

# Custody Transfer

National Guidance

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## Purpose

This Guidance document supports the following Police Service of Scotland (hereafter referred to as Police Scotland (PS) Policy and Standard Operating Procedure (SOP):

* Custody Policy
* Care and Welfare of Persons in Police Custody SOP

This document is applicable to police officers and staff of Police Scotland who are attached to Criminal Justice Services Division (CJSD) or are involved in the planning, preparation and execution of transfer of persons in police custody in Scotland.

## Aim

The aim of this document is to provide guidance which all police officers and staff should follow while engaged in the transfer of persons in custody between police custody centres within Police Scotland. This guidance will ensure the highest standards of care and welfare of persons in custody are maintained at all times, and maintain compliance with the Equality Act 2010 and Human Rights Act 1998.

## Methodology

The principles of this document will be implemented by Criminal Justice Services Division Management and staff within the Division.

Weekend Custody transfers are carried out by the Prisoner Escort Contractor. Custody transfers at other times may be accommodated by the Prisoner Escort Contractor, otherwise should be carried out by CJSD officers, and if necessary, support sought from Local Policing Division.

A revised Risk Assessment is being drafted in relation to custody staff being involved in custody transfers. Until this risk assessment has been agreed and signed off by Health and Safety and Staff Associations/Trade Unions, custody staff will not be involved in the physical aspect of custody transfers, however they may be involved in the planning, preparation of persons in police custody for transfer, and receiving of persons transferred from other custody centres.

Custody transfer may be instigated in the following circumstances:

* Where there is a requirement to create cell capacity to support front line policing. Influencing factors to be considered include court holidays, events, and operations etc.
* Where there is a requirement for facilities for constant observations.
* To rationalise the number of officers engaged in constant observations duties;
* In the event of an unexpected custody centre closure.
* Any other scenario where transfer of a person in custody is deemed necessary including transfer for court appearance; or
* Where any of the above scenarios arise, it is the responsibility of the Custody Supervisor (being the Custody Sergeant or CJ PCSO Team Leader covering that custody centre) to escalate the matter to the Force Custody Inspector (FCI), who will provide further advice.

## Command Structure

The following command structure will apply during Custody Transfers:

Spontaneous transfer decisions:

* Custody Supervisor will inform their respective Cluster Inspector (if on duty) and Force Custody Inspector (if Cluster Inspector is off duty)
* Force Custody Inspector considers / approves transfer.

Weekend transfer decisions:

Custody Supervisor will inform the CJSD weekend Duty Inspector. CJSD weekend Duty Inspector, in consultation with the on call CJSD Chief Inspector, considers / approves transfer.

The Force Custody Inspector / CJSD Weekend Duty Inspector and on call CJSD Chief Inspector, will together assess the full circumstances, including but not limited to the following factors:

* Transfer times.
* Capacity.
* Facilities.
* Virtual Custodies and suitability of same.
* Police & Court public holidays.
* Resource and estate issues.
* Emerging issues and competing demands such as ongoing operations or events.

The Force Custody Inspector / CJSD Weekend Duty Inspector will liaise with the dispatching and receiving centres to ensure the transfer is necessary and that the receiving centre is fully resourced, equipped, and able to receive the persons in custody. This is particularly relevant when dealing with persons in custody who will be attending court virtually, to ensure they are not excluded from a Virtual Court process.

Following approval of the transfer, the Force Custody Inspector / CJSD weekend Duty Inspector will ensure that the Prisoner Escort Contractor are notified of the transfer requests and estimated timings for collection and arrival are communicated to the relevant custody centres.

Following approval of the transfer, Custody Supervisors from the respective Custody Centres will liaise directly with each other to confirm estimated departure/arrival times and discuss the care and welfare issues of each transferee.

## Custody Suitability for Transfer

Routine transfers should only be considered for persons in custody held for court on the next lawful day. However, in exceptional circumstances (e.g., unexpected closure of a custody centre) persons in custody who are to be released by way of undertaking or for report may also be transferred.

An individual risk assessment must be carried out by the Custody Supervisor and must be recorded on National Custody System (NCS) as a Custody Officer note, for each person in custody considered for transfer. Custody supervisors must be able to provide rationale for each individual deemed suitable. Protected characteristics and equality issues must be considered in the risk assessment.

In general, persons in custody deemed ‘low risk’ are to be prioritised for transfer ahead of others.

All ongoing enquiries must be complete in relation to the person in custody (e.g., interviews, evidential samples, locate/trace packages, etc.) prior to transfer. Persons in custody with complex medical needs should not be routinely transferred however may be considered where the medical needs are better met by transfer to a custody centre with an onsite medical healthcare professional (HCP). The interpretation of ‘complex’ should be based on the individual’s current and past state of health. If in doubt, the direction of an HCP should be sought to assess suitability for transfer.

If persons in custody who have been prescribed medication are required to be transferred, any medication due should be administered prior to transfer, where possible, and securely stored within individual’s property bag.

