



# Northern Ireland Independent Custody Visiting Scheme

Annual Report

1 April 2015 - 31 March 2016



## **NORTHERN IRELAND INDEPENDENT CUSTODY VISITING SCHEME ANNUAL REPORT 2015/2016**

### **Foreword**



This report sets out the details of visits carried out by the Board's Independent Custody Visitors during 2015/2016.

Custody Visitors are volunteers from the community who make unannounced visits to police stations to check on the rights, health and wellbeing, and conditions of detention of people being held in custody by inspecting facilities, speaking to detainees and checking custody records. This means the Board gets an impartial picture of how people are dealt with in custody and makes sure that custody suites are up to standard. It is an important element of making sure the rights and entitlements of detainees are protected and helps us to make sure the PSNI meet their human rights responsibilities.

On behalf of the Policing Board, I thank all the volunteer members of the Scheme. Quite simply, it would not function without their enthusiasm, commitment and dedication and we are very grateful for that.

**Anne Connolly**  
**Chair**  
**Northern Ireland Policing Board**

## **Background and Role of Independent Custody Visitors**

Following serious public disorder in Brixton in April 1981, the UK Government commissioned an urgent inquiry, chaired by Lord Scarman. One of the recommendations of his Report was the establishment of lay visiting whereby volunteers from the community would visit police detention facilities to counter growing mistrust of the police and to increase their accountability to the general public.

The Northern Ireland Independent Custody Visiting Scheme was first established in 1991 by the then Police Authority. The importance of an independent scheme which ensured the rights, health and wellbeing of the detainee and the facilities and conditions of detention was also recognised in 1999 by the Report of the Independent Commission on Policing for Northern Ireland (the Patten Report). The Scheme was subsequently given a statutory footing by virtue of section 73 of the Police (Northern Ireland) Act 2000 which requires the Policing Board to make and keep under review arrangements for designated places of detention to be visited by lay visitors.<sup>1</sup>

Custody Visitors are volunteers from across the community who are unconnected with the police or the criminal justice system and do not receive payment for carrying out visits, though they do receive mileage and reasonable out of pocket expenses.

They are divided into three Custody Visiting Teams<sup>2</sup>:

- North-West - Coleraine, Strand Road & Strabane.
- South-West - Musgrave, Musgrave Serious Crime Suite, Antrim, Bangor, Banbridge, Lurgan & Armagh.

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<sup>1</sup> Article 36 of the Police and Criminal Evidence (Northern Ireland) Order 1989 requires the Chief Constable to designate the police stations which are to be used for the purpose of detaining arrested persons.

<sup>2</sup> The teams meet either on a monthly or bi-monthly basis in order to arrange their visiting rotas for the coming month or two-month period, discuss issues, problems or concerns emerging from their visits, or to meet with Policing Board officials or PSNI officers. Each regional team appoints a Team Coordinator, a Deputy Team Coordinator and a Team Secretary who ensure the smooth and effective running of the team by offering advice and support to their fellow Visitors and providing a conduit for feedback to team members from Board officials or PSNI.

- Tyrone/Fermanagh - Dungannon, Enniskillen & Omagh.

The Custody Visitors make unannounced visits to police custody suites where they inspect the facilities and conditions and, with the consent of detainees, check their rights, health and wellbeing either by conversing with them and/or checking custody records. They can also view, with consent, live interviews with detainees held under terrorism legislation by remote video link.

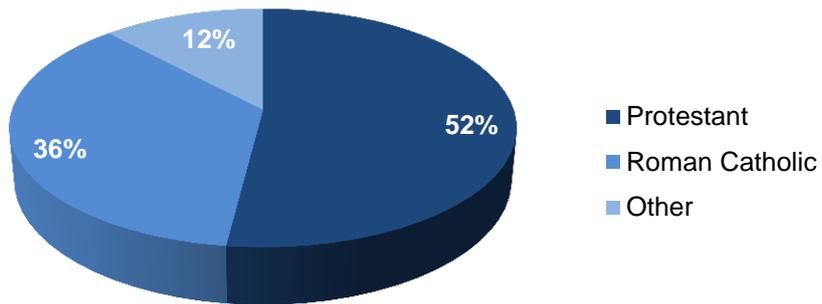
During 2016/2017 the remit of the Northern Ireland Custody Visitor Scheme has been extended by the Justice Act (Northern Ireland) 2016 to include all stations in which people may be detained by the police, not just designated stations. This change, which came into effect from 13 May 2016, was made further to a recommendation by the UK's National Preventative Mechanism to the Minister of Justice for Northern Ireland. Detention in a non-designated station is only permissible under the police and Criminal Evidence (Northern Ireland) Order 1989 in limited circumstances and arrangements have been made with PSNI to ensure that the Board is notified should a non-designated station be used. The Board will then arrange for that station to be visited by Custody Visitors.

