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CPT/Inf (2014) 11

# Report

## to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

## from 17 to 28 September 2012

The Government of the United Kingdom has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2014) 12.

Strasbourg, 27 March 2014

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**Copy of the letter transmitting the CPT's report**

Ms Anna Deignan
Deputy Director
Human Rights and Security Policy
Ministry of Justice
102 Petty France,
UK- London SW1H 9AJ

Strasbourg, 28 March 2013

Dear Ms Deignan,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of the United Kingdom drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the United Kingdom from 17 to 28 September 2012. The report was adopted by the CPT at its 80th meeting, held from 4 to 8 March 2013.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the national authorities to provide within **six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the authorities of the United Kingdom to provide, in that response, reactions to the comments formulated in this report as well as replies to the requests for information made.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Lətif Hüseynov
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

# I. INTRODUCTION

## A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the United Kingdom from 17 to 28 September 2012. The visit formed part of the CPT's programme of periodic visits for 2012 and was the Committee's seventh periodic visit to the United Kingdom.[1]

2. The visit was carried out by the following members of the CPT:

- Yakın ERTÜRK (Head of the delegation)
- Celso DAS NEVES MANATA
- Andreana ESPOSITO
- Andres MAGNÚSSON
- Jari PIRJOLA
- Olivera VULIĆ.

They were supported by Hugh CHETWYND (Head of Division) and Thobias BERGMANN of the CPT's Secretariat, and assisted by Eric DURAND, medical doctor, former Head of the Medical Services at Fleury-Mérogis Prison, France, (expert).

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1 The CPT's previous periodic visits to the United Kingdom took place in July-August 1990 (England), May 1994 (England and Scotland), November-December 1999 (Northern Ireland), February 2001 (England and Wales), May 2003 (England, Scotland and the Isle of Man) and December 2008 (England and Northern Ireland). Apart from these, the CPT has also carried out ad hoc visits in July 1993 (Northern Ireland), September 1997 (England and the Isle of Man), February 2002 (England), March 2004 (England), July and November 2005 (England), December 2007 (England and Scotland), March 2010 (Channel Islands, England and Scotland) and June 2010 (England).

## B. Establishments visited

3. The delegation visited the following places of detention:

**England and Wales**

Immigration Removal Centres

- Brook House
- Colnbrook

**Scotland**

Police Stations

*Lothian and Borders Police*

- Gayfield Square Police Station
- St Leonards Police Station

*Strathclyde Police*

- Greenock Police Station
- Maryhill Police Station
- Stewart Street Police Station

Court Houses

- Glasgow Sheriff Court

Prisons and Young Offender Institutions

- Barlinnie Prison
- Cornton Vale Prison and Young Offenders Institution
- Edinburgh Prison
- Greenock Prison
- Kilmarnock Prison

Psychiatric establishments

- Rowanbank Clinic

## C. Consultations held by the delegation

4. The CPT's delegation met senior officials from the Ministry of Justice and the United Kingdom Border Agency. It also met the Chief Inspector of Prisons for England and Wales and Coordinator for the National Preventive Mechanism, Nick Hardwick, and the Children's Commissioner for England, Maggie Atkinson.

In Scotland the delegation met the Scottish Minister for External Affairs and International Development, Humza Yousaf, and senior officials from Ministries of Justice and Health and the Scottish Prison Service. Consultations were also held with the Chief Inspector of Prisons for Scotland, Hugh Monro, and representatives of the Police Complaints Commissioner Scotland and the Mental Welfare Commission for Scotland.

Further, it held discussions in London and Edinburgh with representatives of non-governmental organisations active in areas of concern to the CPT

A list of the authorities and non-governmental entities with which the delegation held consultations is set out in Appendix II.

## D. Cooperation between the CPT and the United Kingdom and Scottish authorities

5. The cooperation received by the CPT's delegation from the United Kingdom and Scottish authorities, as well as from the management and staff in the establishments visited was, on the whole, excellent. With one exception, the delegation had rapid access to the places of detention visited, was able to meet with those persons with whom it wanted to speak in private and was provided with access to the information it required to carry out its task.

The exception concerned Kilmarnock Prison, where the delegation was initially confronted with a serious lack of knowledge about the CPT's mandate and encountered delays in terms of access to the establishment as well as access to information. By letter of 8 February 2013, the CPT was informed that the Scottish Prison Service (SPS) would raise the matter with the private contractor which operates Kilmarnock Prison on behalf of SPS to obtain an explanation. **The Committee trusts that the United Kingdom and Scottish authorities will take the necessary steps to ensure that such situations are not encountered during future visits.**

## E. Immediate observations under Article 8, paragraph 5, of the Convention

6. At its meeting with the Scottish authorities on 25 September 2012, the CPT's delegation made an immediate observation under Article 8, paragraph 5, of the Convention as regards the continued placing of prisoners in the very small cubicles in the reception area of Barlinnie Prison for two hours or more (see also paragraph 75). The delegation requested the authorities of the United Kingdom to provide the Committee with a response within three months as to the action taken to remedy this issue.

The immediate observation was confirmed at the meeting with the United Kingdom authorities on 28 September and by letter of 17 October from the Executive Secretary of the CPT.

By letter of 8 February 2013, the United Kingdom authorities provided a response to the immediate observation and to other comments raised by the CPT's delegation in its preliminary observations. The response has been taken into account in the relevant sections of the report.

