

Cumbria Police Authority  
27<sup>th</sup> October 2005

**Agenda Item No. 6**

**Report by the Clerk and Chief Executive.**

**INDEPENDENT CUSTODY VISITING SCHEME – APPEAL PROCESS**

**Background**

The purpose of this report is seek agreement to the establishment of a panel to hear appeals from Independent Custody Visitors whose case has already been considered by the Personnel Committee.

**Recommended: That**

- (1)** the Professional Standards Committee acts as an Appeal Panel for cases involving Independent Custody Visitors previously considered by the Personnel Committee;
- (2)** any Members who have already considered the matter as Members of the Personnel Committee do not re-consider the matter as Members of the Professional Standards Committee; and
- (3)** The amendment of Paragraph 2 of the “Independent Custody Visitor Appointments, Confirmations, Disciplinary and Appeals Procedures” be amended to read as follow –

“All appointments are subject to a probationary period of six months and appointments will only be confirmed on the successful completion of the probationary period. The assessment will be made by the Custody Visitor Panel, subject to confirmation by the Authority’s Personnel Committee. .In deciding what is successful the Panel will take into account the following:-

- (a) Number of visits undertaken to comply with previously advised rotas;
- (b) Feedback from fellow Visitors;
- (c) Any feedback from other involved agencies, eg custody staff, police staff;
- (d) Views from the Scheme and Panel Administrators.”

**Detail**

Under s.51 Police Act 1996, Cumbria Police Authority is required by law to make arrangements for a scheme of independent custody visiting to persons

detained in police custody in their area. In September 2004 the Authority agreed to the adoption of a revised Independent Custody Visiting Scheme, including an appointment and appeal procedure. The Clerk & Chief Executive is responsible for co-ordinating the administration of the scheme, supported by the Chief Constable. Responsibility for oversight and review of the Scheme is delegated by the Authority to the Professional Standards Committee and responsibility for recruitment and other personnel matters is delegated to the Personnel Committee.

At their meeting on 6<sup>th</sup> October 2005 the Personnel Committee considered the appointment and appeals procedure within the Scheme and have agreed that for clarity it should be re-titled as “**Independent Custody Visitor Appointments, Confirmations, Disciplinary and Appeals Procedures**” and an additional paragraph added, to the effect that –

*“ The Police Authority reserves the right at any time to remove from the Scheme any Custody Visitor whose conduct or whose behaviour towards other Custody Visitors, detainees, police staff, officers of the Authority, members of the public or any other third party is reasonably considered inappropriate or unlawful or otherwise likely to bring the Authority or its Scheme into disrepute.”*

A copy of the amended of the procedure is attached at Appendix 1

Highlighted within the Appendix is a drafting error and, in Paragraph 2, the Authority is asked to confirm the replacement of “Audit and Performance Committee” with “Personnel Committee”.

It will be noted that the procedure envisaged appeals being made to the Authority’s Personnel Committee. However, there will be occasions (usually where a matter is of a disciplinary nature) where that Committee had itself considered the case in the first instance - which means that it could not then hear any subsequent appeal. It is suggested that, in those latter circumstances, the Professional Standards Committee should be designated as the body to consider any subsequent appeals. The Professional Standards Committee is suggested for this role because it has an insight into the Independent Custody Visiting Scheme and already operates in a quasi-judicial way with regards to complaints made against Chief Officers of police. Any Members on both Committees would only be able to participate in either the initial hearing or any subsequent appeal; they would not be able to consider the same issue twice.

The membership of the Committees is as follows:-

**Personnel Committee**

Mrs M Johnson, Mr J Mallinson, Mrs L Slavin, Mr J Woolley, Mr R Watson.

**Professional Standards Committee**

Mr A L Barry, Mr R S Cole, Ms S Donnelly, Mr C S Moth, Mr J Nicholson.

Mr Watson and Mrs Slavin (as Chairman and Vice Chair of the Authority respectively are co-opted Members of the Professional Standards Committee.

