

# STATES OF JERSEY



## CUSTODY VISITOR SCHEME

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**Lodged au Greffe on 3rd August 2009  
by the Deputy of St. Martin**

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to agree that an independent Custody Visitor Scheme should be established in Jersey to enable Custody Visitors to inspect the manner in which persons are detained in police custody, and to request the Minister for Home Affairs to take the necessary steps to establish the Scheme and appoint the Custody Visitors no later than 1st February 2010.

DEPUTY OF ST. MARTIN

## **REPORT**

Following the Brixton Riots in 1981, Lord Scarman conducted a review from which he made a number of recommendations about reforming the law, community relations and policing practices to help tackle the central problems which caused the civil disorders.

As part of these recommendations, Lord Scarman advocated a system for members of the public from local communities to inspect the way the police detained people in their custody. Originally referred to as lay visiting, independent custody visiting is the system that has been developed to meet this recommendation.

The Scheme would assist the Police by helping to ensure that they are providing the service that is expected of them. It would also help in the management of Police performance by pointing out problems that may have occurred which could have implications on policy, training, communications or just the daily running of the custody section of a Police Station.

Very importantly, it helps to ensure people in custody are getting the right standard of care. It also increases the public's confidence in the police, as it demonstrates they are open to independent outside scrutiny. The Custody Visitors work in pairs. They turn up unannounced at a police station, are taken into the custody area and allowed to speak to people in detained in cells.

The Custody Visitor's role is observing and reporting on how the entire custody operation is being run. It is very challenging and interesting work. Custody Visitors are entering a world very few people see, and provide a positive service in ensuring the welfare of people in custody, while helping to raise the standard of care offered by the police.

Custody Visitors are escorted by a custody sergeant/officer or dedicated detention officer (DDO) at all times during the visit. The officer will offer every detainee being held (and not in interview) the opportunity to speak with the Custody Visitors. S/he will explain the role of Custody Visitors to the detainees, emphasizing their independence from the police. For the Visitors' protection, interviews are carried out within sight, but out of hearing, of the escorting police officer. At the conclusion of the visit, the Visitors complete a Custody Visiting Report.

Since its introduction the Scheme has evolved and operates throughout the United Kingdom and is now a statutory requirement. The title of the Lay Visiting Scheme has been changed to the Independent Custody Visitor Scheme.

### **What is an Independent Custody Visitor?**

Independent Custody Visitors are members of the local community aged over 18 years who come from a variety of backgrounds. They are unpaid and do not require formal qualifications. To avoid any potential conflicts of interest and maintain impartiality, they should not be part of the criminal justice system.

Suitable applicants are normally invited to attend an interview based on the submission of a standard application form to a local police authority. Requests for application forms and information on recruitment are normally directed to local police

authorities. Unfortunately a Police Authority does not exist in Jersey: however it should not be a reason for delaying the introduction of the Scheme.

### **Training**

A National Independent Custody Visitors Association has now been formed and has formalised a training programme. Once recruited, full training is provided. The Association believes in empowering and equipping people to fulfil their roles to the best of their ability. The organisation places a strong emphasis on providing regularly updated training, supported by expert input and the chance to work alongside experienced Visitors in the custody environment.

A full day's training is the normal practice, which includes the Codes of Practice and National Standards on the process. In addition, guidance is included on statutory legislation in the criminal justice system i.e. the Police and Criminal Evidence Act (PACE) and the related Codes of Practice (in particular Code C), the Police Reform Act and related Codes of Practice and the European Human Rights legislation.

### **Why an Independent Custody Visitor Scheme for Jersey?**

It is often said that Jersey should not slavishly follow U.K. practices. Therefore why should the Island establish an Independent Custody Visitor Scheme? Once the Scheme was established in Brixton, more and more communities called for Schemes to be established in their neighbourhood. As can be seen above there is a double win. The Scheme assists the Police by helping to ensure that they are providing the service that is expected of them. Also it helps to ensure people in custody are getting the right standard of care. Just as importantly, it increases the public's confidence in the police, as it demonstrates they are open to independent outside scrutiny.