## F. Development of a National Preventive Mechanism

7. The United Kingdom ratified the Optional Protocol to the United Nations Convention against Torture (OPCAT) in December 2003 and designated its National Preventive Mechanism (NPM) in March 2009. At the time of the delegation's visit, the NPM was made up of 18 independent inspection bodies (nine in England and Wales, five in Scotland and four in Northern Ireland), which together cover all places where persons are deprived of their liberty in the United Kingdom, and the majority of which have a wealth of monitoring experience dating back many years. The Chief Inspector of Prisons for England and Wales is tasked with coordinating the work of the NPM.

8. The CPT's delegation met with several organisations that are part of the NPM, both in Edinburgh and London. The CPT has enjoyed very good cooperation with the Inspectorate of Prisons for England and Wales and other United Kingdom inspection bodies for more than 20 years, and the creation of the NPM has served to reinforce that cooperation. **The CPT trusts that the United Kingdom authorities will continue to ensure that the NPM as a whole is properly resourced.**

The CPT wishes to place on record its appreciation of the initiative taken by the United Kingdom and Scottish authorities to invite the NPM to be present when the delegation delivered its preliminary observations at the end of the visit. This is in line with the position adopted by the CPT in its 22nd General Report of November 2012 aimed at building synergies between the Committee and NPMs, and should certainly enhance the effectiveness of the monitoring.

# II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

## SCOTLAND

## A. Law enforcement agencies

### 1. Preliminary remarks

9. Policing is a devolved policy area under the Scotland Act of 1998 and the police are therefore under the authority of the Scottish Government.[2] At the time of the visit, there were eight regional police forces in Scotland, each one led by a Chief Constable and co-funded by the Scottish government and the local authorities. However, the Scottish Parliament enacted the new Police and Fire Reform (Scotland) Act 2012, which provides for a police reform in which the eight regional police forces will be merged into one new "*Police Service for Scotland*" as from April 2013. The Scottish government's rationale for this merger is to increase the efficiency and effectiveness of the police. Most police officers with whom the CPT's delegation spoke saw the proposed merger as a positive development.

10. The legal framework governing the deprivation of liberty by law enforcement officials has changed since the last CPT visit to Scotland in 2003. The Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010 has amended the provisions of the Criminal Procedure (Scotland) Act 1995 which regulates detention and arrest.

Section 3 of the 2010 Act extends the period of police detention from six hours to 12 hours, with the possibility to extend it by a further 12 hours upon the authority of a chief inspector under certain conditions. A detained person, if not released, must be charged and brought before a court on the next "lawful day", which excludes week-ends and public holidays.[3] The CPT's delegation was informed during the visit that consideration was being given to introducing a maximum time limit of 36 hours for police custody. **The Committee would like to receive further information about this proposal.**

Previously, suspects in Scotland could be detained by the police for up to six hours before being granted access to a lawyer. This delay in access to a lawyer had been criticised by the CPT, which had stressed the importance for all persons in police custody to have access to a lawyer as from the very outset of their deprivation of liberty as a crucial safeguard against ill-treatment. The CPT welcomes the new legal provisions granting detained persons the right to have access to a lawyer *immediately,* following their deprivation of liberty.[4]

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[2] Except for areas of national security, terrorism, firearms and drugs and the British Transport Police.

[3] For example, a person detained on a Friday before a week-end that is followed by a bank holiday Monday may be held in police custody until the following Tuesday morning (i.e. some 84 hours).

[4] See section 1 of the Criminal Procedure Act 2010, which amends sections 14 and 15 of the Criminal Procedure Act 1995.

11. In the course of the 2012 visit, the CPT's delegation visited five police stations in Scotland, and also visited the holding cells at Glasgow Sheriff Court. The delegation made a follow-up visit to *Stewart Street Police Station* in Central Glasgow; it possesses 46 cells and in the year preceding the visit of the CPT's delegation had opened 10,112 custody records. The majority of cases were related to public order offences, with a high incidence of alcohol-related violence during week-end nights. The custody area is spread over two floors in a well-maintained building and is staffed by a minimum of seven police officers. The CPT's delegation visited for the first time *Maryhill Police Station* in Glasgow with 27 cells and *Greenock Police Station* with 54 cells.

In Edinburgh, the delegation visited *St Leonards Police Station* which possesses 40 cells and dealt with 17,246 custody cases in the year preceding the delegation's visit. The CPT's delegation also paid a brief visit to nearby *Gayfield Square Police Station*, which serves as an overflow facility for St Leonards Police Station and has four cells, none of which had been used in the four months prior to the visit.

The delegation interviewed several persons being held in police custody at the time of the visit; further, it interviewed many persons in the prisons it visited as well as in Glasgow Sheriff Court, about their recent experience of police custody in Scotland.

12. The vast majority of persons in police detention are released with a caution, or a fine or placed on police bail after a few hours. The exception to this rule concerns foreign nationals who are suspected of staying illegally in the country; they can be detained by the police, in accordance with an agreement between the police forces and the United Kingdom Border Agency (UKBA), for up to five days, at which point, by the latest, the UKBA has to take them into their custody and move them to an immigration removal centre (see part II. D. of this report).

In the police stations visited, the CPT's delegation was informed that foreign nationals rarely spent five days in police custody and the electronic registers consulted appeared to confirm this. **The CPT trusts that detained irregular migrants will be transferred as quickly as possible to an immigration removal centre, which is specifically designed to manage persons held for administrative reasons. Police custody areas are only suitable for short stays.**

### 2. Ill-treatment

13. Most persons met by the delegation stated that they had been correctly treated by law enforcement officials both at the time of their apprehension and while in police custody.