Careful consideration should be given to transfer of persons in custody who have been subject to constant observations to a routine observation regime. The transfer of such persons in custody should only take place where this has been agreed by the Force Custody Inspector / CJSD Weekend Duty Inspector.

The transfer of a child in custody should only take place under exceptional circumstances, and where the priority is the welfare of that child. An example could be to transfer the child to a designated custody centre with enhanced facilities for the care of children in custody. The transfer of children in custody should always be authorised in consultation with the Force Custody Inspector.

## Equality Considerations

Consideration should be given to how persons in custody may behave towards each other in the transfer vehicle. If there is any doubt as to the safety of individual persons in custody for any reason other options should be considered.

Consideration should be given to any physical disabilities or other conditions which may limit the person in custody’s mobility and affect their ability to access transfer vehicles.

Persons in custody who are pregnant should not be transferred where possible. If the transfer of a person in custody who is pregnant is necessary, they must be conveyed in a suitable vehicle.

Consideration should be given to the suitability of transferring persons in custody of different age, race, religions, or sects which may conflict with each other. Cognisance should be taken of the offence committed (e.g., transferring a person charged with crime aggravated by racial/religious prejudice alongside person of same race / religion as the victim of that crime).

## Responsibilities of Dispatching Custody Centre

Weekend custody transfers will be undertaken by the Prisoner Escort Contractor.

In the event that a transfer requires to be carried out by Police Scotland the Custody Supervisor will identify suitable resources to perform the Custody Transfer, utilising available CJSD police officers where possible. Only appropriately authorised Police Officers will drive the vehicles. If required, the Custody Supervisor will liaise with the Local Policing supervisors to identify the most appropriate officers for the transfer team.

The journey time between the selected custody centres must be deemed reasonable. The Force Custody Inspector / CJSD weekend Duty Inspector must consider geographic factors and the travel conditions when carrying out the transfer risk assessment. Appropriate travelling times will vary from area to area depending on geography and infrastructure, however the travel time should be the shortest and most appropriate route available. This should be an integral part of the dynamic risk assessment. Furthermore, particular consideration should be given to both the existing and forecast weather conditions, as severe adverse weather may present a significant increase to the associated risk.

All Custody officers have a responsibility to highlight to the Custody Supervisor any issues which may preclude a person in custody from being transferred.

The rationale for the suitability of each person in custody should be fully documented in the respective custody record using Custody officer’s notes. All physical evidential samples (i.e., fingerprints, photograph, and DNA samples) should be taken prior to transfer. If there are any issues which prevent this, the receiving centre should be informed.

The respective solicitors and chosen ‘reasonably named person’ should be informed of the transfer and provided with the location of the receiving Custody Centre.

In advance of transferring the person’s custody record on National Custody System, all relevant parts of the custody record should be fully updated including but not limited to:

* Rationale for transfer.
* Custodial Review Section (CRS).
* Details of medical examination and medical instructions left if applicable.

If required, a Prisoner Escort Record (PER) form should be completed as far as possible and sent with the custody.

Where possible, ensure persons in custody, their property bags and any relevant paperwork packages are prepared in advance of the transfer team arriving to uplift to avoid undue delay.

Ensure persons in custody have had opportunity to receive food and drink, use toilet facilities, etc. before transfer. This is particularly relevant during longer transfers. Where the transfer is undertaken by the Prisoner Escort Contractor, food, water, and toilet considerations are part of their internal protocols. If a transfer is required to be undertaken by Police Scotland then appropriate measures must be taken to ensure bottled water is available during the journey and food is available consistent with the provisions in the Care and Welfare of Persons in Police Custody SOP. The journey should be planned to ensure toileting requirements of the custody can be met.

Each person in custody’s property bag should be sealed and clearly marked. Where a person in custody has no property, this must be clearly stated in the Custody officer notes and made explicitly clear to the receiving custody centre. Persons in custody must be thoroughly searched prior to being placed in the transfer vehicle and again upon arrival. Record the details of officers involved in the transfer on the custody record.

## Responsibilities of Receiving Custody Centre

Upon arrival of the transferred persons in custody, complete transfer electronically on National Custody System, or manually enter each transferred person’s details into a new custody record if required.

Priority should, at the discretion of the Custody Supervisor, be given to accepting transferees ahead of other persons waiting to enter custody. Exceptions to this may include when the persons waiting in a queue are non-compliant, children, those arrested for time critical offences or have already been waiting for an excessive period.

Where one has been supplied, the documentary package should be retained for reference during the time the person in custody is at the receiving centre.

Check property bags are all present, relevant to the persons in custody received, intact, properly sealed, and secure.

Persons in custody must be thoroughly searched prior to being placed in the cell.

## Court Custody and Prisoner Escort Services (CCPES) Arrangements for Court Custodies

The receiving custody centre will include all persons in custody that were transferred in, and are to attend court, on their Prisoner Escort Contractor booking form.

