

**Independent Custody Visiting Association**  
**Briefing for Independent Custody Visitors**  
**The independent review of the Mental Health Act – Interim report**  
**June 2018**



**Introduction**

The Government commissioned Sir Simon Wessely to chair a review of the Mental Health Act in October 2017; he published an interim report in May 2018. The report is wide ranging. This briefing pulls together relevant information for independent custody visiting scheme managers and independent custody visitors (ICVs), with guidance on how they can respond to the review.

**Aims of the review**

The review has the following aims set by its terms of reference:

*To make recommendations for improvement in relation to:*

- *Rising detention rates,*
- *Racial disparities in detention, and*
- *Concerns that the act is out of step with a modern mental health system.*

The review has further articulated goals through feedback with service user and carers' groups:

*To make the Mental Health Act work better for everyone by seeking to achieve:*

- *Service users and carers being treated with dignity and respect.*
  - *Greater autonomy for people subject to mental health legislation.*
  - *Greater access to services for those that need them.*
  - *Making the least restrictive option appropriate to a person's circumstances the default option.*
  - *Improved service user and carer wellbeing.*
  - *Service users and carers supported to be fully involved in treatment as possible.*
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- *Reduced disparities between groups with protected characteristics.*
  - *Greater focus on rights-based approaches.*
  - *Reduced harm and improved safety for all.*
  - *Professionals better able to deliver their expertise.*

The overarching focus on dignity and rights shares concerns and aims with independent custody visiting, ICVA is keen to use this opportunity to assist ICV schemes to deliver continuous improvement for vulnerable detainees.

### **Policing and access to mental health services**

The review, as with Dame Elish Angiolini's, reports that mental health is a core part of policing. It notes that police have the ability to section people, but follows up with a clear statement that policing should not be used to make up for gaps in service provision and that health services should be in place.

ICV schemes have reported on long waits for mental health 'beds' for detainees who have been arrested and then require hospital treatment. The review echoes this finding and underlines the principle that people who are unwell should be treated by the NHS and not in a police cell. Furthermore, the review comments on transport, noting that NHS transport should be used for patients, police vehicles should not.

### **A spotlight on detainee dignity**

Pleasingly, the review places a real focus on the dignity of service users and their carers. This, as with other themes, is in line with ICVA's work for the past few months. Although the report focuses on mental health settings when expanding on this topic, the findings can be applied to police custody. The interim report outlines service user feedback. The following experiences had a negative impact on the dignity of detainees:

- Experiencing / witness violence
- Verbal abuse and threats
- Bullying and harassment
- Sexual predation
- Pain-based restraint
- Coercive reward / punishment
- Mixed sex wards, and
- Understaffing / agency staff

Whilst we would expect that these problems should not occur in police custody, it is possible that they could do with some more likely than others. ICVs should be conscious of the areas that service-users have identified as particularly problematic.

### **Equality and diversity – disparities and disproportion**

The review explores equality and diversity issues. It discusses disproportionate poor mental health in BAME communities, notably those of African-Caribbean and African descent. It

reports a lack of cultural awareness and disproportionately poor outcomes for BAME service users. Furthermore, the review indicates early concerns that use of force may be used disproportionately on female detainees as well as BAME detainees. The review will explore this in further detail as it progresses.

### **NHS Commissioning healthcare services in police custody**

Again, echoing the findings of Dame Angiolini, the review questions whether NHS England should take responsibility for commissioning police healthcare services in custody. It also questions whether the NHS should develop a plan for better care and faster transfers from those in police detention.

### **The role of independent custody visitors**

#### *When visiting*

- Ask whether any detainees have poor mental health on arrival.
- Consider prioritising visits to these detainees.
- Check on the rights, entitlements and wellbeing of detainees as usual.
- Take particular care to check whether the dignity of the detainee is being upheld.
- Check whether an Appropriate Adult is needed, has been requested, is in place and whether there have been any problems or delays accessing one.
- Ask to see custody record / assume consent if relevant.

#### *When checking the custody record*

- Is the detainee in police custody under s136? If so, check whether the detainee is receiving regular medical checks (at least every 30 minutes), their risk is being monitored and the constabulary are satisfied that the detention in police custody is necessary.
- Has a bed or medical support been requested? When was it requested? How long has the detainee been held in custody.
- How long has the detainee been in custody?

#### *When reporting*

- Please note whether there were any detainees with poor mental health in police custody and if and why you were refused access to any detainees.
- Report on the rights, entitlements and wellbeing of the detainee as normal, including a note on the Appropriate Adult service where appropriate.
- Comment on the dignity of the detainee – were they treated with respect? Was their dignity upheld? Please report good and poor practice.

- If the detainee is held under s136, question why they are there and provide a description of care and record the time that they have spent in police custody.
- For all detainees, please report if medical care has been requested, delivered and any delays to transfer to healthcare.

### **Further resources**

The full interim report can be found [here](#).

The full webpage for the review can be found [here](#).