The delegation received some complaints about handcuffs being applied too tightly. The CPT understands that the necessary use of handcuffs on an agitated person can cause serious discomfort if the person continues to struggle. The CPT's delegation was pleased to note that all the police officers it met showed an awareness of the need to calm agitated persons through talking to them, rather than using further force unless it is absolutely necessary. In Stewart Street Police Station, the CPT's delegation was informed that detained persons are always reminded that struggling against their handcuffs could result in pain. A safety training course, which includes a module on the safe handling of handcuffs, is also in place for police officers.

While the CPT notes that, according to the Police Complaints Commissioner for Scotland, there has been a reduction in the number of complaints alleging assaults by police officers; this category still makes up some ten percent of all complaints received[5], which indicates that **the Scottish authorities must remain vigilant and continue their zero-tolerance policy towards ill-treatment.**

### 3. Safeguards against ill-treatment

14. In the course of the 2012 visit, the CPT's delegation reviewed the safeguards afforded to persons deprived of their liberty by the police; namely, the right of such persons to inform a close relative, or another third party of their choice, of their situation, to have access to a lawyer, and to have access to a doctor. It also examined whether such persons were informed without delay of all their rights and whether the custody records were properly filled out and well-maintained.

a. notification of custody

15. The right of detained persons to notify a "*reasonably named person*", such as a family member, a friend or another trusted person, of their detention is provided for in the Criminal Procedure (Scotland) Act 1995 section 15(1). The CPT's delegation noted that all persons with whom it spoke who had been in police detention had been afforded this right. In practice, the delegation observed that during the initial reception process a custody sergeant would ask the detained person whether he wished to inform someone about his detention and the relevant contact details. If a detained person did not wish to have anyone informed, this would be recorded in the custody record.

A police officer would then check whether there is any particular reason why the named person should not be informed and, if satisfied that this was not the case, would notify the person on the detained person's behalf.

16. Notification of custody to the named person may be delayed if it is "necessary in the interest of the investigation, or the prevention of crime or the apprehension of offenders". The CPT recognises that the exercise of this right might have to be made subject to certain exceptions, in order to protect the legitimate interests of the police investigation. However, such exceptions should be clearly defined in law and strictly limited in time, and resort to them should be accompanied by appropriate safeguards (for example, any delay in notification of custody should be recorded in writing with the reasons therefore, and require the approval of a senior police officer unconnected with the case or a prosecutor). At present, the power to delay notification of custody is neither clearly defined nor strictly limited in time, and resort to that power does not appear to be accompanied by the above-mentioned safeguards. **The CPT recommends that appropriate measures be adopted to remedy these deficiencies.**

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[5] Police Complaints Commissioner for Scotland, "Police Complaints: Statistics for Scotland 2010-11", p. 9.

b. access to a lawyer

17. As the CPT has stated in the past, its objective of guaranteeing an effective right of access to a lawyer during police custody is not primarily linked to issues of due process or the right to a fair trial; it is aimed at preventing ill-treatment. In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest.

It follows that to be effective as a safeguard against ill-treatment, access to a lawyer must be guaranteed as from the very outset of deprivation of liberty. The right of access to a lawyer must include the right to talk to him/her in private; the detained person should also, in principle, be entitled to have the lawyer present during any interview with law enforcement officials.

18. As stated above, Scottish law now provides for immediate access to a lawyer for persons detained by the police. In the police stations visited, detained persons were offered this right. The custody sergeant would call a person's named lawyer or a legal aid lawyer provided by the Bar Association. However, in practice the access to a lawyer often consists of only a short telephone conversation with a legal aid lawyer. Further, it transpired from interviews that persons detained on a Friday afternoon or a Saturday would often not see a legal-aid lawyer until the Sunday afternoon. The delay was due to such lawyers waiting until they knew whether or not they would have to deal with more than one case in that police station.

**The CPT invites the Scottish authorities to explore with the Bar Associations ways of ensuring that persons detained by the police have prompt and effective access to legal-aid lawyers when recourse is had to the services of such lawyers.**

19. The CPT is concerned by the possibility given to the police to delay a detained person's access to a lawyer or the exercise of that person's right to meet a lawyer in private, if this is considered necessary in the interest of the investigation, or the prevention of crime or the apprehension of offenders.[6] The CPT fully recognises that it may exceptionally be necessary to delay for a certain period a detained person's access to a lawyer of his/her choice. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another independent lawyer who can be trusted not to jeopardize the legitimate interests of the investigation should be organised. It is perfectly feasible to make satisfactory arrangements in advance for this type of situation, in consultation with the local Bar Association or Law Society.

**The CPT recommends that Section 15A of the Criminal Procedure (Scotland) Act 1995 be amended accordingly.**

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[6] See Criminal Procedure (Scotland) Act 1995 (as amended), section 15 A (7) and (8).

c. access to a doctor

20. The CPT's delegation was satisfied that all detained persons it met who wished to see a doctor had either been attended by one or were only recently detained and had been immediately placed on the waiting list. The doctors are not police employees but independent general practitioners, contracted onto a duty-roster. The CPT's delegation observed that doctors visited the police stations several times a day and that lists with the names of persons wishing to see a doctor were well kept. If urgent medical treatment was required, a detained person would not be kept at the police station but transferred to hospital.

The CPT's delegation was also satisfied that medical consultations took place in private, out of the hearing and sight of a police officer. This was confirmed by detained persons as well as by a doctor with whom the delegation spoke. Only in cases where the doctor deemed the detained person to be aggressive, violent and potentially dangerous (for example, because the detained person was under the influence of drugs and/or had a severe personality disorder or a mental illness) would the doctor decide to hold the initial medical consultation through the small hatch in the cell door, although out of the hearing of a police officer.

