

Operation Emerald update

MPA report on Disabled People and Police Custody Issues

1. Introduction

1.1 The Emerald Custody Directorate have been asked to provide responses to questions relating to the GLAD report on disabled people and the police, commissioned by the MPA. This paper sets out the current position regarding this subject. It should be acknowledged that the Custody Directorate has only been in existence for less than a year and whilst progress can be demonstrated on many issues affecting custody, this has taken some time to achieve e.g. the formation of a Custody Independence Guidance Group (IGG).

1.2 The MPS Custody Policy and associated Standard Operating Procedures (SOP) reflect the provisions of the Police & Criminal Evidence Act (PACE) 1984 and the associated Codes of Practice which contain directions regarding special groups. In particular, Code C sets out special provisions for particular disabilities:

Para. 1.5 If an officer has any suspicion or is told in good faith that a person of any age may be mentally disordered or otherwise mentally vulnerable, in the absence of clear evidence to dispel that suspicion, the person shall be treated as such for the purpose of this Code.

Para. 1.6 If a person appears to be blind, seriously visually impaired, deaf, unable to read or speak or has difficulty orally because of a speech impediment, they shall be treated as such ...in the absence of clear evidence to the contrary.

Para. 1.7 The “appropriate adult” of a person who is mentally disordered or mentally vulnerable means a relative, guardian or other person responsible for their care and custody, someone experienced in dealing with mentally disordered or mentally vulnerable people ...or, failing these, some other responsible adult aged 18 or over who is not a police officer or employed by police.

Notes for Guidance 1D. In the case of people who are mentally disordered or otherwise mentally vulnerable it may be more satisfactory if the appropriate adult is someone experienced or trained in their care rather than a relative lacking such qualifications. But if the detainee prefers a relative to a better qualified stranger or objects to a particular person their wishes should, if practicable, be respected.

Para. 3.12 ensures that “if a detainee appears to be deaf or if there is any doubt about their hearing or speaking ability and the custody officer cannot establish effective communication, the custody officer must, as soon as practicable, call an interpreter for assistance”.

Para. 3.15 – 3.19 ensures that “if a detainee is mentally disordered or otherwise mentally vulnerable, the custody officer must, as soon as is practicable, inform the appropriate adult ...

Para. 3.20 If the detainee is blind, seriously visually impaired or unable to read, the custody officer shall make sure that their solicitor, relative, appropriate adult or some other person likely to take an interest in them and not involved in the investigation is available to check any documentation

- 1.3 Answers to the questions below set out current policy and procedures in relation to custody and reflect this need for special arrangements for certain groups, including those with disabilities. References to the Custody Standard Operating Procedures (SOP) are included where relevant.

2. Recommendation 4

‘Officers and middle managers receive training to engage with and effectively interface with the disability community’

Q. *What training is available to Custody Officers and permanent custody staff to assist them when dealing with people who have disabilities who for one reason or another enter a custody suite?*

Q. *Has any measures been taken to help Custody staff identify disabilities and how best to assist that person?*

- 2.1 The current Custody Officer’s course reflects the needs of special groups including those with disabilities. However, it is recognised that the process of assessing the suitability of such training should be regularly reviewed and the Custody Directorate has therefore commissioned a Training Needs Analysis (TNA) of this course to ensure that it is fit for purpose. This review will encompass disability issues to ensure that our Custody Officers receive appropriate training to enable them to recognise disabilities and respond effectively to their needs.
- 2.2 We have also conducted a Performance Needs Analysis (PNA) to establish the need for refresher training for Custody Officers. This PNA identified several areas where refresher training for Custody Officers is necessary but in particular the need for effective identification and management of risks which would include the special needs of disabled persons. Also identified was a continuing need to update Custody Officers with changing legislation and policy in relation to custody issues. The MPS recognises that such issues are important if we are to comply with the Disability Discrimination Act and our duty of care to persons in our custody. The course content is currently being written and it is likely to be delivered to approximately 1500 sergeants who perform duty as custody officers.
- 2.3 The wider issues of training in relation to disability are currently being undertaken by the Diversity Directorate and officers performing duty in custody suites will also receive this training to assist them in dealing with disabled persons within custody as well as in other environments.
- 2.4 The identification of disabilities has been identified as an important issue in assessing “risk” factors during the initial reception procedure for detained persons. Code C states that risk assessments must follow a structured process which clearly defines the risks to be considered and a plan to respond to identified risks. It also recognises that risk assessment is an ongoing process and the need to review risks if circumstances change (Code C, Para. 3.5 – 3.10).

