

# Lewisham Independent Custody Visitors

## Report to Lewisham Safer Neighbourhood Board June 2023 (updated August 2023 following feedback)

### ICV Background

Lewisham continues to maintain its own panel of volunteer Independent Custody Visitors (ICVs). We check on the conditions and treatment that detainees face whilst in police custody by conducting weekly unannounced visits. During these visits we speak to detainees and custody staff and check several areas such as shower facilities and food storage as well as making observations and report on what we find.

Lewisham has just one custody suite (open 24 hours each day), which is in the police station on Lewisham High Street. When out of action (e.g. for buildings maintenance) detainees are taken to Plumstead which is kept on standby.

People who are held in police custody, often following arrest, have usually not yet been charged or convicted of any offence when we see them. Many will be released without further action following investigation, whilst others, once charged and considered a risk to themselves or others by the police, will be taken to the local Magistrates' Court (normally Bromley) where their case will be heard. Some might also be held for their own (or others) safety until alternative and more appropriate accommodation can be found – including those suffering poor mental health, or at risk of gang violence.

The primary role of the Independent Custody Visitor is to provide visible reassurance to the community, and to the detainees themselves, that those held in custody by the Police are treated fairly and properly even whilst their liberty has been denied them. We also support the UK National Preventative Mechanism (NPM) (<https://www.nationalpreventivemechanism.org.uk/>), an organisation that strengthens the protection of people in detention through independent monitoring. The UK has agreed to be bound by obligations laid out in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), an international treaty. The NPM have in the past shadowed Lewisham ICVs during our visits and included their observations in their annual reports.

More information about Custody Visiting, including details of the London scheme can be found here: [https://www.london.gov.uk/what-we-do/mayors-office-policing-and-crime-mopac/community-safety/independent-custody-visitors#:~:text=Independent%20Custody%20Visitors%20\(ICVs\)%20are,for%20the%20welfare%20of%20detainees.](https://www.london.gov.uk/what-we-do/mayors-office-policing-and-crime-mopac/community-safety/independent-custody-visitors#:~:text=Independent%20Custody%20Visitors%20(ICVs)%20are,for%20the%20welfare%20of%20detainees.)

### ICV Performance

We have retained a core and diverse group of panel members who continue to conduct physical visits. We are sorry to see one visitor leave the panel recently but pleased that we have a new recruit who, after an initial induction period, is now able to attend visits in their own right. New panel members bring new insights based on their own personal experiences as well as lessening the load on our existing and experienced panel members. We are conscious of the dangers of over familiarisation in our ability to perform our role properly and we welcome experienced ICV's benefitting from the experiences our new recruits bring.

We have made 32 visits over the past year and have spoken to 120 detainees. We continue to struggle to achieve our expected weekly visit to the custody suite as we are still not at our full complement and, as volunteers, we need to keep a balance as to how much time each of us can spend on this role. Quarterly panel meetings enable us to discuss issues raised and trends we have noticed with ourselves, MOPAC and police officers. Twice a year the Chairs of the London Panels meet.

Discussions continue between MOPAC, Met Detention and the Lewisham Panel to enable us to visit during shift handover periods. Whilst the custody visiting scheme assumes visits can and should take place at any time, policies and practices adopted by Met Detention over a number of years have led us to be effectively barred from visiting at these times. Progress has been made and we are now waiting for local Lewisham protocols to be agreed.

### Custody Suite findings

Met Detention is the part of the Metropolitan Police that runs Lewisham Custody Suite. They are separate to our local operational police force, the South East Basic Command Unit (SE BCU) which operates across Lewisham, Greenwich and Bexley and make most of the arrests. This means our local police commanders have no direct responsibility for activity within Lewisham's custody suite. The BCU has recently appointed a senior officer to focus on policing in Lewisham and we will look to see how they build relations with Met Detention so that they are fully aware of the challenges and issues facing those detained in Lewisham. We understand the Lewisham Custody Manager attends daily briefings led by the Superintendent responsible for Lewisham which is a positive sign of alignment and collaboration across organisational boundaries.