**C R Alcock**  
**Clerk and Chief Executive.**

18<sup>th</sup> October 2005.

**Background papers:** Report to, and Minutes of, Cumbria Police Authority on 17<sup>th</sup> September 2004.  
Report to, and Minutes of, Personnel Committee on 6<sup>th</sup> October 2005.

**Race and Diversity Implications:** The Authority has a duty to ensure that the Scheme is representative of the community it serves.

**Human Rights Implications:** The Scheme plays an important role in ensuring that the rights of detainees in police custody are respected. Having an appropriate disciplinary or misconduct procedure for visitors, together with a proper appeals procedure, is part of ensuring that protection for all parties involved.

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Appendix 1

## **I INDEPENDENT CUSTODY VISITOR APPOINTMENTS, CONFIRMATIONS, DISCIPLINARY AND APPEALS PROCEDURE**

- (1) On appointment each Independent Custody Visitor (“Visitor”) is required to sign a Memorandum of Understanding which sets out the Police Authority’s (“the Authority”) expectations of Visitors and also what level of support, training and feedback will provided for Visitors by the Authority.
- (2) All appointments are subject to a probationary period of six months and appointments will only be confirmed on the successful completion of the probationary period. The assessment will be made by the Custody Visitor Panel, subject to confirmation by the Authority’s **Audit and Performance Personnel** Committee. .In deciding what is successful the Panel will take into account the following:-
  - (e) Number of visits undertaken to comply with previously advised rotas;
  - (f) Feedback from fellow Visitors;
  - (g) Any feedback from other involved agencies, eg custody staff, police staff;
  - (h) Views from the Scheme and Panel Administrators.
- (3) The probationary Visitor will receive notification in writing of the decision and have a right of appeal to the Authority. The appeals procedure is set out in paragraph 7 below
- (4) Following a satisfactory probationary period a Visitor will be appointed for a three year period (which includes the six month probationary period) during which they will be expected to carry out their duties in accordance with the terms of the Memorandum of Understanding.

- (5) At the end of the three year period, and subject to the Visitor wishing to continue, the following will be taken into account by the Authority:-
- (a) Number of visits carried out to comply with previously advised rotas;
  - (b) Feedback from Visitors;
  - (c) Any feedback from other involved agencies, eg custody staff, police staff;
  - (d) Views from the Scheme and Panel Administrators;
  - (e) Attendance at training events;
  - (f) Attendance at Panel meetings.
- (6) Each Visitor will receive notification in writing of the decision of the Panel on whether or not to extend the appointment by a further three year period. There is a right of appeal to the Authority.
- (7) The appeals procedure in relation to all matters regarding the confirmation or termination of appointments will be carried out as follows:-
- (a) The Visitor will be told in writing of any matters of concern regarding the confirmation of appointment or re-appointment as determined by the appropriate Custody Visitor Panel;
  - (b) The Visitor will be asked to respond in writing within 15 working days to the issues raised;
  - (c) The Clerk to the Police Authority will report to the Appeals Panel established by Authority's Personnel Committee including any written responses, or supportive documents from the Visitor;
  - (d) The Visitor will be invited to attend and hear any discussions and to answer any questions which the Members of the Appeals Panel may ask;
  - (e) The Visitor will be asked to withdraw from the meeting while the Appeals Panel consider their decision, with the deliberations taking place immediately after the evidence has been heard;
  - (f) The Scheme Administrator will notify the Visitor in writing within seven working days of the final decision of the Appeals Panel.

- (8) This process will also be used to deal with any complaints made against Visitors by detainees, custody staff or others.
- (9) The Police Authority reserves the right at any time to remove from the Scheme any Custody Visitor whose conduct or whose behaviour towards other Custody Visitors, detainees, police staff, officers of the Authority, members of the public or any other third party is reasonably considered inappropriate or unlawful or otherwise likely to bring the Authority or its Scheme into disrepute.

October 2005.