### **Composition of the Custody Visiting Scheme**

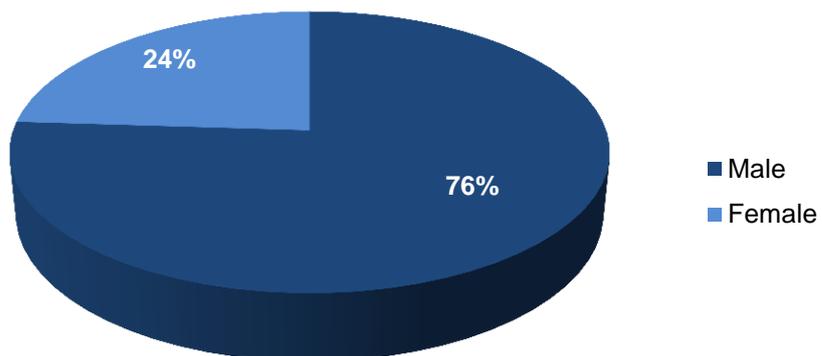
At 31 March 2016, there were 25 Custody Visitors. The gender, age and community background of the Custody Visitors is based on information they provide voluntarily to the Board. To ensure confidence in the independence of the Scheme, it is important that it is as representative of the community as possible. The charts below reflect the composition of the Scheme before the completion of recruitment campaigns in the later months of 2015/2016 which resulted in the appointment of eighteen new Custody Visitors. Of those eighteen, seven are male and eleven female. Five were appointed from the age range 18-29, five between 30-44, six between 45-59 and two were aged over 60 years old. In terms of community background, ten denoted themselves as Catholic, six Protestant and two as neither. As aforementioned, due

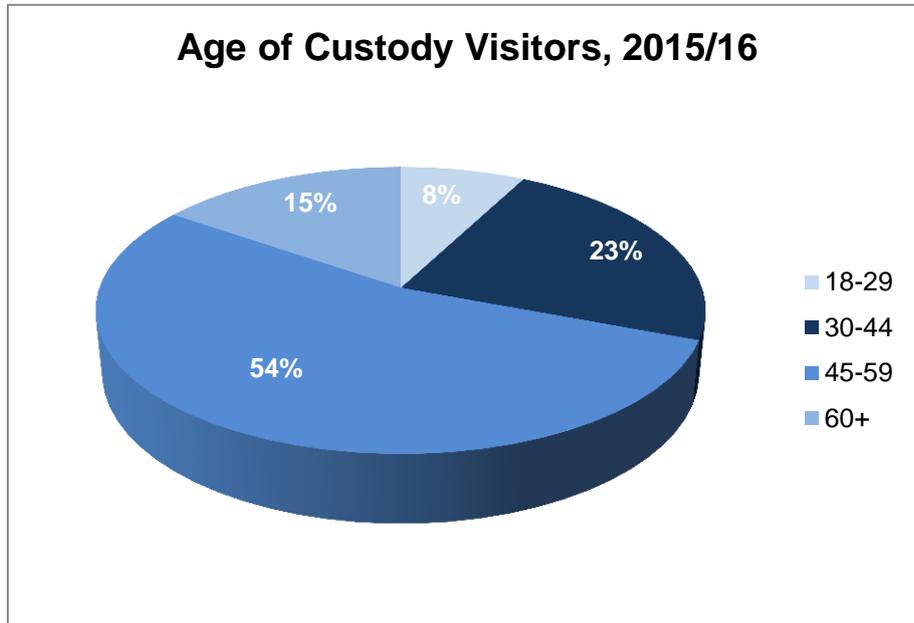
to the timeframe within which the new Custody Visitors were appointed, they have not been included in the charts below.