21. Nevertheless, there is still no formal requirement guaranteeing the right of access to a doctor. **The CPT recommends that the right of a detained person to have access to a doctor be expressly provided for in law and in the administrative guidance regulating the deprivation of liberty by the police.**

d. information on rights

22. Scottish law provides that any person deprived of his or her liberty must be immediately and clearly informed of the reason for police detention and of their rights.[7] And detained persons with whom the delegation spoke confirmed that they had been informed about their rights.

In Stewart Street and Mary Hill Police Stations in Glasgow, and in Greenock Police Station, leaflets explaining detained persons' rights were available in the detention area; however, such leaflets did not exist in St. Leonards and Gayfield Square Police Stations.

**The CPT recommends the Scottish authorities to ensure that written information on detained persons' rights is available in all police detention areas and is effectively given to persons detained.**

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[7] Criminal Procedure (Scotland) Act 1995, as amended by the Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010: section 14(6) on the reason for the detention, section 14(9) on the right to remain silent, section 15(2) on the right to inform a "*reasonably named person*" about the detention and section 15a(6) about the right to consult a lawyer.

23. Information in foreign languages is provided to detained persons via a telephone interpretation service. Large posters with initial information in more than 20 different languages invite the person to point at a relevant language to request a telephone translation in this language. The CPT's delegation did not come across any problem concerning this service.

e. custody records

24. In the police stations visited, the CPT's delegation noted that the electronic custody records were well kept, with the relevant information inserted. Most of the information is entered upon admission by the duty custody sergeant. This ensures a standardised approach and protects information from being permanently lost. It also facilitates oversight and supervision, as all information entered into the system is available to the management of the relevant police force.

f. inspection and complaints mechanisms

25. Her Majesty's Inspectorate of Constabulary for Scotland, a component of the United Kingdom National Preventive Mechanism, is mandated to carry out inspections of all police forces with a view to monitoring and improving police services. Further, all police stations visited by the CPT's delegation take part in the optional "Independent Custody Visiting Scheme", introduced in 2000, for which a Scotland-wide policy exists[8], and which allows accredited local community members to carry out unannounced checks on custody conditions. The CPT considers the existence of independent monitoring bodies to be an important element for the prevention of ill-treatment and **trusts that this scheme will be implemented across Scotland as part of the process of establishing a single unified police service.**

26. The CPT's delegation was informed that the mandate of the Police Complaints Commissioner for Scotland (PCCS) is likely to change from 2013 onwards, with plans being discussed to transform the Commissioner's office into an investigative unit at the disposal of the prosecution service. **The CPT would like to be informed about the new mandate and structure of the Police Complaints Commissioner. Further, it would like to be informed of the professional profile of staff recruited to carry out the proposed investigative tasks entrusted to the Commissioner.**

[8] Scottish Executive, Justice Department, Police Division, "*Police Circular No: 14/2004 – Independent Custody Visiting / National Standards*" (2004).

### 4. Conditions of detention

27. The material conditions in all the police stations visited were, on the whole, satisfactory. The single occupancy cells were of an adequate size, measuring some 8 m² or more. In St. Leonards Police Station, a small number of cells measuring some 15 m² were used for multiple occupancy, following a risk assessment. Particularly vulnerable detained persons at risk of self-harming were placed in observation cells, which are equipped with CCTV cameras or in some cases a glass wall. In all cells, artificial lighting and ventilation were sufficient and glass bricks permitted access to some natural light.

Each cell possessed a call bell, a concrete plinth, and a toilet (flushed from outside the cell), and detained persons were provided with a mattress and blanket, and three meals a day (one of which was warm). Shower facilities existed in all stations, except Gayfield Square Police Station. However, detained persons met by the delegation, who had spent a weekend in a police station before going to court, complained that they had not been able to wash themselves. Further, detained persons held for longer than 24 hours were not offered access to outdoor exercise except on rare occasions at Stewart Street and St. Leonards Police Stations.

**The CPT recommends that all persons detained for longer than 24 hours be offered the possibility of access to outdoor exercise. The CPT also invites the Scottish authorities to enable persons in custody for longer than 24 hours to use the shower facilities.**

### 5. Glasgow Sheriff Court

28. The Glasgow Sheriff Court is one of the busiest courts in western Europe and possesses 58 holding cells in its basement, managed by a private security company (G4S). At the time of the delegation's visit, early afternoon on a Friday, there were 97 persons who had been held in the cells since the morning (between 7 a.m. and 9.30 a.m.), and who were waiting for their cases to be called. The maximum capacity for the holding area is 330 persons, which is often reached at peak times (i.e. Mondays and after bank holiday weekends). On those occasions when numbers exceed this capacity, nearby police stations are used as additional facilities.

29. G4S staff conduct a rapid cell-share assessment upon the arrival of all persons, and the contractual arrangements stipulate that G4S has to ensure that every detained person is seen within one hour of arrival by a nurse. The delegation did not receive any complaints about the medical services in the court house custody area.

30. All adult males arriving at the detention area are processed administratively in one of two assessment cells (4.5m²), in which detained persons spend approximately 5 to 10 minutes before being placed in a holding cell. The holding cells were all essentially of the same size (some 4m²). Some of the cells were designed for double-occupancy and they offered acceptable conditions for short stays. However, the vast majority of cells were used to hold up to six people; three persons crammed together on a bench opposite another three persons on a bench. A urinal, placed at the end of each cell, further limited the space available. Holding persons in such cramped conditions for a period of many hours is not acceptable. Cells of such a size should ideally hold not more than two persons, and certainly not more than three, and for short periods only. Further, an increased effort should be made to achieve a more even distribution of persons between cells, as the day progresses.

