



## FAI – DEATH OF MARK HUTTON – Recommendations

### Recommendation 1

*“The welfare of prisoners has to be the priority for Custody staff. The other duties that are covered by those staff, such as preparing prisoners for release, dilutes their ability to focus on the priority that is the prisoners’ welfare. The Police Service of Scotland should review the staffing levels in the Custody Suite as well as the arrangements for deciding whether extra cover is required for the suite.”*

### **Response:**

In February 2019 Criminal Justice Services Division (the department within Police Scotland which operates Custody Services across the country) formally approved the introduction of a National Custody Operating Model that delivered an evidence-based approach for determining what custody estate and capacity is reasonably required at any given time; and the creation of a set of Standard Resourcing Principles that provide a consistent yet flexible approach to resourcing custody centres across the entire country.

This piece of work to establish an appropriate staffing model for custody was welcomed by Her Majesty’s Inspector of Constabulary in Scotland (HMICS) within an inspection report published in June 2019 on the ‘strategic arrangements for the delivery of police custody’.

An extract of the Standard Resourcing Principles is shown below. While the **General Resourcing Principle** provides a frame work for setting the appropriate baseline staffing level, the **Overriding Principle** makes it clear that reviewing what staffing is required at in light of changing operational circumstances is crucial to ensure the safety of officers, staff and people in custody.

Principle	Description
<b>Overriding Principle</b>	Custody Supervisors and Custody Officers must continually risk assess staffing profile, available capacity, current occupancy and operational activity in conjunction with the Force Custody Inspector.
<b>General Resourcing</b>	The compliment of custody staff required within any custody centre is determined by combining two factors:  ➤ <b>Standard Resource Requirement</b>  A general 1:10 ratio of custody staff to cell capacity in operation; and

➤ **Site Specific Requirement**

Where deemed necessary, additional custody staff to address any unique features of a custody centre including layout, catchment area or specialist facilities within the police station.

The resulting compliment of custody staff determined by the processes above may be comprised of legacy PCSO, CJ PCSO, CJ PCSO Team Leaders or Police Officers.

Sergeants who are performing the role of Custody Supervisor and/or Constables who are performing the role of Custody Officer should **never be included** as part of the custody staff compliment.

In exceptional circumstances, Sergeants could form part of the custody staff compliment where the custody centre is operating on a **Care and Welfare Only** basis, in which case they may be included, provided the total custody staff compliment is at least two.

The general 1:10 Standard Resource Requirement ratio should be maintained other than in exceptional circumstances.

There may be occasions where a custody centre is staffed at or above the level determined by the **General Resourcing Principle** but due to the demands of an ongoing incident, or vulnerability and needs of those in custody; additional custody staff, Custody Supervisors or a temporary closure may be necessary even although the number of persons in custody may be relatively low.

The Operating Model is therefore considered as remaining appropriate, features under regular scrutiny of the Custody Remodelling Project and is subject of a Formal Annual Review based on demand and other influencing factors.

In effect, this adopted practise across all Police Scotland custody centres sets a recommended operating base line at 1 member of staff per 10 prisoners. Where this base line is exceeded, then it is accepted practise that custody centres will close to any new business or additional members of staff are brought into the custody centre. All custody staff including supervisors are well aware of the resourcing principles and the processes for highlighting when either prisoner numbers are significant or there are other reasons which require additional staffing.

It is also worth noting that as part of business improvement work, support staff members have new contracts of employment which include mobility clauses. This allows for planned and sometimes the reactive movement of staff from one custody centre to another in order to comply with the resourcing established resourcing principles.

