors will investigate the complaint or issue with support from the Scheme Administrator and Human Resources Advisor.

When the Business Manager of the Police and Crime Commissioner is considering the appointment, the independent custody visitor will be:-

- Informed of the date and venue of the referral meeting
- Invited to submit either a written statement or attend the meeting
- Allowed to have a representative attend the meeting on their behalf

There are several potential outcomes following the referral of the issue to the Business Manager of the Police and Crime Commissioner, for example the below is not an exhaustive list;

- Reinstatement to the scheme
- Reinstatement to the scheme with advice
- Confirmation of the suspension with further investigation to be undertaken
- Termination of the Independent Custody visitor's appointment

The decision of the Business Manager of the Police and Crime Commissioner will be notified in writing, to the independent custody visitor concerned, within 5 working days of the meeting.

Appeals Process

Where an independent custody visitor's appointment is terminated or action is taken, the individual will have the right to appeal. The intention to appeal must be submitted to the Scheme Administrator, in writing, within 21 days following the notification of termination of appointment.

The Chief Executive of the Office of the Police and Crime Commissioner with Human Resources support will consider the appeal within 30 days following the notification of appeal.

The independent custody visitor will be notified in writing of the date of the appeal, not less than 7 working days prior to the appeal, and will be invited to submit a written statement or attend the appeal in person.

An independent custody visitor may, if preferred, have a representative attend the appeal with them.

There are several potential outcomes following the appeal to the Chief Executive, for example the below is not an exhaustive list;

- Reinstatement to the scheme
- Reinstatement to the scheme with advice
- Confirmation of the Independent Custody Visitors termination of appointment

The decision of the Chief Executive is final and will be notified in writing to the independent custody visitor within 5 working days of the appeal hearing taking place.