**The CPT recommends that steps be taken to reduce the occupancy levels in the cells used for accommodating adult males, in the light of these remarks.**

Females and juveniles are kept separately from adult males. The female section is made up of three cells (each measuring 4m²) and no more than two women are placed in the same cell at one time. Juveniles were also placed two to a cell.

31. During the day, each detained person receives a snack consisting of a sandwich and a pack of crisps and can request water. However, detained persons often did not have an opportunity to eat breakfast in the remand facility prior to being transported to court and the delegation received several complaints that the snack provided by G4S was inadequate, especially when a detained person's court case was dealt with late in the day. Complaints about the quality of the sandwiches were received and the delegation observed that many sandwiches had been discarded on the cell floors. **The CPT would appreciate the Scottish authorities' observations on this issue.**

## B. Prisons

### 1. Preliminary remarks

#### a. recent developments

32. Justice matters, including prisons, are a devolved policy area under the Scotland Act of 1998 and fall under the authority of the Scottish Government. Prisons in Scotland are the responsibility of the Scottish Prison Service, established in 1993, which operates as an Agency of the Scottish Government.

At the time of the September 2012 visit, the Scottish Prison Service was catering for 8,134 prisoners, an increase of some 30% since the Committee's May 2003 visit. To cope with this significant population expansion, the Scottish authorities have invested heavily in building new prison establishments such as Addiewell and Low Moss Prisons (both providing 700 places) which were opened in 2009 and 2012, respectively. Further, the Scottish Prison Service has expanded the capacity of several of its existing prisons and, as part of its ongoing modernisation of the prison estate, plans to build a replacement prison for Peterhead and Aberdeen Prisons in 2014. Nevertheless, despite raising the estate design capacity to 7,840 places, at the time of the visit, the Scottish prison system was still operating with an occupancy level of 104% and overcrowding remains an important issue in some prisons. Further, the prison population is forecast to continue to increase.

The Scottish Government has adopted a number of initiatives to stem the rising prison population. Building on the 2008 McCleish Report[9], increased investment in the community is being promoted such as the "Community Payback Order" of 2011 which represents an attempt to divert offenders from short-term prison sentences. Further, in 2011 the Government introduced a Bill in Parliament which was designed to introduce a presumption against imprisonment for sentences of six months or less as research showed that prisons were not in a position to provide meaningful programmes to address the offending behaviour of persons sentenced to short sentences; the Scottish Parliament decided to change the limit to three months and less. At the time of the visit, it was too early to assess the impact of the measure although some interlocutors thought that the measure may have led to sentence inflation in order to exceed the three-month limit.

**The CPT recommends that the Scottish authorities pursue their efforts to reduce the prison population, taking due account of the relevant Recommendations of the Committee of Ministers of the Council of Europe in this area, in particular: Recommendation No. R(99)22 concerning prison overcrowding and prison population inflation; Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures; Recommendation Rec(2003)22 on conditional release (parole); Recommendation Rec(2006)13 on the use of remand in custody; and Recommendation Rec(2010)1 on the Council of Europe Probation Rules.**

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[9] Scotland's Choice: Report of the Scottish Prisons Commission, July 2008.

Further, in light of the high rates of recidivism[10] among persons sentenced to short periods of imprisonment, **the CPT would be interested to learn about the results of the presumption against imprisonment measure and whether the Scottish authorities are considering extending the measure beyond the current limit of three months.**

33. As is the case in most jurisdictions, the Scottish prison system is primarily designed to serve the needs of male adult offenders, which make up the overwhelming majority of prisoners, with women prisoners, as a result, being treated essentially the same. In the past few years, following an increase in the female prison population, there has been a growing realisation that the specific needs and challenges faced by women offenders were not being adequately addressed. By 2010, the situation in the only dedicated women's prison and female young offenders institution in Scotland was described by the Chief Inspector of Scottish Prisons as being in a "state of crisis".[11] In response, the Scottish Government established the Commission on Women Offenders in June 2011 to look at ways to improve outcomes for women in the criminal justice system; it delivered its final report in April 2012.[12] The CPT's delegation had an opportunity to examine the current treatment of women prisoners and female young offenders in three prisons in Scotland in the course of the 2012 visit, and to consider the various measures and response by the Scottish authorities[13] to improve their situation and address their specific needs (see paragraphs 44 – 51 and paragraphs 72 - 74).

b. prisons visited

34. In the course of the visit, the CPT's delegation visited for the first time Cornton Vale and Greenock Prisons, and carried out a follow-up visit to Barlinnie Prison. It also looked at the situation of women prisoners in Edinburgh Prison and paid a targeted visit to Kilmarnock Prison, focusing on inmates on protection and persons held in segregation.

Barlinnie Prison, opened in 1882 and located in Glasgow, is both the largest and busiest prison in Scotland, holding some 16% of the Scottish prison population. The prison consists of five accommodation blocks (Halls A to E), for adult male prisoners on remand and sentenced, as well as a National Top End facility (Leatham Hall) for long-term and life sentence prisoners. The prison was accommodating some 1,200 prisoners at the time of the visit for a design capacity of 1,021. Although the prison continues to operate above the official capacity, the situation had improved drastically since the opening of Low Moss Prison in March 2012, which had been instrumental in reducing the number of prisoners in Barlinnie from over 1,700 inmates.

