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TERMS of REFERENCE

Warwickshire Custody Detention Independent Scrutiny Panel

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Equality Analysis	Low

1. Purpose

1. Section 96 of the Police Act 1996²⁰, as amended by Section 14 of the Police Reform and Social Responsibility Act 2011, imposes a duty on local policing bodies to arrange to obtain the views of the community on policing. A local policing body is defined under Section 101 (1) Police Act 1996 to include a Police and Crime Commissioner (PCC).
2. Therefore, there is a clear mandate for PCCs to facilitate community scrutiny; to uphold their commitments to serve their communities with transparency and accountability and to give a voice to the public.
3. These Terms of Reference relate to the Office of the Police and Crime Commissioner, in conjunction with Warwickshire Police, establishing a Warwickshire Custody Detention Independent Scrutiny Panel. This will enable custody detention in the county to be formally, ethically, transparently, and independently scrutinised by members of the local community and thereby help bring them closer to decision making.

2. Disproportionality

4. The concept of the Warwickshire Custody Detention Independent Scrutiny Panel is cognisant of recent high-profile incidents of public concern that have had negative consequences for police confidence and trust, as well as various national recommendations made to policing on both racial disproportionality and custody. It is intended that the introduction and promotion of scrutiny and review will help build trust and confidence in policing for local communities, through representation and understanding of minority groups.
5. The Panel provides an opportunity for learning internally by identifying both good and poor systemic, cultural, and adopted practices that impact on detainees whilst in police care. It has the potential to reassure the public and other interested parties, that the PCC and chief officers take concerns surrounding disproportionality seriously, and more importantly, are prepared to do something about it when it is exposed.

3. Governance

6. The OPCC will provide leadership throughout the community scrutiny process and is responsible for ensuring the Panel's feedback will be heard and action taken as necessary.
7. The following processes will be established -
 - Panel membership and recruitment;
 - Acceptance criteria for panel members;
 - Training for panel members;
 - Tenure and retention protocols;
 - Expense arrangements for attendance at panels;
 - Feedback / reporting arrangements;

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- Review of performance: identifying themes/trends;
- Complaints/ Dismissal procedures.

4. Panel membership

8. Effective scrutiny should be independently led by responsible people who have a real commitment to driving improvements in public services; provide constructive feedback and challenge and give voice to the public or community to raise issues or concerns.
9. The Panel will therefore be comprised of a diverse group of local people from across Warwickshire, who will represent the county's local communities in conversations with police officers and staff who are actively involved in the detention and custody environments. It should also be supported by persons informed and experienced in vulnerability and disability. It is suggested members may include: -
 - OPCC lead
 - Independent Custody Visitors
 - Custody Appropriate Adults
 - Representation from Independent Advisory Groups
 - Health Care Professionals
 - Subject matter experts;
 - Policing area leaders;
 - Police Federation;
 - Police Superintendents Association;
 - Police Staff associations;
 - Policing area community representatives with lived experience of custody and /or disproportionality.
10. The Panel will have an elected independent chair, rotated every six-months, who will be supported with relevant training.
11. Members will be expected to commit to supporting the Panel for a minimum of two-years to provide stability and consistency, with the potential for an extension to a maximum of 4 years.
12. Training for the members will be identified and provided as appropriate e.g. equality and diversity, trauma informed practices, confirmation bias, to enhance the credibility of the independent review and scrutiny process.
13. The conduct of the members of the Panel must be respectful and inclusive to create a safe space to consider views from a wide range of diverse backgrounds, and that appropriate care is taken to hear and empower their voices;
14. If a concern is raised about the chair, a member. or other invited or co-opted person, the matter should be formally escalated to the OPCC CEO.

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15. Any person who attends the Panel who is a child (under 18-years old), or a vulnerable person¹, must be supported by an advocate for their welfare and who may be required to guide their understanding and communication.
16. The Head of Custody and other police representation will be a member of the Panel but should withdraw from any case review session to ensure that the Panel can deliberate and scrutinise freely, returning to the Panel to pick up the feedback and actions. It is important that the Head of Custody hears feedback first-hand from the Panel to allow them to understand that context and emphasis as well as to clear up any ambiguity.