**Recommendation 2**

*"Evidence was led that the SOP Version 3 instruction to Officers at paragraph 13.5.2 that a medical assessment should be sought if there is no visible improvement in a prisoner after 4 hours has not been repeated in SOP Version 13. This should be reviewed. The PCSOs and Custody staff are not medical professionals and cannot be expected to view prisoners from a medical perspective. It may well be*

*that the 4 hour period was arbitrary. If a prisoner is assessed as vulnerable due to intoxication then some proactive system to monitor his or her progress may assist custody staff in looking after that prisoner's welfare."*

**Response;**

In light of the Recommendation to review when further medical assessments should be sought, a Short Life Working Group titled "NHS Referrals during Police Custody" has recently been formed. The Terms of Reference of the Group are to review this particular recommendation made by Sheriff Carmichael, review the existing standard operations procedures and progress accordingly.

Following the first meeting of the SLWG on 23 January 2020, there were two main areas that the Group agreed to progress;

1. The Sheriff commented that version 3 of the Care and Welfare SOP had a 4 hour time period which if the individual showed no signs of improvement they were to be escalated to a medical assessment. The current version of the Care and Welfare SOP does not replicate that position and the Sheriff suggested that this may have been an arbitrary number.

It has been identified through the SLWG members that the 4 hour time period, was indeed an arbitrary number, perhaps based on a legacy force arrangement adopted at the start of Police Scotland and not based on any medical advice/guidance. As such, there is a consensus that this 4 hour time period should be reviewed with some medical advice guidance to support that position.

To progress this, a submission will be prepared for the Police Care Network Board outlining current processes for dealing with individuals under the influence of alcohol/drugs and detailing how we manage those individuals who are subsequently placed in a cell and observed under one of our observation regimes. Our processes have significantly advanced since 2016 when version 3 of the SOP was in place and our processes may well be fit for purpose. As such, we will seek the Network to review our processes from a medical perspective to see if they are fit for purpose, or whether any additional measures are required such as time periods for automatic referral.

2. The second area that will be progressed will be a review of the CJSD training for PCSO's/officers to ensure that this training provides staff with sufficient knowledge to identify individuals whose condition gives cause for concern and require to be escalated to a healthcare professional.

Notwithstanding, it is worthy of note that a new risk assessment was introduced in 2018. There is extensive guidance available to all custody staff. Section 9 of the Care & Welfare of Persons in Police Custody SOP provides guidance in relation to Risk Assessment and Management. The below screenshot is from the Custody Officers Guide which provides guidance in relation to risk assessments.



Custody Officers  
Guide - Risk Assessor

In addition, Force Form 051-001 Custody Risk Assessment Checklist must be completed for every person coming into custody which highlights any areas of concern that should be taken into account when deciding risk factors and the observation regime.

Force Custody Inspectors (FCIs) and Custody Review Inspectors (CRIs) who cover custody 24/7 monitor persons coming into custody and informally review custody records. All cluster inspectors carry out weekly custody audits using the Custody Record Audit Form which reviews risk management and vulnerability assessment, care plan observations and medical care. If the cluster inspector find anything that needs addressed, they will record this on the form and take appropriate action.

The training delivered, guidance provided, auditing processes, the risk assessment and care plan recorded by custody staff are deemed to be sufficiently detailed to allow proper care of persons coming into custody. However the training will be reviewed again under the remit of the SLWG to ensure it remains fit for purpose and ensures that if there are any concerns regarding a person in police custody, whose condition is deteriorating or there are no signs of improvement, that this is duly escalated to a healthcare professional.

The terms of reference for the SLWG referred to is appended to this report.

### **Recommendation 3**

*The cell sheet that was in use at the time of Mr. Hutton's death did not have a separate column to show whether a prisoner had had food or water. Dehydration can be dangerous and can exacerbate other already existing conditions. A format that makes it immediately obvious to the reader what water and food a prisoner has, or has not, consumed may assist custody staff in looking after the welfare of that prisoner. The Police Service of Scotland should review the cell sheet and consider whether a separate column to show food and drink intake would be of benefit.*

#### **Response;**

As recommended by Sheriff Carmichael, the Cell Sheet (Prisoner Contact Record Force Form 051/021) has now been updated to include separate columns to show food and fluid intake. Both columns require to be updated at every cell visit to reflect whether either/both has been provided.