- 2.5 In the MPS, Form 57M is used to fulfil this process. This form is currently under review and we recognise that it is important to consider the needs of special groups coming into custody, including those persons with disabilities. All parts of the form and the structure of recording risk assessments are being considered and will take into account disability issues.
- 2.6 An initial workshop has been arranged for 21 July. This will be used to examine disability issues in the custody context and to inform an action plan to ensure that all staff employed within custody suites receive training to recognise and deal appropriately with a range of disabilities. Part of this process will involve consultation with a range of groups including those representing people with disabilities.

3. Recommendation 22

'In consultation with disabled people, develop the capacity to be able to treat disabled people as responsible adults'

Q. *What work has been carried out by the custody directorate to ensure that disabled people such as those with learning difficulties are treated as responsible adults, and are consulted and advised by custody staff, as any other member of the public would be in similar circumstances?*

- 3.1 The Codes of Practice specifically include references to groups of people coming into custody, which need special help to ensure that their needs are met. This includes people with a range of disabilities such as deafness, blindness or mentally vulnerable people.
- a. Whilst our training and policy are based on the Codes of Practice, the current reviews of training and risk assessments include wider factors such as compliance with discrimination legislation. These factors were also taken into consideration when the Custody SOP was formulated in December last year. The Emerald Custody Directorate's firm view is that the MPS should take reasonable steps to ensure accessibility to everyone who needs to use custody facilities in London. This is not restricted to detained persons and includes such persons as legal representatives, appropriate adults etc. However, the MPS has a duty of care and specific responsibilities as set out in the PACE Codes of Practice, to ensure that all detained persons have access to services and other people to enable them to receive all of their rights and entitlements whilst they are in custody and to facilitate communication with police.
 - b. Our policies are formulated with this in mind. For instance, Custody Officers are instructed, as part of the initial reception procedure, to consider whether a person requires additional care to ensure that, for instance, an appropriate adult or relative attends the police station if necessary. We recognised that effective communication is vital, not only for the detained person and in compliance with the Codes of Practice, but equally to ensure that the investigation is not unnecessarily protracted. Indeed, there is specific guidance to Custody Officers on this point (Custody SOP, Para. 5.30). This aspect will be considered in the current review into Custody Officers' training.

4. Recommendation 32

'Ensure training deals with expected action after an officer has wrongfully stopped or arrested a disabled person'

Q. *Has the Custody directorate considered whether any extra measures are necessary to deal with allegations of wrongful arrest, if the person arrested has a disability?*

4.1 The Custody SOP (Paras. 19.1-19.5) contains instructions to Custody Officers dealing with an arrested person who has brought to a police station and subsequently released without charge. Although these instructions are equally applicable to any person, they are particularly relevant to disabled persons. These instructions recognise that it is important that everything possible is done at the earliest possible opportunity to allay any sense of grievance.

4.1 This includes a tactful expression of regret where appropriate. The Custody SOP also contains instructions regarding the assistance, which may be provided when a person is released from police custody (Para. 19.6). In the event that a person is released without charge the Custody Officer must consider whether it is appropriate to offer assistance such as transport to that person's home for instance. This would be particularly relevant to some disabled persons and again, this topic will be discussed at the forthcoming workshop and an assessment made as to whether current instructions contained within the SOP need to be refined.

4.3 This is being considered as part of the current review into training mentioned above but we are also mindful of the planned National Guidance on the Safer Detention and Handling of Persons in Police Custody. This covers all aspects of police detention but includes guidance on actions to be followed when persons are released from custody. The Emerald Custody Directorate has been closely involved in the consultation process for this document and will take this into consideration as part of the process.

5. Recommendation 34

'Review appropriate adult procedures. Disabled people as appropriate adults have expertise to be utilised'

Q. *Has any consideration been given to using disabled people in the role of appropriate adults, especially if they are able to bring knowledge that may not be available elsewhere?*

Q. *For example, a deaf person who uses British Sign Language (BSL) as a first language, may also have cultural differences to someone (including the Interpreter) who uses English as a first language, therefore a deaf person who also uses BSL as a first language may be a better appropriate adult for the circumstances, than a duty social worker.*

5.1 The role of an appropriate adult is set out in Code C of the Codes of Practice. For instance, if present when someone is interviewed, they must be informed that they are not there solely to act as an observer and the purpose of their presence is to:

- (a) advise the person being interviewed

- (b) observe whether the interview is being conducted properly and fairly, and
- (c) facilitate communication with the person being interviewed.