There are also additional reasons why an Independent Custody Visitor Scheme should be established in Jersey.

### **The Police Procedures and Criminal Evidence (Jersey) Law 2003**

At the time, the majority of the Scarman Report's recommendations found favour with the opinion-makers and were included in the Police and Criminal Evidence Act 1984 (PACE). This Act set out the way in which police officers must carry out their roles and stated specific codes of practices for police procedures. It also established the rights of people who are detained by police for a suspected crime or offence. Code C of PACE deals with Detention, Treatment and Questioning of persons by police officers, and contains detailed procedures for the police to follow. These guidelines and codes of practice provide a way of measuring actions taken by the police and a means of checking that people being detained are treated properly. PACE is a major reference for independent Custody Visitors as they carry out inspections of police custody suites.

### **European Convention on Human Rights**

In the year 2000, European Human Rights legislation was adopted within the United Kingdom and there are significant implications for all involved in the custody visiting process. In particular, the legislation requires that –

- Detainees are treated according to U.K. legislation and that their basic human rights are being respected.
- Independent Custody Visitors are aware of appropriate human rights articles and that they perform their duties in accordance with them.
- Police authorities operate their recruitment and selection policies having regard to the European Human Rights.

Jersey now has its own PACE and Human Rights Laws, yet it has done virtually nothing to monitor adherence to the Laws. Whilst the U.K. Police Reform Act 2002 places a statutory obligation for police authorities and provides for Codes of Practice to provide further clarification about the roles and responsibilities of those involved in the custody visiting process, there is no such provision in Jersey.

In 1993 the States gave approval for the establishment of a Police Complaints Authority, however one was not established until 2001, following the introduction of the Police Complaints and Discipline (Jersey) Law 1999. In my opinion, both the Complaints Law and Complaints Authority are in urgent need of updating to reflect the U.K. Police Reform 2002 Law. Indeed, the U.K. Police Complaints Authority, Death in Police Custody Report of 1998, makes specific recommendations about procedures to reduce the deaths of people detained by police and pays particular attention to the treatment of vulnerable detainees. To the best of my knowledge there is no such legislation in Jersey, and we should not wait for something seriously untoward to occur before taking preventative action.

Lay visiting or custody visitor schemes are not alien to Jersey. There is a Board of Visitors to the Prison which is regulated via the Prison (Board of Visitors) (Jersey) Regulations 1957. As a result of a recommendation from the recent Andrew Williamson Review, arrangements are now in hand to establish a Board of Visitors to the Greenfields Centre. Members of both Schemes are unpaid and the administration costs are minimal as they are covered “in house.”

There is an increasing demand for openness and accountability in all aspects of public life. The Independent Custody Visitor Scheme is well tested and now a statutory part of the U.K. Criminal Justice System. Interestingly there has been a Scheme operating in Guernsey since 2007. There have been some recruiting difficulties, but it is acknowledged that the Scheme is an invaluable tool in building positive links between the police and the public. I do not envisage any recruiting difficulties, and the Scheme would provide an ideal opportunity for Polish and Portuguese residents to participate.

From a personal point I have always supported the principle, and was serving in Brixton when the Scheme was introduced and have lobbied for a Scheme to operate in Jersey. I have correspondence on the matter stretching over 10 years. I have also raised the matter during States Question Time, the last being on 12th February last year. Former Ministers have been of the view that consideration should not be given until a Police Authority was established.

It is unlikely that a Police Authority will be established for some time, however I have always been of the view that the Scheme does not need to be operated under the Police Authority umbrella, this is now evident by the fact that Guernsey does not have a Police Authority.

## **Financial and manpower implications**

I believe the Scheme could operate with a Panel consisting between 8 and 10 persons. A Chairman would be elected from within the group and likewise a Co-ordinator and Trainer would need to be appointed from within the Group.