**Community Background of Custody Visitors 2015/16**



**Gender of Custody Visitors, 2015/2016**

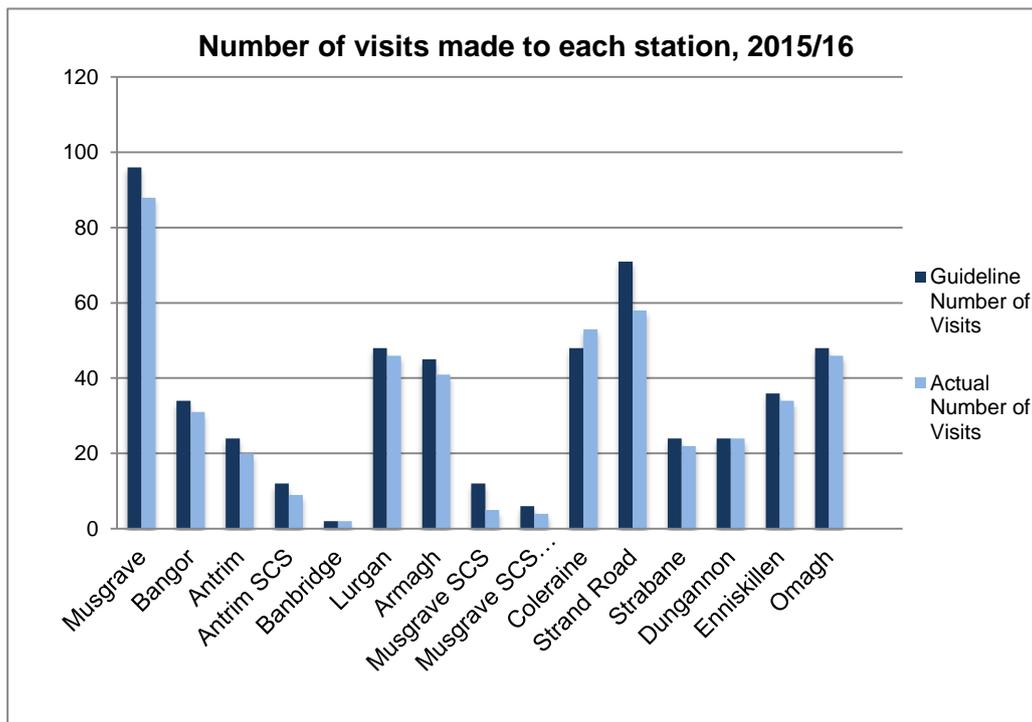




In addition to the age, gender and community background of the Custody Visitors two volunteers currently deem themselves to have a disability and one volunteer deemed themselves to be Black/Black other.

### **The work of the Custody Visiting Teams during 2015/16**

Each year the Board sets a guideline number of custody visits to be completed by each Custody Visiting team. The guideline number of visits is set based upon a percentage of the throughput of detainees, with the busier suites receiving several visits per month but with the caveat that each designated suite is visited at least once every month. During 2015/2016, the guideline number of visits was set at 588, with the actual number of visits made totalling 483.



Of the 483 visits made, 468 (97%) were deemed to be valid visits. The main reasons why the remaining 15 visits were not carried out were that the custody suite was closed (6), the custody suite was busy (4), the Custody Visitor was unavailable (4) and health & safety issues (1).

**Table 1: Incomplete Visits by Team, April 2015 to March 2016**

Team	Total Visits	Incomplete	% of Visits
<b>South East</b>	246	9	4
<b>North-West</b>	133	4	3
<b>Ty/Fer</b>	104	2	2
<b>Total Visits</b>	<b>483</b>	<b>15</b>	<b>3</b>

Custody Visitors also record details of delays in gaining access to custody suites. Of the 468 valid visits made during April 2015 to March 2016, there were 13 (3%) occasions when Custody Visitors were delayed by more than 10 minutes. The reason for delay is, generally, due to the Custody Staff being busy. While the Board recognises that there may be occasions when custody staff are extremely busy, PSNI is reminded that Custody Visitors must not be delayed access except where it is genuinely unavoidable and for proper reasons. Where access to the detention suite is delayed by more than 10 minutes, Custody Visitors require PSNI to provide

explanation which is recorded in visit reports. The Board monitors the reasons why access is delayed and brings these to the attention of the PSNI.