- 5.2 The Emerald Custody Directorate is currently reviewing the provision and availability of appropriate adults. This varies across London and the lack of a robust method of obtaining such assistance has led to frustration and delays for everyone involved in the investigative process. Some boroughs rely on the local social services to provide such assistance but there are also some excellent volunteer schemes. We have engaged with the National Appropriate Adult Network (NAAN) with a view to increasing the availability of appropriate adults at police stations. NAAN brings together those involved in managing schemes of volunteers or paid workers and offers advice, guidance and support to all those involved in this important work. This will benefit the detained person and help to reduce the amount of time that person spends in custody.
- 5.3 The Codes of Practice recognise that good communication between the appropriate adult and the detained person is important – for instance, an estranged parent should not fulfil this role if a juvenile objects to it.
- 5.4 We recognise that, in the case of disabled persons, it may be useful for the appropriate adult to have some knowledge or understanding of the detained person's disability. The Codes of Practice emphasise that appropriate adults cannot have played any part in the investigation of the offence and police can have no direct involvement in the setting up of any scheme similar to the volunteer schemes already in existence.
- 5.5 The role of an interpreter is different to that of an appropriate adult as is someone who assists a detained person to read documentation at a police station. The Codes of Practice makes specific reference in this respect in the case of someone who is blind or seriously visually impaired. The Custody Officer must make sure that their solicitor, relative, appropriate adult or *someone likely to take an interest in them* is called to the station to assist. We would welcome any further assistance from organisations supporting disabled persons in this respect' for instance if GLAD is able to supply suitably trained people to perform this role.

6. Recommendation 38

'That the MPS ensure that a disabled person in custody has access to their familiar personal assistant'

- Q. What guidelines exist to allow a disabled person who requires the services of a personal assistant (PA) to have access to that person whilst in custody?*
- Q. It is important for a disabled person who requires a PA to have access to them, it is likely that they will require assistance in most functions, including using a toilet, and eating.*

- 6.1 There are no specific provisions within the Codes of Practice relating to personal assistants for disabled persons detained at a police station. The current Custody SOP makes reference to the provision of other help in relation to someone who

is mentally vulnerable and medical care of detained persons but again no specific instructions exist in this respect. We recognise that it is important to fully consider this matter before any decisions are made and this will be included in the workshop arranged on 21 July. The Custody Independent Guidance Group will be able to offer us an independent view on this subject.

7. Recommendation 42

'Disabled people with learning difficulties have access to a chosen appropriate advocate'

Q. *Has any consideration been given on the differences between an appropriate adult and advocate, and how best to support people with learning difficulties in custody?*

7.1 The Codes of Practice give specific directions to police regarding detained persons who are mentally disordered or otherwise mentally vulnerable (see introduction). This recognises that detained persons may prefer to be supported by someone other than a professional who does not know them and that, if practicable, their wishes should be respected.

As with access to personal assistants, we recognise the importance of this subject and it will be discussed at the workshop arranged for 21 July.

8. Recommendation 39

'A disabled person in custody has access to their drugs with the appropriate precautions being taken'

Q. *There is often a delay between a person coming in to custody and seeing a FME, hence there could be a delay in a person having access to their medication. How will the introduction of Custody Nurses alleviate this issue service wide, and what is the timescale for their introduction?*

Q. *For an example, if someone required very powerful painkillers, what current action would be taken to administer those drugs, if there is a delay in the attendance of the FME?*

Q. *Is there sufficient cover by FMEs in the MPS?*

8.1 The Codes of Practice gives specific instructions regarding medical attention and the administration of controlled drugs to persons detained in a police station. This is an area of great concern to police and the Custody SOP expands on this to ensure that police officers are aware of the correct procedures to follow.

8.2 In particular, police officers are forbidden from administering or supervising the self-administration of drugs of a type or form listed in the Misuse of Drugs Regulations 2001, Schedule 1, 2 or 3. This is likely to include the type of drugs mentioned in the question. Health care professionals must be called in these circumstances.

8.3 The Custody Directorate is actively considering the provision of health care for persons detained at a police station. Custody Nurses have been employed at Charing Cross Police Station since 2001 and offer a "24/7" service which

benefits all users of the custody suite and enhances the community's confidence in the police service. Other Borough OCU's are also considering introducing Custody Nurses e.g. Hackney and Lewisham. The introduction of Custody Nurses across the MPS would be expensive – it is estimated that a “24/7” Custody Nurse presence at each of our 53 charging stations would cost over £13m p.a. and any decision to replace FMEs with Custody Nurses would need careful consideration.