4.1. Lived experience

17. Consideration will be given as to how the Panel can include prospective external invitees, such as those with 'lived experience' as this direct feedback often exceeds that reported or presented via a third party. Remote video or controlled attendance may be considered.
18. The OPCC and Warwickshire Police will engage with partner agencies who work with people with lived experience of police custody to explore opportunities to secure their contribute to the work of the Panel.
19. Where a vetting or security matter precludes involvement in the Panel the responsible chief officer will consider whether the reason prevents them from being a Panel member. The chief officer should agree on whether to accept or refuse the application and record their reasons for doing so.

5. Operating principles

20. The Panel will meet quarterly and be preferably held in-person to facilitate effective discussion and mitigate any risk associated with remotely sharing video imagery.
21. Personal data contained in written case reviews should be subject to the same data sharing considerations as video data, including any steps taken to remove personal details. It is important that any such redaction process has the trust and confidence of the Panel, to be clear, transparent, and limited to personal data alone. Panel members must sign non-disclosure agreements to protect the information supplied that is under review.
22. If there is fundamental disagreement between any parties about the interpretation of the findings, the matter must be escalated for resolution through an internal governance process overseen by the OPCC. All data considered by the Panel will be anonymised so to ensure compliance with the General Data Protection Regulations (GDPR)
23. The data and material produced by the police for the purposes of review and scrutiny remains under the ownership of the police. Warwickshire Police will

¹ A person less able to take care of themselves or protect themselves from exploitation, for example a person with mobility problems, a person with mental health difficulties, and children. (HMICFRS 09/05/2023)

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therefore remain responsible for its production, display and storage and should comply with its local data governance protocols.

24. An appointed person will take minutes and capture the agreed actions.

6. Panel activity

25. The Panel will provide a safe environment for the transparent objective assessments of police treatment of a detained person in the unique police detention environment. It will: -

- Examine disproportionality in the application of police powers, notably on grounds of race / protected characteristics;
- Ensure partnership review and scrutiny of police detention procedures from start to finish, including appropriate use of custody data;
- Consider wider issues where the Panel feels it could add value e.g. issues of safety and dignity;
- Build trust and confidence with ethnic minority communities through transparency, accountability, engagement, and understanding of Criminal Justice and custody processes;
- Make observations and recommendations to PCCs and Chief Officers;
- Report back to the wider policing area in the form of a public facing annual report covering the findings of the Warwickshire Custody Detention Independent Scrutiny Panel in the preceding year;
- Consider and review national guidance and examples of good practice.

7. Panel scope

26. The Independent Advisory Panel on Deaths in Custody report 'Preventing deaths at point of arrest, during and after police custody: a review of police practice submitted to the Independent Advisory Panel on Deaths in Custody by Police and Crime Commissioners and associated bodies' (December 2022), notes that:

'PCCs should lead local scrutiny panels and expand their focus to include the examination of data relating to custody performance. These panels could focus on data relating to disproportionality, as well as mental health and substance misuse prevalence.'

27. In order for any review to be credible, the Panel should be able to request access to any documentation, footage or appropriate material held in relation to any concluded detention event that might contribute to the consideration of disproportionality. The focus of the Panel should be shaped by either local or national data or policing area concerns raised that might point to evidence of any form of disproportionality (in particular, racial disproportionality) within the police detention environment.

28. Requests made by the Panel to examine such material should be reasonable and complement its purpose – to examine disproportionality in police detention and custodial environments. Thematically, topics might include: -

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- Disproportionality
 - strip searches;
 - remand profiles;
 - use of force;
 - dignity and respect;
 - length of detention;
 - mental health;
 - use of anti-rip suits;
 - access to services (e.g. language service provision; Autistic Spectrum Disorder support);
 - other topics at the request of the Panel.
29. All requests for data and material will be tabled by the Panel and made to the OPCC, for its provision to be orchestrated in liaison with Warwickshire Police's single point of contact (SPOC).
30. In circumstances where the SPOC declines the request for information then the matter will be escalated to the relevant Assistant Chief Constable to adjudicate.
31. **Limits of Panel Scope:** This panel has no jurisdiction in law to determine if a case is unlawful or unsafe and is not involved in formal complaints or legal processes.