There will be initial start-up costs but these should not exceed £5,000. This should cover advertising, printing, training and affiliation fees to the Independent Custody Visitor Association. Once the Scheme has been established, its annual running costs should not exceed £5,000. These estimates are based on the costs incurred by Guernsey.

As the Scheme will be honorary, the only manpower implications are via minimal administrative support. There should be a person with responsibility for collating the Custody Visiting Reports and ensuring that any recommendations are forwarded without delay. Secretarial support is given to the Jurats who form the Prison Board of Visitors. There are formal monthly meetings and secretarial staff attend monthly Board Meetings. Assistance is also given in the preparation of the Annual Report.


There will be an ongoing running cost but because the Scheme is run by volunteers, costs will be minimal. Once trained, Visitors will be required to attend refresher courses, however it is common for Trainers to be trained to run initial courses for new members and refresher courses.

I believe it would be useful and indeed desirable for Jersey to be a Member of the Independent Custody Visitor Association. Membership is £500 per annum. Whilst Visitors will be unpaid, there may well be justifiable incidental expenses incurred which should be reimbursed. I believe the Scheme can be managed in an efficient and cost-effective way and will be a credit to the Island.

The Independent Custody Visitor Scheme has proved to be invaluable in improving trust and an understanding of the difficulties that sometimes are experienced by both those in custody and the police. The Scheme now operates throughout the U.K. and indeed it appears that the only place it does not is in Jersey.

I have discussed the Custody Visitor Scheme with the Minister for Home Affairs, who is supportive of the Scheme and is confident that it can be funded from within the 2010 police funds.

CUSTODY VISITING REPORT

	POLICE AUTHORITY HERE:	<h2 style="margin: 0;">POLICE AUTHORITY</h2>
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**CUSTODY VISITORS' DETAILS**

Custody Visitor/1:	Custody Visitor/1:
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**VISIT DETAILS**

Visit Day:	Time at Front Desk: (24HR)	Time Visit Started: (24HR)
Visit Date:	Time in Custody Area: (24HR)	Time Visit Ended: (24HR)
Division:	Station:	

**CUSTODY STAFF DETAILS**

Custody Officer Name:	Rank:	Number:
Escorting Officer Officer Name:	Rank: (IF APPLICABLE)	Number: (IF APPLICABLE)

**DETAILS OF PERSONS IN CUSTODY**

Category of detainee:	PACE				Home office			Other			Total		
	Adults		Juvenile		M	F	J	M	F	J	M	F	J
	M	F	M	F									
Total number of detainees:													
No. offered visit													
No. accepting visit													

Reason for refusal:

**GENERAL ISSUES RAISED**

Visitors' Concerns (continue on separate sheet if required):

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Police Response (continue on separate sheet if required):

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Signed Custody Officer:

# INDEPENDENT CUSTODY VISITING FORM

PLEASE COMPLETE ALL SECTIONS OF THIS FORM IN BLOCK CAPITALS

POLICE AUTHORITY  
REFERENCE HERE:

## DETAINEES VISITED OR VISUALLY CHECKED

Custody No:	Custody record seen:	Yes	<input type="checkbox"/>	No:	<input type="checkbox"/>
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1: Matters raised to the Custody Officer:

2: Action taken by the Custody Officer:

Custody No:	Custody record seen:	Yes	<input type="checkbox"/>	No:	<input type="checkbox"/>
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1: Matters raised to the Custody Officer:

2: Action taken by the Custody Officer:

Custody No:	Custody record seen:	Yes	<input type="checkbox"/>	No:	<input type="checkbox"/>
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1: Matters raised to the Custody Officer:

2: Action taken by the Custody Officer:

**I undertake not to reveal to any unauthorised person any personal information I may obtain arising out of this visit.**

Signature 1:

Signature 2: