

1 Pre-release risk assessment

This Notice details the introduction of a new procedure, within the custody process; that of conducting a pre-release risk assessment of detainees leaving police detention. It also provides instructions for Custody Officers on how to conduct the risk assessment, what to consider and how to record the details within the National Strategy for Police Information Systems (NSPIS).

Background

The limits of the police's responsibility to provide a duty of care to persons released from custody has been the subject of several, high-profile inquests, into deaths following police contact.

National investigations and inquests surrounding such deaths have highlighted concerns and issues regarding the actions of police towards detainees, immediately prior to their release.

The national Association of Chief Police Officers guidance, entitled 'Safer Detention and Handling of Persons in Police Custody', states that, 'The duty to act on foreseeable risks can extend beyond release. Referrals to other agencies following release or transfer from police custody may prevent deaths following police contact or incidents of self-harm. It can also help to break the re-offending cycle.'

In April 2011, the Corporate Manslaughter and Corporate Homicide Act 2007 will apply to police custody. In the event of a death in custody where there are deficiencies in processes or practices, this will have potentially profound consequences for the organisation.

In addition to the drivers mentioned, Item 1 of Notices 10/09 of 4 March 2009 details the questions that will be asked by the IPCC, in relation to any death that has occurred within 48 hours of police contact. The Directorate of Professional Standards, when investigating a death, will also seek to establish the same facts.

Whilst the precise parameters of our duty of care are often unclear, it is imperative that every effort is made to identify risk and provide detained persons with appropriate opportunities for post-release support.

Action to be taken

The Pre-release Risk Assessment (RA) will reflect the dynamic RA that begins from the point of arrest. The exchange of **ALL** RA information during any staff handover is vital in ensuring the continuity of care.

As the grounds for detention are continuously reviewed, so consideration must be given to any known or perceived risk that may arise, should a detainee be released from detention. Risks related to someone's release are of particular relevance where there is, or will be, no power to continue to lawfully detain them. The **current** state of health (mental or physical) of a detainee must always be the consideration; although this will always be based on information gathered throughout a person's detention, reliance should not be placed solely on earlier assessments, even those made by a Forensic Medical Examiner or Healthcare Professional.

Considerations

Some considerations at the anticipated time of release might be:

- Time of day;
- Weather;
- Clothing worn by the detainee;
- Their proximity to their place of abode and their means to get there without undue risk;
- Their age;
- Any illness or reliance on regular medical or mental health treatment;
- The offence under investigation (any arrest may have an impact on the individual, so do not restrict this to specific types of offence);
- Access to accommodation (has the consequence of their arrest resulted in them being made homeless?);
- Particular time of the year (such as religious festivals, birthday, anniversary of a bereavement);
- Any comment made by the detainee as to their future intent.

This must all be balanced against what is known about the person being released and the contents of the RA/any Care Plan. It may be as simple as allowing a phone call to arrange a taxi or to contact a friend or family member to meet or collect the person. There is no definitive list of issues; you must consider each individual's circumstances and respond accordingly. Whilst we can and must ensure that the welfare of a juvenile is entrusted to an Appropriate Adult, we have no power to do so for an adult. Where there are concerns for a person's welfare, post release; always consider encouraging them to inform someone that will take an interest in their welfare that they are being released, e.g. spouse/partner, family member, friend or healthcare/other support worker.

There is no power in law to detain a person *solely* to conduct a RA. Having identified a specific risk or concern, police have no additional powers, outside those that would apply at any other time, to continue to detain that person.

What *will* be required is for the Custody Officer releasing the detainee to show that they **have** considered whether there are any potential issues, what action they have taken to mitigate any identified risk and any known outcome.

Where no specific risk has been identified, it will only be necessary for the Custody Officer to record that they have conducted a review of any factors and consider there to be no known risk. Additionally, a Pre-release Referral leaflet (see below for details) must be issued to all detainees, upon release.

NSPIS has been updated with the following Predefined Log Entry:

- The Pre-release Risk Assessment Decision

This Predefined log entry must be used and amended as required (selecting the appropriate wording and detailing any issues/actions).

Pre-release agency referral leaflet

The introduction of a pre-release referral leaflet will provide detainees being released with contact details for a broad range of independent support agencies. It may also be appropriate for Borough Operational Command Units to provide additional details of local contacts to supplement the leaflet. This leaflet will be available through the Forms database and entitled, 'Pre-Release Agency Referral Leaflet'. This medium of distribution was chosen to allow updates to be made efficiently and prevent wastage.

Police will not be able to pass on the details of a detainee to any support agency *without that person's express permission*. Where such permission is given, it must be recorded in their detention log (whilst they are within the custody environment) and their signature captured.

NSPIS has been updated with the following Predefined Declaration:

■ Pre-Release Agency Referral Leaflet/Consent

This allows the detainee to sign to confirm receipt of the leaflet and to decline or give their consent for their details to be passed to another agency. Where consent is given, the text must be edited to indicate those agencies nominated by the detainee. This declaration will only require completion in cases where any risk(s) has/have been identified.

The leaflet will be issued to **ALL** persons at the point of release from detention. Please ensure that appropriate support is offered to those that require help with reading/understanding or an interpreter, so that anyone that requires a service understands what is available and is able to access it.

To view an example of an NSPIS custody log entry, please follow this link: link to [Emerald](#) intranet site