



Consultation on Expectations In Police Custody

Response of the Criminal Bar Association

The Criminal Bar Association

1. This is the response of the Criminal Bar Association (the “CBA”) to the Consultation on Expectations In Police Custody. The CBA represents the views and interests of practicing members of the criminal Bar in England and Wales.
2. The CBA’s role is to promote and maintain the highest professional standards in the practice of law; to provide professional education and training and assist with continuing professional development; to assist with consultations undertaken in connection with the criminal law or the legal profession; and to promote and represent the professional interests of its members.
3. The CBA is the largest specialist Bar association, with around 4,000 subscribing members; and represents all practitioners in the field of criminal law at the Bar. Most practitioners are in self-employed, private practice, working from sets of Chambers based in major towns and cities throughout the country. The international reputation enjoyed by our Criminal Justice System owes a great deal to the professionalism, commitment and

ethical standards of our practitioners. The technical knowledge, skill and quality of advocacy all guarantee the delivery of justice in our courts, ensuring that all persons receive a fair trial and that the adversarial system, which is at the heart of criminal justice in this jurisdiction, is maintained.

The Consultation

4. The CBA has considered carefully the revised draft set out in the consultation. We are wholly supportive of the expectations set out therein, and commend the objectives underpinning those expectations.
5. It is worth observing that this consultation seeks to address the sustained shortfall between the existing legislative framework (in particular the Codes of Practice annexed to the PACE Act 1984) and the reality met by vulnerable detainees. The problem might be best described as less a need for legislative or regulatory change and more a need to ensure that the existing codes of practice are properly implemented both in letter and spirit, through cultural changes and increased resources and training.
6. The experience of the CBA membership is that excessive delays, limited resources and a culture of inadequate care from both police and external agencies are systemic and ingrained. The damage caused by these failings is encountered by our members on a routine basis; whether it is damage to a detainee's legal interests or to his/her welfare, too often it is irremediable.
7. We welcome the extended scope of custody inspections to include the first point of contact; identification of vulnerabilities and proper alternatives to detention at the earliest stage has the greatest potential for averting

the risk of avoidable harm to detainees. It is, therefore, to be encouraged by all possible means.

8. We agree that the new criteria are sufficiently focussed both on diversion from custody and on public sector equality duty responsibilities in police custody.
9. The scale of these expectations is impressive, but not unreasonable. Implementation on a practical level will result in obvious, long-term benefits both to the Criminal Justice System and to society as a whole. It should be treated as a matter of urgency.

The Criminal Bar Association
11th December 2015