

Independent Custody Visiting Association
Briefing for Independent Custody Visitors
Mental Health Act White Paper
April 2021



Introduction

The Independent Custody Visiting Association (ICVA) leads, supports and represents independent custody visiting schemes across the UK. Independent custody visiting schemes, run by Police and Crime Commissioners in England and Wales, make unannounced visits to police custody to check on the rights, entitlements and wellbeing of detainees. These schemes make local recommendations and feedback thematic findings to ICVA.

ICVA, alongside the CQC, is a member of the [National Preventive Mechanism](#).

ICVA is responding to the Mental Health Act White Paper based on our experiences of monitoring custody. ICVA's views do not directly respond to the consultation questions posed in the White Paper but cover areas that are pertinent within it.

Feedback

Mental health and police custody

Mental health is an important issue within police custody. [The Independent Review of Deaths and Serious Incidents in Police Custody](#), run by Dame Elish Angiolini highlights mental health as a key theme for consideration. Dame Elish identified the importance of recognising symptoms of mental ill health, the risks of physical restraint, the importance of accessing medical care and diverting those in mental health crisis out of custody.

These findings are underlined by ongoing work by the Independent Office of Police Conduct (IOPC) who reported that, in 2019/20, 11 of the 18 people who died in or following police custody were identified as having mental health concerns.

ICVA is aware of a number of issues within police custody, which we will outline in this response.

Investment in mental health services

The White Paper contains a raft of recommendations that will invest in community services to promote good mental health. This long-term investment should prevent patients from reaching crisis point and, it is hoped, from coming to police attention and entering custody

because of reasons resulting from poor mental health. ICVA strongly welcomes this investment.

Diverting from police custody

The White Paper recognises that people experiencing a mental health crisis should receive support in a clinical environment. It notes great reductions in the use of police custody as a place of safety in recent years and makes a commitment to ban the use of police custody as a place of safety under sections 135 and 136 by 2023/24.

ICVA agrees that police custody is not an appropriate setting for those in mental health crisis. ICVA celebrates the reduction of use of police custody from 1,029 detentions in 2017/17 to 159 in 2019/20. However, the removal of the use of police stations must be managed effectively.

As recognised by Dame Elish Angiolini, the police are often the first emergency service contacted by the public reporting the behaviour of someone in poor mental health. To ensure that patients receive support in medical settings, health-based places of safety must be available and accessible to the police response teams. Furthermore, these settings must be able to accept patients exhibiting aggressive behaviours.

We are concerned that, if this does not occur, and police cannot use custody as a place of safety in any situation, the police will be forced to arrest a patient for behaviours resulting from poor mental health in order to manage the situation before seeking mental health assessment. It is essential that police are consulted in the development of new health-based places of safety and can access them easily.

Healthcare commissioning and Section 140

Some detainees in police custody will receive mental health act assessments whilst detained. This can be an important part of the custody process as, for some detainees, the symptoms of poor mental health become apparent some hours into their detention.

The White Paper discusses two areas that are relevant to detainee experience: commissioning of healthcare for police custody and the availability of in-patient beds as part of s140.

The Paper notes the current debates on who should take responsibility for commissioning healthcare. ICVA recognises the importance of effective healthcare in custody, which provides timely and accurate advice to custody staff and support and appropriate services to detainees. ICVA supports a resolution to this debate which will ensure high quality healthcare in custody, join up with community services and robust contract management.

This will become increasingly important as the suggested reforms come into force. Where, as outlined in the White Paper, patients have expressed a preference for types of treatment or have an advocate, it may be necessary for healthcare in custody to access this information. ICVA supports a position that will deliver the best healthcare for detainees.

The Paper also notes that NHS commissioners, under s140 of the Act, should deliver their responsibilities to provide emergency beds. This is an important area for police custody. Where detainees are waiting for assessment, or have been assessed as needing support, they may require an emergency bed. We have previously received reports of extended stays in custody where detainees wait for these beds, at times for days. If these beds are not provided, the Paper will not meet its stated aim of keeping those in mental health crisis out of custody and detainees will face long waits for care. These beds are essential to ensure that people in poor mental health do not spend days in police custody waiting for support.

Information sharing

The White Paper includes a number of plans that should be celebrated. In particular:

- A focus on advance choice to inform care and treatment, and
- A nominated advocate.

As patients may often come into contact with police and end up in police custody, it is important that police, and in particular, custody is considered in the development of these plans. Police will often see people in poor mental health repeatedly coming into custody. If the White Paper is to meet its aims, it is important that the police are able to understand the patient's needs, wishes and are able to divert to healthcare or speak to their advocate where possible and appropriate. It is crucial that there are data sharing arrangements in place to ensure that police have access to relevant health information, balancing this with the need for patient confidentiality. The reforms should ensure effective systems for transferring information between healthcare and policing as well as other relevant parties e.g., courts and prisons.

Further information

You can find further information about ICVA by visiting our website www.icva.org.uk or by emailing info@icva.org.uk.