

GWENT POLICE

SAFER DETENTION AND HANDLING OF PERSONS IN CUSTODY

POLICY



**Heddlu
Gwent
Police**

SUMMARY

STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE WHOLE OF THE DOCUMENT SHOULD BE READ

This policy is aimed at reducing deaths and adverse incidents in police custody. It is aimed at the general care and welfare of detainees. It also focuses on the safety and protection of staff dealing with detainees in custody, and on the safety of visitors dealing with detainees in custody or persons visiting custody.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.

NOT PROTECTIVELY MARKED

C:\Documents and Settings\402444\Desktop\204-3 a issue 1 safer detention and handling persons policy.doc

INDEX

1.0 Policy Identification Page

2.0 Policy Statement & Intentions

- 2.1 Principle & Scope of Policy
- 2.2 Aims of Policy

3.0 Introduction

- 3.1 Origins / Background Information
- 3.2 The Legal Basis and Legitimate Aims

4.0 Implications of the Policy

- 4.1 Financial Implications
- 4.2 Human Resources / Training
- 4.3 Strategic Plan Links
- 4.4 Diversity
- 4.5 Links to Other Policies
- 4.6 Consultation

5.0 Human Rights Consideration Certification

- 5.1 Auditing for Potential Interference and Discrimination
- 5.2 Key Human Rights Principles
- 5.3 Rights, Publication, Audit and Inspection
- 5.4 Certificate of Compliance
- 5.5 Legal Vetting

6.0 Promotion and Distribution

7.0 Monitoring / Review

1.0 Policy Identification Page

This policy can be disclosed to the public.

Policy Title: SAFER DETENTION AND HANDLING OF PERSONS IN CUSTODY POLICY

Policy Reference No: 204/3 a issue 1

Policy Ownership: Head of Criminal Justice

Portfolio/Business Area Owner: ACPO Operations

Policy Written By: Custody Inspector

Department Responsible: CJD

Policy Lead: Head of Criminal Justice

Links to other Policies: Information Security, Data Protection, Health and Safety, Press and Public Relations, Race Equality Scheme, Freedom of Information, Disciplinary Policy for Police Staff, Fairness at Work, Independent Custody Visitors, Lay Observers, Personal Safety, Control of Contractors, CCTV, Control of Infectious Disease.

Policy Implementation Date: Approved STCG 27th March 2008.

Policy Review Date: Two years following implementation

2.0 Policy Statement & Intentions

This policy can be disclosed to the public.

2.1 Principle & Scope of Policy:

It is the policy of Gwent Police to ensure that;

- custody staff are trained and competent in all areas of custody management, including relevant legislation and procedures, risk assessment, computer systems, and documentation, including the statutory custody visitor scheme;
- contingency plans are in operation for closure of any custody suites;
- agreements are secured with healthcare agencies for the assessment, treatment and observation of detainees conveyed to hospitals;
- health and safety measures are employed to manage the potential risk of communicable diseases;
- we work together with our partners to ensure that individuals detained with suspected mental health condition are taken to a suitable place of safety for assessment;
- custody suites are suitably adapted for the detention of arrested persons, and have adequate storage and security for detainees' property;
- visitors are aware of their roles and responsibilities before they have access to custody suites, and risk assessed;
- adequate healthcare is provided in custody;
- all adverse incidents and deaths are reported, recorded, investigated, and analysed;
- CCTV is in place and managed as per the Safer Detention Guidance; measures are in place to comply with National Joint Unit guidance for terrorism related detainees

2.2 Aims of Policy

Gwent Police will ensure all detainees are treated in a fair and safe manner

This policy is aimed at reducing deaths and adverse incidents in police custody. It is aimed at the general care and welfare of detainees. It also focuses on the safety and protection of staff dealing with detainees in custody, and on the safety of visitors dealing with detainees in custody or persons visiting custody.

3.0 Introduction

3.1 Origins/Background Information

In 2006 the National Centre for Policing excellence published a document entitled '*Guidance on the Safer Detention and Handling of Persons in Police Custody*'.

This guidance has been created by ACPO in association with the Home Office, taking into account the lessons learnt from investigations into deaths in custody, and from adverse incidents where detainees have self-harmed or attempted suicide. The guidance also takes into account existing good practice, which is highly appropriate to promote on a national basis.

Full compliance by all Forces was targeted by 1st April 2010, to enable both local and national capability to be assessed and organisational risks identified.

It is recognised that compliance with some elements of the guidance may not be achieved within this period, particularly in relation to areas that require extensive funding. Where compliance will not be achieved within this timeframe, we will establish clearly defined plans to progress to full compliance. The need for interim control measures to mitigate identified risks will be considered. This initial assessment will be followed by further assessments during the life of this complex project.

ACPO and the Home Office recognise the far-reaching implications of this guidance, particularly in relation to custody estates and the use of Information Technology (IT), which may require significant investment over several years. Implementation will therefore be phased, with the assessment of each force position being the pre-determinant to any national or local implementation strategy.