In line with current guidance, the final booking form will be sent to Prisoner Escort Contractor not later than 0400hrs on the day where collection is required. Where persons in custody will travel excessive distance to court as a result of a custody transfer, it is good practice to provide advance notice to the Prisoner Escort Contractor.

## Transportation of Persons in Custody by Police Scotland

Weekend custody transfers will normally be carried out by the Prisoner Escort Contractor within the parameters of the agreed contract. The Prisoner Escort Contractor will adhere to their own procedures.

In the event that transfers require to be conducted by Police Scotland it should be in accordance with the guidance available in the Driver Training and Standards Standard Operating Procedure and the Care and Welfare of Persons in Police Custody Standard Operating Procedure.

In the event that transfers require to be conducted by Police Scotland, vehicles must be fit for purpose and inspected prior to use to ensure they are roadworthy. Vehicles should be searched before and after the transfer of persons in custody to ensure there are no foreign objects or other physical defects which might cause harm to any person involved in the transfer operation. Priority should be given to the use of a cell van for this process.

In the event that transfers require to be conducted by Police Scotland the ratio of officers to persons in custody must also be risk assessed to ensure safety of both officers and those persons in custody. As a guide, three officers will be required for three or more persons in custody.

No person in custody must ever be left unattended and consideration should be given to the requirement to handcuff each individual person in custody.

At least one officer must always have clear view of all persons in custody during the transfer operation to ensure that they are safe and well.

Where Police Officers are engaged in a custody transfer, they must wear personal protective equipment (PPE) and always be in possession of airwave radios. They must also be certified in Operational Safety and First Aid training.

The relevant Area Control Room (ACR) must be notified of the nature of the journey. Police officersmust be affiliated to a dedicated call sign which will be assigned by the ACR. In the event of an unexpected incident occurring enroute, the transfer team will seek assistance from the local ACR, and the Force Custody Inspector should be notified.

Members of the Independent Custody Visitors Scheme (ICVS) may request to view or observe the transfer process and the vehicle in which someone is being placed in.

## Cross Border Transfers

Cross Border transfers are the responsibility of, and conducted by, our Prisoner Escort Contractor. Custody Supervisors should submit a non-core booking form to the Prisoner Escort Contractor who will then arrange for the transfer to take place. The care and welfare of those persons being transferred cross border will be the responsibility of the Prisoner Escort Contractor who will adhere to their own policies and procedures.

## Medical Emergency / Vehicle Breakdown (if being conducted by Police Scotland)

The Prisoner Escort Contractor will follow their own protocols where they are conducting the transfers. If Police Scotland undertake transfers the following applies:

* In the event of a medical emergency, the escort should stop in a safe place and escorting officers must notify the ACR. An ambulance should be summoned, and a request made for sufficient local resources to attend to manage persons in custody’s safety and prevent escape.
* In the event of a vehicle breakdown or road traffic collision, officers must notify the ACR immediately, including the locus, nature of the incident and whether an ambulance is required. The escorting vehicle should stop in a safe place if possible. Officers should request the immediate assistance of sufficient local resources to preserve the safety of persons in custody and a local supervisor to manage the scene.
* The vehicle should remain in situ and escorting officers must take necessary steps to preserve life and prevent injury to persons in custody, escorting officers, and members of the public. Consideration must always be given to road safety.
* In the event of any escorting officer becoming unfit for duties through illness or injury, the escorting vehicle should stop in a safe place and the ACR advised of the situation and locus. A request should be made for local resources to attend to assist as necessary. The Force Custody Inspector should also be notified.
* Should an injury occur because of a health and safety issue, submission of a report to the Health and Safety Advisor should be completed in line with Force Policy.
* The Force Custody Inspector / CJSD Weekend Duty Inspector should be notified without delay.

## Complaints

All complaints arising from custody transfers will be dealt with in accordance with the Complaints about the Police Standard Operating Procedure.

Persons in custody who are seeking to make a complaint prior to transfer should not be considered for transfer until the initial complaint procedure is complete.

## Contact Details

Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30 Prejudice to effective conduct of Public Affairs.

## Compliance record

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| 4.00 | Changed ‘Custody Division’ to ‘Criminal Justice  Services Division throughout.  Amended text at paragraphs 8.1, 8.8, 8.9, 8.12, 8.14, 9.1, 10.2 & 11.8. | 11/01/2017 |
| 5.00 | Amended text at Para 2.1  Duplicate Paragraph removed at 12.2.  Additional Paragraph added at 12.5 | 13/03/2018 |
| 6.00 | Changes to language used and removal of sections from SOP to National Guidance. | 08/06/2021 |
| 7.00 | Contents page added and document fully reviewed to bring up to date. | 22/07/2024 |

## Feedback

All Police Scotland service delivery Policies, Standard Operating Procedures (SOPs) and National Guidance are subject to regular reviews. It is important that user feedback is considered when documents are reviewed.

If any officer / staff member wishes to provide comment, or make suggestions for improvements to this or any associated document, a Service Delivery Policy and Procedure Feedback Form (Form 066-014) should be used.