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[10] Figures for 2009-10 show that the number of persons reconvicted one year after serving a sentence of up to three months stood at 58.4%; at 53.7% for persons who served a sentence of between three and six months; and at 39.9% for persons who served a sentence of between six months and two years. See Table 8 of Reconviction rates in Scotland 2009-2010: Scottish Government (25 September 2012).

[11] See HM Chief Inspector of Prisons for Scotland's reports on the visits of September 2009, February 2011 and January/February 2012 to HM Prison and Young Offender Institution Cornton Vale.

[12] Available at http://www.scotland.gov.uk/Resource/0039/00391828.pdf .

[13] See The Scottish Government Response to the Commission on Women Offenders (25 June 2012) available at http://www.scotland.gov.uk/Publications/2012/06/2387 .

Cornton Vale Prison and Young Offenders Institution, opened in 1975, is situated on the outskirts of Stirling, in central Scotland. The establishment has an official capacity of 309 places and, at the time of the visit, was accommodating 289 female prisoners, of whom 28 were juvenile and young offenders, aged between 16 and 21 years. The prison also has a mother-and-baby unit, where mothers can stay with their babies until they are 15 months old, which was not occupied at the time of the visit. The establishment has seven separate accommodation units, ranging from high to low supervision. The main house blocks are Ross (including the new Damyatt separation and reintegration unit), Bruce, Peebles and Wallace. Sky House is a National Top End facility for convicted female adult prisoners requiring low supervision, after which they can progress to Open House, composed of 16 independent living units within the prison grounds but outside the main perimeter wall. Juvenile and young offenders are accommodated separately in Younger House.

Edinburgh Prison, located in the city, consists of four house blocks. Male prisoners are accommodated in Glenesk, Hermiston, and Ingliston and, since mid-2011 female prisoners have been accommodated in Ratho. At the time of the visit, the prison was accommodating 786 male and 110 female prisoners for a design capacity of 870.

Greenock Prison, which opened in 1910, consists of three accommodation blocks, each catering to a very different population. The original building holds adult male prisoners in Aisla Hall on four landings and female sentenced prisoners in Darrock Hall on two landings. A separate two-storey unit built in 1993 (Chrisswell House) accommodates long-term and life-sentence male prisoners in the last few years of their sentences with a similar profile to those in Leatham Hall at Barlinnie Prison. At the time of the visit, the prison was holding 239 inmates (191 male and 48 female prisoners) for a design capacity of 255.

Kilmarnock Prison, which opened in 2002, is a privately managed prison. The prison consists of two accommodation blocks connected by a covered walkway, each containing four wings leading off a central control area. Of the eight wings, four are for long-term sentences, two for short-term, one for inmates requiring protection and one for remand prisoners. Originally designed as a 500-place establishment, the contract with the Scottish Prison Service enables the company (SERCO) to increase the prison’s capacity by blocks of 48 up to a maximum capacity of 692. At the time of the visit, the capacity stood at 644 and the prison was holding 639 male inmates.

## 2. Ill-treatment

35. In general, the CPT's delegation observed that relations between prisoners and staff in the establishments visited were positive. Further, prisoners stated that they felt reasonably safe, with the exception of those units visited at Kilmarnock Prison where the delegation noted a rather tense atmosphere.

Moreover, a few allegations of excessive use of force by prison officers in Barlinnie Prison were received. In one case, a person who had already been brought under control using "Control and Restraint" methods was allegedly punched and another prisoner allegedly received a punch to the right side of the head for apparently not obeying an order to end a telephone call. At Cornton Vale, many women complained about verbal abuse and condescending treatment, in particular by female prison officers.[14]

**The CPT recommends that prison officers at Barlinnie Prison be reminded that no more force than is strictly necessary should be used to control prisoners and that there can be no justification for striking a prisoner after he or she has been brought under control or for physically assaulting a prisoner who refuses to obey an order. Further, female prison officers at Cornton Vale Prison should be reminded to treat prisoners with respect at all times and, more specifically, to use appropriate language when talking to them.**

36. The number of serious incidents of inter-prisoner violence was generally low and all the prisons visited had anti-bullying policies in place. However, at Kilmarnock Prison, the CPT's delegation met a number of prisoners who stated that they did not feel totally safe, especially during the association periods on the wings when the cell doors were left unlocked. They alleged that stronger groups of prisoners would come into their cells, push, insult and intimidate them, and that staff did little to prevent such behaviour. Further, they stated that making a complaint would likely result in them being transferred to another prison.

Addressing the phenomenon of inter-prisoner violence requires that prison staff be alert to signs of trouble, and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of secure custody and care, is a decisive factor in this context.

Management in the prisons visited took the duty of care owed to the prisoners in their charge seriously, and stated their commitment to improving existing approaches. In this respect, **the CPT recommends that a more proactive stance be taken towards tackling bullying at Kilmarnock Prison.**

[14] Women prisoners met at Edinburgh Prison also alleged verbal abuse by female prison officers at Cornton Vale Prison, in respect of the time when they had been held at that establishment.

### 3. Conditions of detention in Barlinnie, Greenock and Kilmarnock Prisons

a. material conditions

37. Ongoing improvements to the material conditions in Barlinnie Prison have continued to be made since the CPT's previous visit in 2003; notably Halls A and E have been refurbished and all cells now possess integral sanitation and connections for electrical appliances. This is to be welcomed especially as, despite long-term plans to transform Barlinnie Prison into a remand prison with a reduced capacity, the establishment will continue to operate in its present form for the foreseeable future.

Cells throughout the establishment had adequate lighting, including access to natural light, and ventilation; they were suitably furnished and were, on the whole, in a satisfactory state of repair and cleanliness. Further, all cells were equipped with a call system.