All stocks of old cell sheets are in the process of being withdrawn from all custody suites and will no longer be in use. All custody staff have been advised of the change of form and the reasons for this which has been further communicated within the division's weekly ebrief.

Digital devices (tablets) are in use within Falkirk, Kittybrewster and Inverness custody suites which are utilised to record cell visits as opposed to the manual recording on Cell Sheets. All staff within these suites are further being made aware of the requirement, at every visit, to record on the tablets if food and/or fluid is provided.

Funding has been obtained to purchase additional tablets and initially they will be rolled out into a further 7 sites. However the funding for Wi-Fi installation to support the tablets has still to be obtained which will be required prior to the commencement of the roll-out.

At this time, no further development or updates are being made to NCS however we are content that this recommendation has been addressed and actioned appropriately.

A copy of the revised Prisoner Contact Record Force Form 051/021 is appended to this update.

Gordon Milne

Chief Inspector  
Police Scotland

# RISK ASSESSMENT

**ANY CUSTODY, NO MATTER WHAT OFFENCE THEY HAVE BEEN ARRESTED OR DETAINED FOR, WHO IS UNABLE TO WALK INTO THE CUSTODY CENTRE AND PROVIDE THEIR DETAILS, SHOULD BE IMMEDIATELY CONVEYED TO A HOSPITAL.**

**THE CARE AND WELFARE OF CUSTODIES IS PARAMOUNT AND TAKES PRECEDENCE OVER THEIR CRIMINALITY.**

Prior to the custody being placed in a cell the risk assessment checks must be completed:

- PNC/CHS Check
- NCS & legacy Custody Computer System
- If custody from another area, the relevant legacy Custody System in that area ([contact numbers](#))
- Adverse Incident Spreadsheet / Noteworthy Incidents / Lessons Learned systems
- Interim VPD System (particularly in relation to Adults at Risk)
- Arresting/Escorting Officers asked if there are any other issues they are aware of

As an aid to ensure all the above checks are completed, the Arresting / Escorting Officers / custody staff will complete [Force Form 051-001 - Custody Risk Assessment Checklist](#) on arrival at a custody centre for every custody.

If the custody answers 'Yes' to any of the Risk Assessment Questions, then he/she should be asked to expand on the response.

For further guidance refer to Section 8 of the [Care & Welfare of Persons in Police Custody SOP](#).

# **Short Life Working Group – Mark Patrick Hutton - Fatal Accident Inquiry Recommendations**

## **Terms of Reference**

### **Introduction**

On 6 December 2019 a Fatal Accident Inquiry was held into the Death of Mark Patrick Hutton who died in police custody on 5 March 2016 at Dundee police station. Sheriff Alisdair Carmichael made 3 recommendations for Police Scotland<sup>1</sup>. The Short Life Working Group will consider the second of the recommendations as replicated below.

### **Recommendation 2**

“Evidence was led that the SOP Version 3 instruction to Officers at paragraph 13.5.2 that a medical assessment should be sought if there is no visible improvement in a prisoner after 4 hours has not been repeated in SOP Version 13. This should be reviewed. The PCSOs and Custody staff are not medical professionals and cannot be expected to view prisoners from a medical perspective. It may well be that the 4 hour period was arbitrary. If a prisoner is assessed as vulnerable due to intoxication then some proactive system to monitor his or her progress may assist custody staff in looking after that prisoner’s welfare.”

### **Purpose and Scope**

The Group has been established:-

- The group has been established to consider recommendation 2 made by Sheriff Alistair Carmichael at the Fatal Accident Inquiry of Mark Patrick Hutton
- The group will review existing standing operating procedures in light of this recommendation
- The group will identify an appropriate response to the recommendation for consideration of the Divisional Commander

### **Membership**

The Group will be chaired by the Chief Inspector, Partnership & Policy, Criminal Justice Services Division (CJSD). In their absence, the Chair may nominate a suitable alternative.