8. Case selection

32. The Panel should only scrutinise cases retrospectively and should be able to review a particular case(s) that has generated particular public interest. The feedback from the Panel will not change the original decision unless Warwickshire Police considers the decision to be unlawful and / or unsafe.
33. If Panel members have increased awareness or involvement in the subject matter discussed by the they should declare a conflict of interest and remove themselves from that element of the meeting. Members should flag any such issues that they become aware of, to either the chair of the Panel or the OPCC representative.
34. An Information Sharing Agreement will be implemented to allow for the disclosure of relevant material to the members of the Panel. The Information Asset Owner will need to be satisfied that Warwickshire Police is willing to accept any risks associated with sharing the products necessary for scrutiny to take place.
34. A Service Level Agreement will be established to assist the Panel and those responsible for producing its material, to ensure that sufficient time is made available for the production and scrutiny of material.

9. Panel reporting

35. It is recommended that the Panel works within the framework provided by the Centre for Public Scrutiny² and adopts common measures to assist evaluation at both the local and national levels.
36. The Panel will be given access to material retained by the police to independently review matters of disproportionality and police / detainee behaviour in the context of legislation, guidance, policy, and procedure.
37. Executive summaries of relevant reports and strategies, along with their recommendations should be provided as part of the training necessary for members to appreciate the current dynamics between communities and the police. A Home Office Annual Data Return (ADR) is now requested from police forces for custody measures, this will be made available to the Panel by Warwickshire Police to enable informed scrutiny.
38. The Panel will produce an annual report that will be made available to the wider public in order to help improve trust and confidence in policing. The OPCC will coordinate the information for the contents of the report.

10. Panel outputs

39. The Panel's findings should be recorded on approved feedback forms.
40. The Panel's reports will be considered by Warwickshire Police's 'Police Powers Meeting' chaired by a Superintendent. This meeting feeds into the force's strategic 'Legitimacy and Equality Board' chaired by an Assistant Chief Constable. This arrangement will facilitate a structure for wider learning within the police and custody environment.
41. A summary of the findings of the Panel should be shared through social media, external facing websites and other outlets as determined agreed by the OPCC and Warwickshire Police, thereby demonstrating transparency of the scrutiny process and the Panel's findings.
42. Following any recommendations being made, representatives from the OPCC and / or the Warwickshire Police must report back to the Panel on the action undertaken.
43. Warwickshire Police should maintain auditable records of Panel data, findings and other materials generated from the Panel; subject to local storage and data retention requirements.
44. Any output generated from the Panel must clearly state that it has been derived through collaborative working arrangements across a range of independent Panel members in conjunction with key stakeholders and should include references to them accordingly.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040796/2021-11-22_Guide_to_governance_and_management_frameworks_final_3.pdf

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45. The OPCC will provide an appropriate budget for paid expenses for the members of the Panel, also for refreshments at the meetings and the production of reports.

11. Assessment and analysis

46. These Terms of Reference will be subject of an Equality Analysis (EA), Health and Safety Assessment (HAS) and Risk Assessment (RA).

12. Revision Record

Date of change	Nature of revision
DD Month YYYY	

13. Implementation plan

Action	Who	Dec	Jan	Feb	Mar	Apr	May	June
OPCC internal review of TOR	OPCC CEO							
Custody review of TOR	Head of Custody							
Socialisation of TOR with Senior Officer Team	GPB / Weekly							
Equality Analysis, Health and Safety Assessment and Risk Assessment	OPCC							
Expressions of interest for members	ICV / AA / IAG							
Recruitment of members	OPCC+							
Vetting / NDA	Force							
Training needs identified and delivered	OPCC / Custody							
Information Sharing Agreement	OPCC / Force							
Review material for inaugural meeting	Custody							
Inaugural meeting of WCDISP	OPCC							
Post meeting review	OPCC / Custody							