3.2 The Legal Basis and Legitimate Aims

Legal basis

- Police and Criminal Evidence Act 1984;
- Common Law;
- Serious Organised Crime and Police Act 2005;
- Criminal Law act 1967;
- Police Reform Act 2002;
- Terrorism Act 2000;
- Prevention of Terrorism Act 2005;
- Anti-Terrorism and Security Act 2001;
- Road Traffic Act 1988;
- Children and Young Persons Act 1988;
- Children Act 2004;
- Crime and Disorder Act 1988;
- Sex Discrimination Act 1975;
- Data protection Act 1988;
- Criminal Procedures and Investigation Act 1996;
- Fire precautions Act 1971;
- Criminal Justice Act 1972;
- Mental health Act 1983;
- Disability Discrimination Act 1995;
- Health and Safety at Work Act 1971
- Seat belt Regulations 1993

UN ECHR, and the Human rights Act.

Legitimate aims

That all detainees are treated in a fair and safe manner, and according to relevant legislation.

4.0 Implications of the Policy

4.1 Financial Implications

We will seek to utilise existing resources in the most efficient and effective way. Estates Department is currently looking at opportunities to redesign the existing units or consider building new facilities, dependant upon funding availability.

4.2 Human Resources/Training

- Custody staff will be trained in line with that developed by the Force Learning and Development Department.
- Any training for terrorism detention will also be conducted in line with the Welsh Regional Training programme, which is currently being developed.

4.3 Strategic Plan Links

This policy aims to ensure it contributes to delivering justice in a way, which secures and maintains public confidence.

4.4 Diversity

In the application of this policy consideration must be given to the possible social impact of this policy on the community. A social impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Social impact assessments must be undertaken before and after the application of this policy.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met **in its entirety**.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this policy must be aware of the potential impact that this

policy has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered when answering these questions.

- Welsh Language Act 1993
- Race – Race Relations Act 1976
- Race Relations Amendment Act 2000
- Disability - Disability Discrimination Act 1995
- Gender – Sexual Discrimination Act 1975
- Equal Pay Act 1970
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006

4.5 Consultation

Police Authority
Chief Officers
Divisional and Departmental Heads
Information Security Officer/Data Protection Officer
Police Federation
Superintendents Association
UNISON
Force Solicitor
Freedom of Information Officer
Gwent Police Women's Association
Gwent Black Police Association
Gwent Disability Network
Gwent Police Gay Support Network

5.0 Human Rights Consideration Certification

5.1 Auditing for potential interference and discrimination

Q1. What articles of the Human Rights Act 1998 may be engaged?

Article 1
Article 3
Article 8
Article 9
Article 10
Article 11
Article 14

Q2. Where individual rights are engaged what is the potential to discriminate against the parties involved?

Enquiries may be intrusive and there is always the potential to discriminate but if this policy is implemented in a proportionate manner it is unlikely that any infringement of the individuals rights will occur but:

" In the application of this policy the Force will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights ".

5.2 Key Human Rights Principles

Q1. What is the legal basis for your policy?

Section 3.2. refers

Q2. Does the policy provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this policy? Restrictions on the rights protected in articles 8 - 11 in the Human Rights Act will be compatible with the convention only if they are aimed at protecting one of the interests listed in articles 8(2), 9(2), 10(2) and 11(2) respectively. The interest protected are broadly the same and generally include:

1. National Security
2. Public Safety
3. The protection of health or morals
4. The prevention of disorder or crime; and the protection of the rights of others.

Any restrictions relating to human rights will be in accordance with the above principles.

5.3 Rights, Publication, Audit and Inspection

Q1. What rights to make representation and appeal processes are available?

Anyone who feels that a member of Gwent Police staff has behaved incorrectly or unfairly has the right to make a complaint. Initial action should be taken in one of the following ways:

- Complaint to the Standards Department
- Complaint in writing or in person to the Senior Officer at the appropriate police station or in writing to the Chief Constable of the force concerned.
- Visit a local Citizens' Advice Bureau.
- Contact a solicitor.
- Appeal to IPCC

Persons who wish to make representations regarding the operation of this policy should contact the Head of the Criminal Justice Department

Gwent Police staff who feel they have grounds for concern in relation to the implementation of this policy may:

- Pursue concerns through their line manager.
- Pursue a grievance formally through the Fairness At Work Procedure
- Seek advice from their staff association or trades union.

Q2. Apart from the Gwent Police Publication Scheme how is the policy made

NOT PROTECTIVELY MARKED

8

available to the public?

The policy is disclosable to the public. Where copies of this policy are requested they can be made available from the Criminal Justice Department.

Q3. What internal review and audit process is in place or is proposed?

This policy has been drafted in accordance with the principles and rights contained within the Human Rights Act 1998. It will be reviewed and continuously assessed in the light of any relevant changes and developments in the application of the Act.

Q4. What external independent scrutiny is recommended?

Independent scrutiny can be where required conducted by the Police Authority and Her Majesty's Inspector of Constabulary.

5.4 Certification of Compliance

Consideration has been given to the compatibility of this policy with the Human Rights Act by the policy officer; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

5.5 Legal Vetting

There are no issues in this policy under ECHR, which cannot be resolved. This policy has been vetted.

6.0 Promotion and Distribution

In order to highlight the existence of this policy to staff there will be the following :

- GO entry following ratification
- Publication on the Force Intranet and internet

7.0 Monitoring / Review

Monitoring

- At an Operational level the application of the Policy will be the role of the Custody Sergeant, and other line managers and supervisors throughout the Force;

- On an annual basis, by the CJD custody Inspector, taking into account any changes in procedures, legislation, experiences, and ACPO guidance.
- All designated and non-designated cell units used for detention of prisoners are subject to annual or six monthly Health and safety checks. The details of all of these units, together with the current risk assessments can be found on the CJD link on the Intranet.