Membership comprises:-

CI Tidy (chair) CI O’Byrne (Deputy Chair), CI Milne, PI Seagrove, PI Cameron, PI Peter Hindley, PI John Kerr, PI Ian Wight, PI Andy Gunn, PS George Smith, PS Shaun Steuart, PS Paul Bucknall, PS Scott Murray, PS Clare Allan, PS Kyle MacDougall, PS Dale Graham, PS Andrew Hogarth, PS Daniel Jack, PS David Scott, PS Gary Ross, PS Iain Gibson, PS Adam Scott.

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<sup>1</sup> <https://www.scotcourts.gov.uk/search-judgments/judgment?id=0e1ca2a7-8980-69d2-b500-ff0000d74aa7>

The Chair will:

- Ensure that appropriate arrangements are made for meetings – date, time and venue confirmed, agenda agreed and papers circulated electronically in advance;
- Develop and manage the agenda to ensure that meetings are timely and effective;
- Facilitate discussion at meetings, particularly where there may be conflicting views; and
- Ensure that the meeting is conducted within the principles of Integrity, fairness and respect.

#### Responsibilities of Group members

All members will:

- Attend meetings as and when shifts permit. No varied shifts required.
- Read minutes of previous meetings if they were unable to attend
- Carry out tasks agreed by the group in the required timescales

#### Meeting principles

- Meetings are held tbc. The date will be set in advance;
- Videoconferencing/Teleconferencing facilities may be used wherever possible to minimise travel requirements;
- Apologies are to be submitted in advance;
- Papers are to be circulated, where possible, at least three working days prior to each meeting.
- Actions will be recorded at the meetings and will be circulated post meeting.
- The chair will arrange for appropriate administration functions to be available.



**OFFICIAL SENSITIVE: NAMED RECIPIENTS ONLY**



**Prisoner Contact Record**

<b>Custody Centre</b>		<b>Date</b>	
<b>Prisoner Name/URN</b>		<b>Date of Birth</b>	

<b>Cell No</b>		<b>2<sup>nd</sup> Cell No (if app)</b>		<b>3<sup>rd</sup> Cell No (if app)</b>	
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**Use Only for Prisoner Transfer**

<b>Receiving Centre</b>					
<b>Date</b>		<b>Departure Time</b>		<b>Arrival Time</b>	
<b>Cell No</b>		<b>2<sup>nd</sup> Cell No (if app)</b>		<b>3<sup>rd</sup> Cell No (if app)</b>	

**Custody Entitlements Checklist (to be completed for all custodies)**

<b>Tick in each box once the following has been complied with – if not, record why not?</b>	<b>√</b>	<b>Signature and ID Number</b>
Has the Letter of Rights been given to the prisoner?		
Has use of buzzer been explained to the prisoner?		
Has use of toilet facilities been explained to the prisoner?		
Has the provision of blankets and mattresses been explained to the prisoner?		
Has the provision of food and drink been explained?		
Has it been explained that all reasonable requests will be honoured, at the discretion of the custody supervisor?		
Have any other reasonable questions been answered?		

<b>Time</b>	<b>PCSO / Officer Rank and Number</b>	<b>Reason for Visit</b>	<b>Under Influence / Sober and Awake / Sleeping</b>	<b>Given Water / Fluid? √</b>	<b>Given Food? √</b>	<b>Details of Visit – Distinct Verbal Response (succinct response should be noted together with any relevant request or concerns) – Required from Every Visit</b>



**OFFICIAL SENSITIVE: NAMED RECIPIENTS ONLY**

Continuation Sheet No.		Prisoner URN	
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Time	PCSO / Officer Rank and Number	Reason for Visit	Under Influence / Sober and Awake / Sleeping	Given Water / Fluid? √	Given Food? √	Details of Visit – Distinct Verbal Response (succinct response should be noted together with any relevant request or concerns) – Required from Every Visit

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