**Table 2: Delays to visits by Team and Station, April 2015 to March 2016**

Team	Station	Total Number of Delays Greater than 10 mins
<b>South East</b>	Musgrave	4
	Bangor	2
	Armagh	1
<b>North-West</b>	Coleraine	3
	Strand Road	1
	Strabane	1
<b>Ty/Fer</b>	Omagh	1
<b>Total valid visits (which were delayed): 13</b>		

Visits took place across all seven days of the week and at all times of the night and day. Of the 483 visits carried out, almost a fifth were carried out on Wednesdays (92, 19%). The least amount of visits were carried out on Mondays (56, 12%). Almost nine in ten of all visits (430, 89%) were made in the 12 hour period between 9 a.m. to 9 p.m. Over two in five of all visits (222, 46%) were carried out between 6 p.m. and 9 p.m. There is a requirement for 10% of custody visits to be undertaken during unsociable hours. To avoid disturbing detainees during their 8 hour rest period, which is a PACE requirement, the Custody Visitor will view them through the cell door hatch. Forty-two visits (9%) were carried out between 9pm and 12am, with 11 visits carried out between 12am and 9 a.m. The shortest visit took 4 minutes while the longest visit took 80 minutes. The average length of a custody visit was 26 minutes.

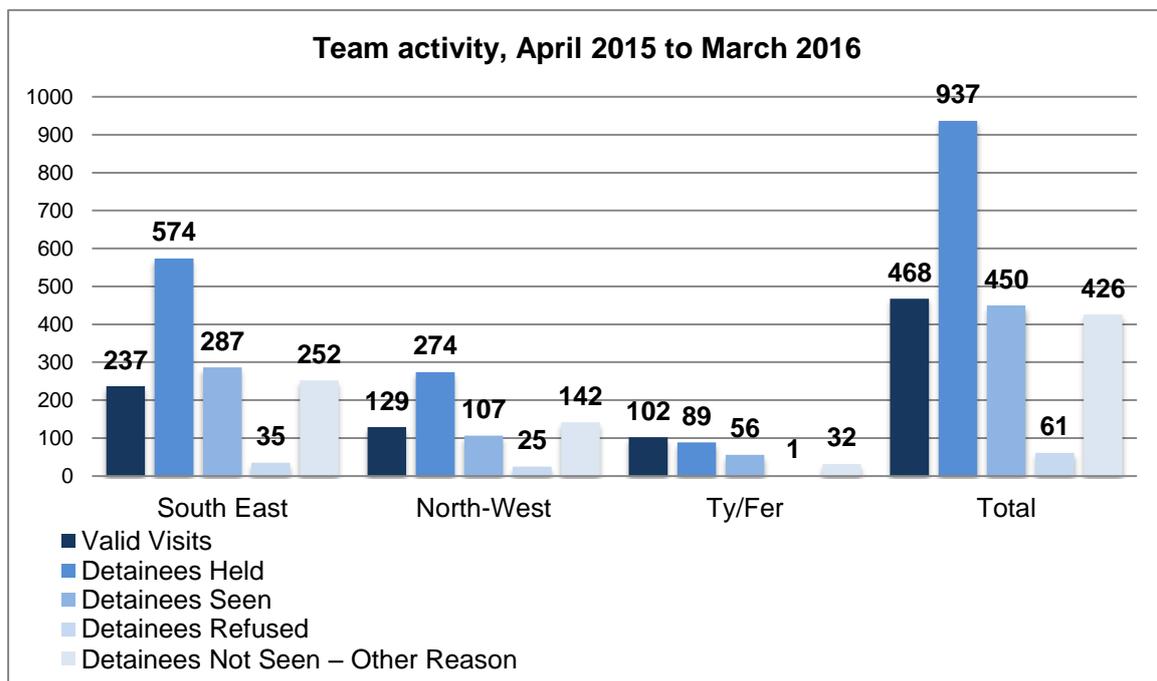
**Table 3: Days of visits, April 2015 to March 2016**

Day	South East	North-West	Ty/Fer	Number of visits	%
<b>Monday</b>	22	15	19	56	12
<b>Tuesday</b>	39	14	19	72	15
<b>Wednesday</b>	53	19	20	92	19
<b>Thursday</b>	33	22	14	69	14
<b>Friday</b>	35	20	7	62	13
<b>Saturday</b>	30	25	15	70	14
<b>Sunday</b>	34	18	10	62	13
<b>Total</b>	<b>246</b>	<b>133</b>	<b>104</b>	<b>483</b>	<b>100</b>