Occupancy levels had been reduced significantly in recent months prior to the visit and most prisoners were now accommodated one to a cell, measuring some 8.5m². However, some 400 prisoners continued to be held two to a cell. Cells of such dimensions provide good conditions for one person but only cramped accommodation for two.

**The CPT trusts that efforts will continue to be made to accommodate prisoners at Barlinnie one to a cell (save in exceptional cases when it would be inadvisable for a prisoner to be left alone).**

38. At Greenock Prison, male inmates were accommodated in single occupancy cells (measuring some 8m²). The cells in Aisla and Darrock Halls were suitably furnished and had adequate lighting, including access to natural light, and ventilation. Efforts were made to maintain the establishment in a decent state of repair, notwithstanding the age of the buildings, and cleanliness. For example, at the time of the visit, the cell windows in the female unit were being replaced to provide greater insulation.

The material conditions in Chrisswell House were of a high standard, with bright and airy common areas, and the prisoners' rooms were adequately furnished.

39. In each of the three prisons visited, the outdoor exercise yards possessed no shelter from poor weather for the inmates. **The CPT recommends that this deficiency be remedied. It would also be desirable for the exercise yards to be equipped with a means of rest** (this is already the case for the yards for women at Greenock prison).

40. At Kilmarnock Prison, the material conditions in the accommodation wings visited (G and H) were generally satisfactory[15] and do not call for particular comment. However, the delegation did receive a number of complaints about the lack of halal meat and the preparation of food for muslim prisoners. It understood from the prison management that action had been taken to put in place specific arrangements for muslim prisoners. **The CPT would like to be informed about the measures taken.**

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[15] Each cell was suitably furnished, possessed a fully partitioned sanitary annexe and had sufficient artificial lighting and ventilation as well as access to natural light.

b. activities

41. At Barlinnie Prison, at the time of the visit 182 *sentenced* prisoners had work (for example, 22 in the kitchen, 20 in the laundry, 52 as joiners, 15 in welding, 11 in painting, 10 in plumbing). A further 122 prisoners were "passmen" (i.e. responsible for cleaning in the accommodation halls) and 69 prisoners were attending educational classes (of whom about half also worked). The vast majority of prisoners also took part in some sort of physical education activity (cardio-vascular machines, weight lifting, badminton, indoor football, circuit training). In addition, prisoners had access to a large recreation hall on one or two evenings a week, where they could play snooker, pool or table tennis.

The CPT acknowledges the efforts being made to provide sentenced prisoners with purposeful activities, such as the Learning Centre which is well-organised and offers an interesting range of educational activities to prisoners, although with limited resources. Nevertheless, increasing the opportunities on offer for work and education should be pursued vigorously, with a view to ensuring that prisoners are both occupied with meaningful activities and provided with skills that will assist them upon their release.

The situation as regards *remand* prisoners was not so good. Many such inmates met by the CPT's delegation in C Hall (which accommodated untried prisoners) and to a lesser extent in A Hall (which accommodated both untried and sentenced prisoners), were confined to their cells for periods of up to 22 hours a day. Remand prisoners also stated that they had to choose between one hour of outdoor exercise and one hour of gym every day, and that they were only offered the possibility of going to the recreation hall once a week for 45 minutes. Further, they were not offered the possibility to work or to attend education classes, other than those few who were designated as "passmen" in A and C Halls.

**The CPT recommends that action be taken at Barlinnie Prison to develop the number of purposeful activities on offer to prisoners, with special emphasis on increasing the number of sentenced prisoners with work and improving the daily programme for remand prisoners; the objective should be to ensure that all prisoners spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association).**

42. At Greenock Prison, the compact nature of the establishment and the need to keep the three distinct population groups apart placed certain limitations on the activities offered. The CPT was nevertheless pleased to note that efforts were being made to offer activities to remand prisoners.

At the time of the visit, 140 inmates (roughly 60%) were occupied in some sort of work; including 36 cleaners, 24 kitchen and cafeteria workers, 32 in joinery and construction workshops, 12 in the laundry and 8 in painting and decorating. In addition, 23 inmates from Chrisswell House were assigned to community placements, with 12 working at any given time. Up to 20 inmates could also attend education courses, with classes for female inmates taking place during weekday mornings and male inmates in the afternoons. In addition, a number of prisoner programmes were offered to inmates such as Constructs (twice a year for eight inmates), Alcohol Awareness and Drugs Action for Change.

The CPT's delegation obtained a favourable impression of the work activities and classes being run at the time of the visit, with positive learning outcomes being promoted by the staff and prisoners appreciating the opportunities offered to them to develop their skills. Nevertheless, increased efforts need to be made to provide those prisoners without any purposeful activity with something to do other than watching television. In particular, the delegation met a number of prisoners in Chrisswell House who were frustrated by the lack of work opportunities on offer to them given they were near the end of their sentence.

**The CPT encourages the Scottish authorities to make further efforts to offer meaningful activities to all prisoners at Greenock Prison, especially those allocated to Chrisswell House.**

43. At Kilmarnock Prison, the CPT's delegation met a number of inmates who had been placed on protection in the remand (G) and vulnerable prisoner (H) wings. These prisoners complained that they were confined to their cells for 23 hours a day and were unable to access work or other activities, and could not participate in any offender behaviour programmes. Further, several stated that they were not even offered a full hour of outdoor exercise every day.

The CPT's delegation also met a number of prisoners who were being held in the segregation units of Barlinnie and Kilmarnock Prisons as they were apparently at risk of harm from other prisoners in the establishment. Several of these persons had been held in these units for more than one month and one for over four months in conditions akin to solitary confinement (see also paragraph 71).

