

HMICFRS response to consultation on the *Expectations for Police Custody*

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Introduction

We recently ran a consultation on our refreshed *Expectations for Police Custody*.

The *Expectations* set out the inspection criteria for assessing the treatment of and conditions for detainees in police custody. These have been refreshed to reflect changes to legislation, policies and practices about how police custody is provided, and to improve the standards we expect to achieve better outcomes for detainees.

We published our proposed *Expectations for Police Custody* on 23 December 2021. The consultation ran for six weeks.

We asked for views on the revised *Expectations* to draw from wider expertise in the sector and make sure the criteria are as clear and comprehensive as possible.

We received 43 responses:

- 20 from police forces;
- 9 from OPCCs;
- 11 from other organisations; and
- 3 from members of the public.

We grouped responses into the five areas of the *Expectations*. These are:

- leadership, accountability and partnerships;
- pre-custody: first point of contact;
- in the custody suite: booking in, individual needs and legal rights;
- in the custody cell, safeguarding and healthcare; and
- release and transfer from custody.

Summary of consultation responses

We received a positive response to the revised *Expectations for Police Custody*. Many responses welcomed the continued focus on diverting children and those who are vulnerable away from custody, and achieving good outcomes for detainees.

Many consultees commented positively on the additional clarity proposed for some indicators and also suggested additions to improve this further. We have amended or added wording throughout the *Expectations* to reflect comments but have not changed the intent of the indicators affected.

Some responses suggested additional criteria to include. The *Expectations for Police Custody* are designed to provide an overarching expectation for each area that is supported by high level indicators. Some of the suggestions we received were too detailed to be included in the *Expectations*. However, we will take account of them when assessing how well the indicators are met. For example, although not included as a specific indicator, we will examine detainee access to legal representation as part of our approach to assessing how well detainees receive their individual rights.

In addition, we are reviewing the information we ask for from forces prior to our inspection.

Section 1. Leadership, accountability and partnerships

There were recurring themes in the consultation responses.

Many responses suggested increasing references to the Police and Criminal Evidence Act 1984 (PACE) and its codes of practice. After considering these comments, we have introduced a new indicator under leadership to reflect compliance with PACE, its codes of practice and other legislation. This is to emphasise the importance of this as the responsibility of force senior leaders. We have not therefore detailed elsewhere in the *Expectations* where specific legal compliance is required, other than for reviews of detention.

There were also suggestions to highlight the importance of detailed and accurate recording on custody records across the different expectations.

This indicator sits under accountability, but we have now added that we expect a high standard of recording 'at every stage'.

Other changes in section 1 include:

- greater emphasis on senior leaders taking an active interest in custody;
- maintenance of the custody estate to make sure detainees are kept safe;
- regularly reviewing training programmes; and
- increased clarity about forces' responsibilities when working with partners.

Section 2. Pre-custody: first point of contact

We received few comments about this section. There were some concerns about how frontline officers determine vulnerability because of different interpretations. This includes PACE Code C definitions which should be used in some circumstances. We haven't changed the indicators; however we will consider the concerns raised in our assessments.

Section 3. In the custody suite: booking in, individual needs and legal rights

Many responses in this section suggested changes to make the expectations clearer. We have therefore changed the wording of some indicators to better reflect that:

- Detainees have access to information in a language and format they can easily understand and it is available to them throughout the different stages of the custody process.
- Translation and interpreting services should be 'accredited'.
- The purpose of the risk assessment should be explained to detainees and recognising that sensitive information may need to be disclosed privately.
- The grounds for detention should be explained to detainees as well as the necessity for arrest.

We have included more detail in the indicator for immigration detainees. This emphasises the requirement that procedures are agreed with immigration services, including escalation, to keep the detainee's time in police custody as short as possible.

We have also amended the expectation for reviews of detention to explicitly reference compliance with PACE and clarify indicators around how they are conducted – for example, the importance of carrying them out face-to-face.

Two new indicators have been created about:

- Recognising and meeting the needs of detainees with caring responsibilities.
- Making sure decisions to remand detainees after charge are appropriate, and the reasons are clearly recorded.

Section 4. In the custody cell: safeguarding and healthcare

Responses highlighted the need to further clarify some of the indicators and in some instances strengthen them.

Changes to indicators about the physical environment and use of force:

- Expecting that the physical environment in custody suites promotes detainee security, privacy and dignity.
- Specifically referencing that greater scrutiny is needed if energy conductive devices (Taser) are used in custody.
- Clarifying that force is only used as a last resort when removing clothing from detainees.

Changes to indicators about children:

- Removing the reference to 'age appropriate' restraint techniques for children but making it clear that force is only used on children as a last resort, and in a way that takes account of their age.
- Explicitly expecting that a female officer assigned to care for a girl in custody speaks to them as soon as possible.
- Placing greater emphasis on considering alternatives to avoid holding children in cells and allowing private discussions where sensitive information may be disclosed.

Changes to indicators about the use of appropriate adults (AAs):

- Removing the specific reference for vetting for AAs (but our assessments will consider if AA schemes have vetting arrangements).
- Adding that verbal explanations about the role should be given to AAs as well as any written explanations.
- Clarifying the indicator that AAs should be requested 'as soon as practicable' and asked to attend 'as soon as possible' to strengthen the importance of early support from an AA. In addition, specifying that AAs can speak with a child or vulnerable adult 'at any time'.

Changes to indicators about healthcare:

- Emphasising that forces should work with health commissioners, providers and other partners to meet detainee health needs.
- Adding that detainees should have access to a confidential healthcare system.
- Adding that healthcare practitioners are competent to contribute to custody officers' fitness for interview' assessment.

Section 5. Release and transfer from custody

We received few responses about this section. The main concerns were about managing the risks when detainees are handed over to escort services going to court or back to prison.

We have created a separate indicator to address these concerns. This focuses on sharing any issues relating to risk or self-harm with other agencies to manage detainee risk after they have left police custody.

Our response

We are extremely grateful to all of those who responded to our consultation, and the active interest so many organisations have shown in our inspections of police custody.

Some indicators have been added to, some strengthened, and some made clearer in response to comments made.

The consultation has allowed us to review and improve the *Expectations for Police Custody* using expertise from different organisations. We hope they will continue to support forces improve standards in police custody and provide better outcomes for detainees.

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