**Table 4: Times of visits, April 2015 to March 2016**

Time*	South East	North-West	Ty/Fer	Number of visits	%
0.00 – 9 a.m.	5	0	6	11	2
9 a.m. – noon	35	37	22	94	19
Noon – 3 p.m.	12	24	5	42	9
3 p.m. – 6 p.m.	34	25	13	72	15
6 p.m. – 9 p.m.	137	34	51	222	46
9 p.m. – 24.00	23	13	6	42	9
<b>Total</b>	<b>246</b>	<b>133</b>	<b>104</b>	<b>483</b>	<b>100</b>

There were 937 detainees held at the time of these visits, of which visitors saw 450. Sixty-one detainees refused to be seen by Custody Visitors while 426 could not be seen for a number of other reasons. The overall refusal rate was 7%<sup>3</sup>, which is 2% points higher than 2014/15.



There are a number of reasons why a detainee may refuse or be unable to provide consent for a visit. Detainees have the right to have a continuous period of 8 hours rest in any 24-hour period. Sleeping detainees can be woken at the discretion of the escorting officer to seek consent to a visit. However, if waking a detainee to seek

<sup>3</sup> The refusal rate is calculated as the number of detainees who refused to be seen as a percentage of the number that were held in custody at the time of the visit.

consent for a visit would interrupt the 8-hour period, the Custody Visitors observe them through the cell hatch. In these circumstances a Custody Visitor can still access the detainee's custody record without their consent. Detainees may also refuse access for a visit or be unable to consent if they are being processed into the Custody Suite; if they are being interviewed by police officers; if they are with their legal representative; or if they are receiving medical treatment. Where access by a Custody Visitor to a custody record is denied, this is recorded on a visiting report alongside the reason provided.

**Table 5: Reasons for detainees not seeing Visitors, April 2015 to March 2016**

Reason	South East	North-West	Ty/Fer	Total
Refusal	35	25	1	61
Being interviewed	54	22	5	81
Being processed	9	6	1	16
Being discharged	0	1	0	1
Asleep	136	86	14	236
Intoxicated/drugs	7	3	3	13
Abusive/dangerous	12	12	2	26
With solicitor/GP/ Appropriate Adult	23	3	5	31
Attending Hospital/Court	11	7	0	18
Other/Unknown	0	2	2	4
<b>Total</b>	<b>287</b>	<b>167</b>	<b>33</b>	<b>487</b>

When checking a detainee's custody record Custody Visitors will ensure that detainees arrested under PACE have been afforded their rights and entitlements; that details of medication, injuries, medical examinations, meals and diets are recorded by PSNI; whether medical treatment, if required, was given; whether the procedures to assess special risks or vulnerabilities have been properly recorded and implemented; whether the guidelines concerning the timing and frequency of cell inspections have been compiled with; and, whether reviews for the continuing requirement for detention have been conducted.

**Table 6: Custody Records Checked, April 2015 to March 2016**

Team	Valid Visits	Detainees Held	Custody Records Checked	% Checked
South East	237	574	411	72
North-West	102	89	74	83
Ty/Fer	129	274	200	73
<b>Total</b>	<b>468</b>	<b>937</b>	<b>685</b>	<b>73</b>

Given that detainees’ custody records include such important information with regard to their rights and entitlements and healthcare provision, it is imperative that Custody Visitors check as high a proportion as possible. In 2008/2009, 49% of custody records were checked; in 2009/2010 60% were checked; in 2010/2011 67% were checked; in 2011/2012 76% were checked; in 2012/2013 70% were checked; in 2013/2014 68% were checked; and in 2014/15 68% were checked. This upward trend has continued in 2015/2016 and Custody Visitors will be encouraged to continue to do so.

Where there are any issues of concern identified by Custody Visitors during a visit or when reviewing a custody record, the Visitors will record that information in a CV2 form which is returned to the Board. CV2 forms will also include information indicating whether the conditions of detention were adequate. Custody Visitors will inspect all areas of the custody area, including cells, detention rooms, changing areas, washing facilities, the medical room and relevant storage areas. They do so to ensure that these areas are clean, tidy and in a reasonable state of repair; that bedding is clean and adequate; that there are adequate supply of blankets, pillowcases and other items, including the appropriate provision for female detainees; that heating, lighting and ventilation are adequate; and that sanitary arrangements are in order.

