Lincolnshire
POLICE & CRIME COMMISSIONER
SAFER TOGETHER

PROCEDURE FOR DEALING WITH COMPLAINTS MADE AGAINST INDEPENDENT CUSTODY VISITORS

Making a Complaint

1. Any complaint made by any person against an Independent Custody Visitor ('the Visitor') due to the performance of his / her duties should be notified to the Scheme Manager as soon as possible after the alleged misconduct took place.

2. The Scheme Manager will request a full written report of the complaint to be provided by the complainant within 7 calendar days of the original notification of the complaint.

Criminal Offences

3. If a complaint made to the Scheme Manager contains an allegation of the commission of a criminal offence by a Visitor whilst carrying out their role, the Scheme Manager will immediately refer the complaint to Lincolnshire Police.

4. The Complaints Procedure will be held in abeyance pending the outcome of any criminal investigation and proceedings in respect of that complaint.

5. The Complaints Procedure may be proceeded with in respect of any other related complaints that are not alleging a criminal offence.

Criminal Proceedings

6. Visitors will be required to notify the Scheme Manager if they are charged with a criminal offence. In such circumstances, the Scheme Manager will automatically suspend the Visitor until the outcome of any criminal proceedings is known. If the Visitor is subsequently found not to be guilty, or if charges are dropped, he / she will be considered for reinstatement.

Action upon Receipt of a Complaint

7. Upon receipt of the written report from the complainant, the Scheme Manager will immediately inform the Visitor, in writing, that a complaint has been made against him or her. This notification must include the date, time and place and the type of conduct subject of the complaint, and invite the Visitor to make a written response to the complaint within 10 calendar days.

8. The Scheme Manager will decide whether the complaint is such that the Visitor's appointment should be suspended pending the outcome of the Complaint Procedure and inform the Visitor in writing of the decision.

9. The Scheme Manager may dismiss a complaint if it appears vexatious, malicious or otherwise lacking in merit. He/she will inform the complainant and the relevant Visitor in writing of this decision.

Informal Resolution

10. Where the Scheme Manager deems appropriate, he / she will seek to resolve the matter via informal mediation between the complainant and the Visitor involved. Upon resolution of the issue, any suspension imposed may be rescinded.

Investigation of a Complaint

11. Where the informal resolution of a complaint has not been achieved, or where the complaint was not deemed suitable for informal resolution, the Scheme Manager will inform the Visitor that an investigation will be held into the complaint.

12. The Scheme Manager will conduct the investigation and shall obtain all available evidence about the conduct complained of from the complainant, witnesses, the person subject of the complaint and other possible sources, such as written records and CCTV recordings.

13. The Scheme manager will interview the Visitor and make a written record of the Visitor's response to the complaint. The Visitor may be accompanied by a friend or relative, but not by a legal representative, during the interview.

14. The Scheme Manager should aim to complete the investigation within 10 calendar days following the interview, except in exceptional circumstances.

Decision on Complaint

15. The Chief Executive will consider all the evidence and decide whether the complaint has been substantiated. If he / she decides that the complaint is substantiated, he / she will determine whether:

    - no further action should be taken
    - the Visitor should receive advice about future conduct;
    - the Visitor should be required to undergo further training
    - the Visitor should receive a written warning that if another complaint should be substantiated against the Visitor within the following 12 months, his or her appointment will be automatically terminated
    - the Visitor should have his or her appointment terminated with immediate effect

16. The Scheme Manager will immediately inform the Visitor, the Panel Chair and the complainant of the outcome of the complaint in writing. The decision of the Chief Executive shall be final and there will be no right of appeal.

17. If the Visitor's appointment is suspended and the complaint is not substantiated, or is substantiated but termination of appointment is not imposed, the suspension shall be lifted immediately.

Complaint that an Independent Custody Visitor has failed to perform duties

18. If it comes to the notice of the Scheme Manager that a Visitor has continually failed to attend rostered custody visits, Panel meetings/training sessions or failed to abide by the Memorandum of Understanding and/or Code of Conduct as required, he or she will raise the matter with the Visitor concerned as soon as possible. The Scheme Manager should seek an assurance from the Visitor that his / her performance will improve.

19. If no such assurance is forthcoming or if the Visitor continues to fail in the performance of their duties, the Scheme Manager will inform the Visitor in writing of the nature of the alleged underperformance and invite the Visitor to respond in writing within 10 calendar days.

20. The Scheme Manager will decide whether or not to suspend the Visitor's appointment whilst the alleged underperformance is investigated and will inform the Visitor of this decision in writing.

21. The Scheme Manager will consider the details of the underperformance and of the response thereto, make any further necessary inquiries and decide whether on the balance of probabilities the underperformance has been substantiated.

22. If substantiated, the Scheme Manager will decide which of the disciplinary actions should be imposed.

23. The Scheme Manager will inform the Visitor and the Panel Chair in writing of the decision and, if appropriate, the disciplinary action imposed and the lifting of the suspension of appointment, if applicable. There is no right of appeal.

Complaint that an Independent Custody Visitor is no Longer Fit for Duties

24. If it comes to the notice of the Scheme Manager that a Visitor is no longer mentally or physically fit to perform his / her duties, or has received a criminal conviction or a police caution since appointment, the Scheme Manager will immediately inform the Visitor and invite him / her to make a written response within 10 calendar days.

25. The Scheme Manager may suspend the Visitor's appointment whilst the matter is investigated and will inform the Visitor of this decision in writing.

26. Offences for which a conviction or police caution may result in a decision to terminate a Visitor's appointment may include (but not restricted to):

    - Violence or threat of violence
    - Burglary, robbery or theft
    - Trafficking
    - Corruption or fraud
    - Drug-related offences
    - Criminal damage or arson
    - Sexual offences

27. The Chief Executive will decide whether the complaint has been substantiated and, if so, whether to terminate the Visitor's appointment.

28. The Scheme Manager will immediately inform the Visitor, the complainant and the Panel Chair in writing of the outcome of the decision of the Chief Executive.

29. If the complaint is not substantiated, any suspension of appointment will be lifted and the Visitor will be informed of this in writing.

30. There is a right of Appeal.

Confidentiality

31. All persons involved in the complaint procedure will be advised to maintain confidentiality and not to discuss the complaint other than in the course of its investigation.