This past year has seen a return to business-as-usual operations in the custody suite following the Covid period. A positive is that virtual court hearings are no longer a normal occurrence meaning that most detainees face a magistrate at the magistrates' court following charge. The custody environment (including food, washing, hygiene and welfare facilities) is not designed for extended stays (think "24 hours in Custody") and these virtual hearings often meant detainees spent longer in the custody suite than they would otherwise have done.

We have seen that detainees are made aware of their Rights: to free legal advice; that someone is told they have been arrested; and to be told why they have been arrested. And where detainees are not able to properly comprehend these Rights when being booked in, we have seen cases where custody staff reconfirm them when an appropriate opportunity arises.

However, we have observed several factors that appear to lead to detainees spending longer in custody than used to be the case. With Lewisham's custody suite often being short staffed, its operations being paused<sup>1</sup> frequently, and it being reliant on overtime working to be kept open, we believe that any opportunity to reduce the numbers of those held in custody should be taken to reduce pressure on staff and allow those remaining in custody to be treated as intended. These factors include:

- A shortage of investigating officers with some investigating teams, such as Safeguarding, not working 24/7.

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<sup>1</sup> "Pausing" the custody suite means that no new detainees are booked in for a period of time, giving staff the opportunity to focus on those already in custody, and return the suite to a steady state.

- The problematic introduction of the new Met wide Connect computer system impacting all elements of custody including our own visits, booking in of those arrested, and managing interactions with the CPS.
- An increase in “Emergency Charging”, a practice where in a very restricted number of cases, police lay charges when it would not be possible to obtain a prosecutor’s authority before the expiry of a PACE time limit.
- Custody sergeants, when determining whether bail be allowed, being over cautious and risk averse. The consequence of this being that magistrates’ find that requirements for a detainee remaining in custody have not been met and therefore was held in custody perhaps without good reason. *[We understand that this is a difficult balance to get right and the consequences of getting it wrong, for public and police, are significant].*
- Constraints within the Health Services, both Physical and Mental, that result in transfer times to hospitals from custody regularly and significantly exceeding Service Level Agreements

Custody suites are also impacted by shortage of resource across the Health Service. It is a common occurrence for detainees requiring hospital, or a place of safety, to be in custody. There is a target transfer time of 30 minutes to hospital but this is rarely if ever achieved. Custody is no longer considered a place of safety, though is often treated and considered as the least worst option. It is of interest how the recent announcement by the Met Commissioner that police officers will no longer automatically attend calls related to mental health incidents unless there is a risk to life will pan out in practice.<sup>2</sup> We hope that this change will not put new burdens on custody suite operations.

The treatment of children in custody is also an area of focus and concern. A recent national study<sup>3</sup> (not specifically Lewisham) identified that children spent an average 11 hours and 34 minutes in custody, 54% overnight, yet no further action was taken against 56% of children brought into custody.

We see cases where children are held longer in custody than the investigation warrants for many of the same reasons as adults discussed above. An additional reason is there often being no suitable home for them to be released into. Often, but not always, when the child is in the care of Lewisham Children’s Services.

The absence of local council accommodation also adds to children spending more time in custody. Where the home environment of the child is such that bail is not an available option, local authority secure/unsecure accommodation is the expected place the child should spend the night. But there is none. We’ve had meetings with Lewisham’s Youth Offending Services to discuss but it is a London (National) problem and not just related to Lewisham.

We have personally witnessed incidents where black children in custody are subconsciously thought of as adults (adultification) and this validates the wider publicity and concern given to this subject across London and the wider UK.

A priority for 2023 is for the panel to better understand the relationship existing between Lewisham Met Detention and Lewisham’s Childrens Services including the Youth Offending Services.