- 8.4 The permanent presence of a health care professional would offer clear advantages but more research needs to be undertaken to understand the benefits of this. For instance, although they are now permitted to administer some prescribed drugs, Custody Nurses at Charing Cross Police Station do not do so and are not seen as an alternative to Forensic Medical Examiners (FME).
- 8.5 The administration of the FME service is the responsibility of our Linguistic & Forensic Medical Services Department and they work with Principal FMEs to ensure there is sufficient cover by FMEs. Even so, it is acknowledged that sometimes there can be delays in securing the attendance of a FME. The care of a detained person is the responsibility of the Custody Officer. Depending on the condition of the detained person, the Custody Officer may decide to send a person to hospital in these circumstances.

It is possible that the some of the functions currently performed by FMEs effect on the current delays in the administration of prescribed drugs within custody suites in London.

9. Recommendation 40

‘Custody Suites be fully accessible’

- Q. *It is unlikely that all custody suites will be accessible in the near future; has any consideration been given to how Custody Officers working in-accessible buildings will deal with disabled prisoners, appropriate adults, solicitors etc, who require access to a custody suite?*
- Q. *Also what action if any has been taken to ensure that Custody suites are equipped with appropriate equipment such as a hearing loop, rights in large print, pen grips for people who have difficulty holding normal size objects etc.?*
- Q. *What plans are there to make all custody suites accessible, and what are the timescale?*
- 9.1 It is recognised that much of the infrastructure within the MPS was built at a time when disability issues were not widely considered. Property Services have already considered the impact of the Disability Discrimination Act on the provisions of custody facilities. At this stage it is impossible to state with any certainty how long it would take to update these custody suites to suit the needs of all persons using them.
- 9.2 However, the Custody Directorate is working closely with the Property Services Department to ensure that planned new build custody suites meet the need of police and other users. For instance, we have examined the plans for the renovation of the Carey Way Custody Suite (part of the redevelopment of Wembley Stadium) to ensure that there are appropriate facilities for disabled persons using the suite. Disability is also a permanent agenda item

at the Custody Estate Programme Board, initiated by the Custody Directorate as a forum to ensure that custody suites are appropriately sited and built to the standards contained in the national design guide (based on MPS practices).

- 9.3 The inaugural meeting of the Safer Detention Working Party, initiated by the Custody Directorate, will take place on 15 July. As part of their remit, this group will consider disability issues in relation to custody suites and a sub-group will be formed to examine the provision of equipment and facilities within custody suites. This will include facilities for disabled persons. For instance, we are researching the use of "Magnapage" (which can be used for viewing large areas of text at a 2.1X magnification) within our custody suites.

10. Recommendation 41

'Officers be trained how to take a disabled person into custody. Physical contact could place the disabled person at considerable risk'

- Q. *What training have Custody Staff received in the restraint and physical handling of people with disabilities, for example a wheelchair user?*
- Q. *What training have Custody Staff received in searching disabled people, who may have some physical attachment to their bodies, such as a colostomy bag?*
- Q. *What arrangements are in place to take the findings of the restraint review in to training?*

- 10.1 This policy area falls within the remit of the Public Order OCU. We have asked for a response and this answer is based on that response.
- 10.2 With reference to Officer Safety Training, there is no specific training given regarding disabilities as it comes in the catchall of the officer safety model, that is, information received / threat assessment. These issues will govern the action taken by the officer who will, if confronted with a wheelchair or disabled person, threat this as a factor that will be taken into account by the officer. The restraint issues and medical implications issues are similarly dealt with by these impact factors.
- 10.3 The Public Order OCU has guidelines for the movement of prisoners/persons. Again, all factors would have to be assessed by the individual officer and this would also be the case for searching and the method of search employed. The restraint review findings have been actioned. The MPS officer safety programme has had a mental illness training package that has been taught to recruits and police officers in service for a number of years. The training has again been highlighted in development training for Officer Safety, and the instructions are also covered in a CO11 SOP.
- 10.4 Disability issues will also be considered as part of the refresher training for Custody Officers mentioned in Para. 2.

11. Recommendation 43 and 44

*'Custody policy be part of MPS impact assessment scheme
In collaboration with disabled people, the MPS review the custody policy'*

- Q. *Are there any plans to review the above, and if so will disabled groups be consulted? The MPS now has a Disability Independent Advisory Group (IAG)*

Appendix 10

who can be contacted via the Disability Focus Team to assist on this type of work.

- 11.1 The Custody SOP is intended to be a “living” document and will be reviewed at regular intervals. When the SOP was introduced in December 2004, wide consultation took place, internally and externally, including groups representing disabled and “hard to reach” communities. The Custody Independent Guidance Group which is shortly to be inaugurated will be consulted but we welcome representations from other groups such as the Disability IAG. Following the workshop on 21 July, we will be putting a process in place to allow this to happen

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