**Visits to the Serious Crime Suite**

Custody Visitors also make visits to the Serious Crime Suite where individuals arrested under section 41 of the Terrorism Act 2000 are held.<sup>4</sup> Between April 2015

<sup>4</sup> Section 41 of the Terrorism Act 2000 permits a police officer to arrest a person without a warrant if they reasonably suspect them of being a terrorist which under the legislation is defined as someone who has

and September 2015 Custody Visitors carried out nine visits to Antrim Serious Crime Suite during which eight detainees were held. Three detainees were seen by the Custody Visitors, with five refusing consent. The Serious Crime Suite was subsequently moved from Antrim Station to Musgrave Station in Belfast in October 2015. Thereafter Custody Visitors made nine visits between October 2015 and March 2016 of which four were announced.<sup>5</sup> Nine detainees were held at those times. One of those detainees was seen, five refused to be seen, with three not seen for other reasons. Of the five unannounced visits, six detainees were held. Five detainees were seen and none refused to be seen, though one was not seen for other reasons.

### **Custody Visitor Reports & the role of the Policing Board**

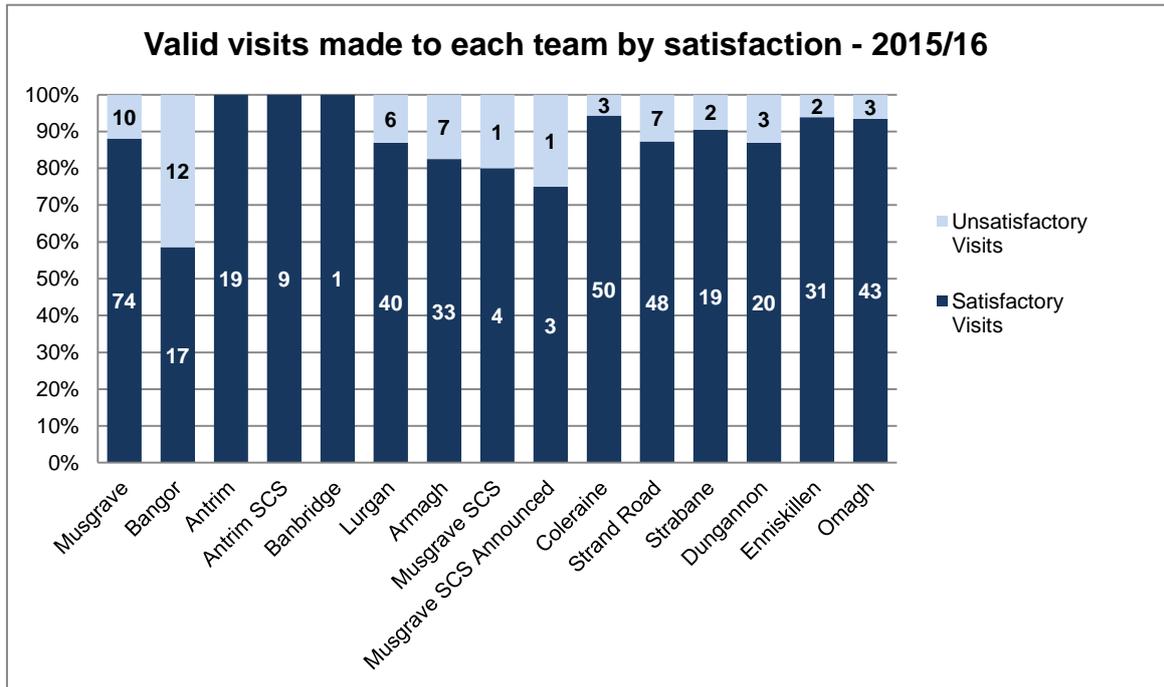
Where specific issues have been raised by Custody Visitors during a visit and reported to the Board, the PSNI must advise the Board of the action taken to remedy those areas of concern within 28 days. If the Board is not informed within this time, the matter is referred to the relevant District Commander for an urgent response. If no response is received within seven days, the matter is elevated to the relevant Assistant Chief Constable.

The Scheme Administrator reviews all received CV2 reports each week and determines whether a visit is to be deemed satisfactory or unsatisfactory. Of the 468 valid visits carried out in 2015/2016, 411 (88%) were classified as satisfactory. The Tyrone/Fermanagh team recorded the highest level of satisfaction (92%). The highest level of unsatisfactory visits (16%) was recorded by the South East team, with Bangor in particular noting 41% of visits as being unsatisfactory.

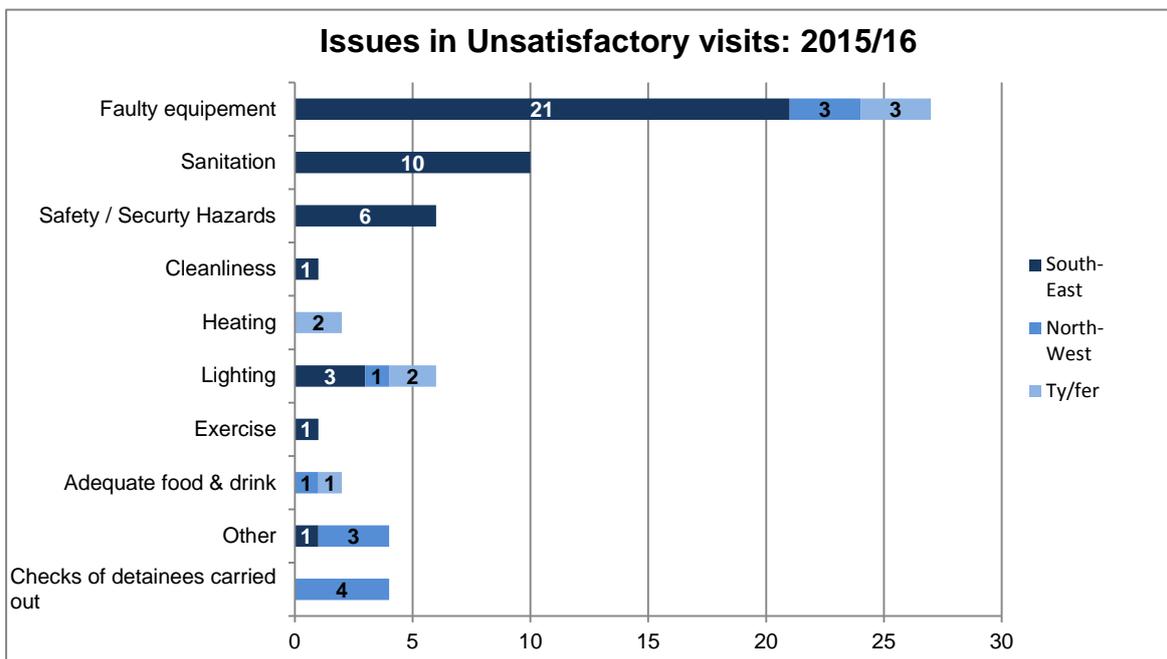
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committed a specified terrorist offence or has been involved in the commission, preparation or instigation of acts of terrorism. A person arrested under section 41 may be detained without charge for up to 48 hours, though it can be extended by a judge for up to 14 days. In contrast, a person arrested under the Police and Criminal Evidence (Northern Ireland) Order 1989 (referred to as PACE) may not be detained for any longer than 96 hours.

<sup>5</sup> In May 2013 the Board's Performance Committee agreed to introduce 'announced visits' for TACT detainees whilst still retaining the ability to carry out a number of ad-hoc or 'unannounced visits'. This brings the Scheme broadly into line with legislation in England and Wales and allows for the voluntary provision of Custody Visitor reports to the UK's Independent Reviewer of Terrorism Legislation pending a change to Northern Ireland legislation.



Issues of concern highlighted in unsatisfactory visits are highlighted below. Fifty-two related to conditions of detention such as faulty equipment, sanitation, safety/security hazards, cleanliness, heating and lighting. Eight identified issues related to the treatment and rights of detainees, specifically checks of detainees being carried out and 'other' issues relating to the treatment of detainees. Issues relating to the health and wellbeing of detainees, specifically exercise, food and drink, constituted 3 of the identified concerns.



Issues of concern raised by Custody Visitors are also brought to the attention of the Board's Human Rights Advisor where it is believed they may have an impact on the treatment and rights of detainees.

In 2015/16, Custody Visitors raised a concern in one detention suite in relation to a cell buzzer which had been switched off. A buzzer is a device in the cell which allows detainees to alert custody staff, had been switched off. While it was explained by the relevant Custody Sergeant that when the buzzer is switched off, the detainee was monitored via CCTV, it was recognised by the Board's Performance Committee that the ability of a detainee to alert custody staff to potential difficulties is critical and that if a detainee is unable to do so and is not continuously monitored by CCTV, there is a clear and obvious risk that they could suffer harm undetected. The Board's Human Rights Annual Report 2015 recommended that the PSNI report to the Performance Committee outlining the number of times and the reasons for a buzzer in a cell having been switched off between 1 January 2014 and 1 January 2016. The PSNI will also be required to reference specific policy covering this issue and the alternative arrangements that were or should be made to ensure the safety of the detainee.

Another issue raised by Custody Visitors was that in one suite, exercise facilities were out of order on a number of occasions. The Board's Human Rights Advisor and Performance Committee have stated that this is unacceptable, particularly where a detainee may be held in custody for extended periods of time. The Human Rights Annual Report recommended that the PSNI provide the Performance Committee with a report detailing the period during which exercise facilities were or are unavailable for use by detainees. The recommendation also made clear that if exercise facilities are unavailable to detainees held for extended periods, consideration should be given to moving that detainee to an alternative station.

## **OPCAT National Preventive Mechanism (NPM)**



Throughout 2015/2016, the Custody Visiting Scheme continued to fulfil its obligations and commitment to the UK's National Preventive Mechanism (NPM) which is intended to give effect to the Optional Protocol to the Convention Against Torture (OPCAT).

The UK NPM was established to fulfil the UK's obligations under OPCAT and has a remit to prevent ill treatment in detention. The Custody Visiting Scheme is designated as one of the four Northern Ireland bodies that form the NPM, carrying out a system of regular visits to places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

The work of the UK NPM is coordinated by HM Inspectorate of Prisons (HMIP).

Further information can be found at:

<https://www.justiceinspectorates.gov.uk/hmiprisons/national-preventive-mechanism>.

As part of the NPM's role, in 2014 the 20 members of the NPM which includes the Board, decided to conduct a two-year joint project that focussed its attention on an issue common to all detention settings, from which ill treatment can arise, namely, isolation practices. Across detention settings, NPM members find detainees held in isolation from others for a number of reasons. Known in different settings by a range of names, including segregation, separation, seclusion, time out and removal from normal location, isolating practices need to be examined carefully by NPM members as part of their remit to prevent ill treatment in detention. The psychological and physiological impact of isolation justifies the increased scrutiny of these practices.

Guidance on isolation and solitary confinement has been developed by the NPM on the basis of findings from the joint project and international standards and best practice. NPM members found wide variations in the practices, procedures, safeguards against harm and experiences of detainees arising from isolation, even when it was applied in similar circumstances. The guidance sets out a framework for NPM members to examine an issue that has the potential to give rise to ill treatment,

and aims to improve the consistency with which NPM members monitor it. At the same time, this guidance allows NPM members to identify and promote good and improved practice, and provides a basis on which to formulate recommendations to strengthen policy.

In 2015-2017 the NPM will undertake work in relation to 'transitions and pathways' between places of detention. Of particular relevance to the statutory functions of the Board, one agreed topic will consider the pathway from police custody into, and potentially back from, healthcare settings arising from detainee mental health issues. The Board, through the Custody Visitor Scheme, will work with PSNI to bring together information, identify patterns, trends and points of comparison with other police services in the UK.

### **Annual Conference 2016**

The Annual Conference was held in September 2016 and focused on vulnerable people in custody, particularly those with mental health and complex needs. The conference took the form a roundtable discussion with input from PSNI, Criminal Justice Inspection Northern Ireland, the Public Health Agency and the Board's Human Rights Advisor. The Conference provides a forum for Custody Visitors to discuss relevant issues, to celebrate the work of the Scheme and to express the Board's thanks to the volunteers involved in this role.

### **ICVA**

The Independent Custody Visiting Association (ICVA) works alongside Custody Visiting Schemes offering best practice advice in order to acknowledge the commitment of volunteers and promote excellence across the UK. The



Northern Ireland Custody Visiting Scheme is represented on the ICVA Executive Board. Further information on ICVA can be found at <http://www.icva.org.uk/>.

## **More information**

If you would like more information about Custody Visiting, or are interested in joining the Scheme, please contact:

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## Document Title

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