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<sup>2</sup> <https://www.met.police.uk/notices/met/introduction-right-care-right-person-model/>

<sup>3</sup> <https://www.nuffieldfoundation.org/project/impact-of-pace-on-the-detention-and-questioning-of-young-suspects>

It's welcome to observe that the custody team are committed to treating children in their care differently to adults. Whilst strip searches of children continue, police policy now is that an Inspector must authorise the search, in addition to that of the custody sergeant (as per the law). This gives a welcome and additional level of checking to a practice exposed as a result of the Child Q investigation<sup>4</sup>. There is special food such as snacks and squash available as well as diversion aides such as soft balls.

Whilst staffing levels in the custody suite appear to have improved, raw figures do not tell the whole story. There are still many occasions (actual numbers are not available) when the suite must stop taking new detainees as a result of lower than needed staff being in attendance. And even when staff levels are technically adequate, this might still hide the fact that the staff on duty are not specialist custody team members but have been brought in from other parts of the Met to help out. In these cases there is a greater burden on the core team remaining. Having a regular team working together makes the suite run more smoothly, prevents stress and is better for detainees and staff alike. Over reliance on overtime by non-specialist officers is not a good solution. Lewisham is a particularly busy and active suite and is not a particularly attractive suite to work in when other more amenable suites are available.

It has been pleasing to see fewer occasions when a Nurse has not been on site – we are hopeful that the acknowledged issues the police have had over the past few years recruiting medical team members is a thing of the past. On this note Lewisham custody suite normally has a resident mental health specialist to assist the Nurse as well as a Diversion specialist whose role is to speak with younger detainees to help guide and divert them away from the justice system if possible.

Despite the numerous challenges (some outlined above) faced by custody staff, we found the team of custody staff in the main behaving professionally, and with compassion, even when faced with extremely complex and dangerous disruptive circumstances.

We report on what we find during our visits and not on incidents that are reported or occur throughout the period outside our visits. Our reports are used by MOPAC and other agencies in their overall assessments, monitoring and follow-ups of policing performance and management of those in custody and when relevant to specific individual inspections.

### For the future

We will continue to look to MOPAC to recruit new custody visitors for Lewisham (who are Lewisham locals) as we are still short numbered.

We will continue to report on what we find in custody and its impact on detainee welfare. We note that the local custody suite team are often at the mercy of other parts of the justice system and must deal with inefficiencies and resource issues elsewhere that are not under their control. For example local operational police shortages mean that detainees held for minor offences (though still considered serious enough to include detention and loss of liberty) wait a lot longer than they otherwise would for their interview and decisions on charging.

We will continue to monitor the impact of the new Connect computer system on custody operations. Its initial implementation has put strain on several elements of custody and we would hope that changes are already under development to improve things. These must include changes to

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<sup>4</sup> <https://chscp.org.uk/wp-content/uploads/2022/03/Child-Q-PUBLISHED-14-March-22.pdf>

assist custody staff to maintain custody records to the required standard, as well as improve sharing of documents between the MPS and other partner agencies including the CPS and NHS.

We will continue to strive to build collaborative and trusted relationships with Met Detention staff at all levels including the Chief Inspector responsible for Lewisham and other SE custody suites.

We would like to thank the CPS for responding to an early draft report and correcting some points we made as well as providing context to their interactions with custody.

### Do you think being an ICV is for you?

As mentioned earlier Lewisham Independent Custody Visitors are still recruiting – we are looking for new visitors to join the panel. If you are interested, and we welcome applications from all those who have a connection with Lewisham – whether working, living or studying in the Borough – please make contact with me via the Safer Neighbourhood Board, or look at the MOPAC web site where there is further detail and an application form (<https://www.london.gov.uk/what-we-do/mayors-office-policing-and-crime-mopac/community-safety/independent-custody-visitors>).

James Mitchell and Sacha Ray, Chairs Lewisham Independent Custody Visitor Panel

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