The CPT recognises that a primary duty of the prison authorities is to prevent harm coming to the prisoners under their ward, and that the need to take protective measures in favour of certain inmates may inevitably have negative repercussions on the activities they can be offered. However, the prisoners concerned should not be left to languish in their cells for 23 hour a day.

For those prisoners placed on protection for more than a few weeks, additional measures should be taken in order to provide them with appropriate conditions and treatment; access to activities, educational courses and sport should be feasible. Moreover, there needs to be a more proactive approach by the prison health-care service towards prisoners on protection, particularly as regards psychological and psychiatric care, especially as some of them might spend several months or more in conditions akin to solitary confinement. There should also be an individual assessment of their needs at regular intervals and every effort should be made to return them to mainstream custody. Where appropriate, transfer to another prison should be considered.

**The CPT recommends that the Scottish authorities take appropriate steps to provide prisoners placed on protection for more than a short period with purposeful activities and proper support from the health-care service.**

## 4. Female prisoners

44. At present, Cornton Vale Prison remains the only establishment in Scotland solely designated for female offenders and, until early 2012, the significant overcrowding, poor material infrastructure, lack of meaningful activities and insufficient psycho-social support and counselling resulted in the prison being unable to provide the necessary care and support, in particular to its vulnerable prisoners. The Commission on Women Offenders suggested that a programme of decongestion and decentralisation be put in place, transferring women prisoners to smaller units with a more tailored approach to their needs. The Scottish Government responded positively to the Commission's report in June 2012, accepting 33 of the 37 recommendations, while announcing that it would give further consideration to the remaining four recommendations.

More recently, on 29 October 2012, the Scottish Justice Secretary announced that a new women's prison would be developed in Inverclyde for "the small number of women who are either serving long term sentences or who present a significant risk to the public".

**The CPT would like to receive updated information on the Scottish Government's implementation of the recommendations contained in the Commission's report, notably as regards the development of new facilities for female offenders and the future of the existing ones.**

45. At the time of the visit, no decision had been taken on the future of Cornton Vale Prison but some 160 prisoners had been transferred to Edinburgh and Greenock Prisons, where dedicated female-only wings had been opened. The move has improved the situation in Cornton Vale bringing the inmate population down to 22 places below the official capacity of 309, whereas in July 2011 it had stood at 402. Further, for some of those women transferred, the move has facilitated the possibility for better contacts with their families and improved reintegration prospects.

However, neither Edinburgh nor Greenock Prisons are able to offer female offending or substance misuse programmes as they do not possess either the infrastructure or the qualified staff to run the courses. Nor do these prisons have a community integration unit. The result is that women prisoners in these establishments have to return to Cornton Vale Prison to complete their offender management programmes for short periods or prior to release, which the women interviewed disliked and found very disruptive. **The CPT encourages the Scottish authorities to examine the feasibility of running the relevant female offender programmes in Edinburgh and Greenock Prisons.**

a. Cornton Vale Prison and Young Offenders' Institution

46. The material conditions in the accommodation units were generally adequate. Cells were suitably furnished, had access to natural light and artificial lighting and ventilation was sufficient. A standard cell measured some 7m², which is acceptable for single-occupancy; however, such cells are too small to accommodate two persons, which was happening, for example, in the remand section of Bruce House and for certain young offenders in Younger House.

**The CPT recommends that cells of 7m² do not accommodate more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone).**

The communal toilet and shower facilities in Younger House are partitioned only by curtains and half-doors, which provide a bare minimum of privacy. Several prisoners with whom the delegation spoke stated that they felt uncomfortable using these facilities as the partition was inadequate. **Steps should be taken to ensure that these facilities are fully partitioned.**

47. In Bruce and Younger Houses, where cells do not possess integrated sanitation, prisoners have to use a call-system in their cell to alert staff that they wish to use the toilet. At night, and especially during the lock-up period before night rest (8.45 p.m. to 10 p.m.), there are often problems with this system, resulting in long waiting times of up to an hour, before a prisoner can access the toilet. The delegation noted that this problem was particularly perceptible in Younger House.

**The CPT recommends that the necessary steps be taken at Cornton Vale Prison to ensure that waiting times for accessing toilet facilities in the accommodation units concerned are reduced to a minimum; prisoners should have ready access to a proper toilet facility at all times.**

48. As regards activities, the delegation was told that some 150 inmates were involved in work. Figures for the period of June, July and August showed that during weekdays, on average, some 80 prisoners were engaged in work such as general housekeeping, industrial cleaning, catering, laundry, pantry and hairdressing. A further 20 inmates were working in the crafts and the bicycle workshops. The number of women attending educational classes fluctuated widely as many found formal education difficult and drop out rates were high. There were also sports and cultural activities.

As for young offenders, they were all involved in educational classes and/or work, and during weekdays they were out of their cell engaged in purposeful activity for more than five hours a day. Each evening between 6.45 and 8.45 p.m. they were offered two hours of recreation. However, a number of inmates complained about the lack of activities on offer, especially during weekends, when no purposeful activities were provided.

49. Young persons have a particular need for physical activity and intellectual stimulation and being confined to their cells for much of the weekend is not conducive to the well-being of the young female offenders at Cornton Vale Prison. **The CPT recommends that steps be taken to offer activities to young offenders at weekends.**

**More generally, the CPT recommends that the Scottish authorities take the necessary steps to increase the range of activities on offer to all prisoners.**

b. Edinburgh and Greenock Prisons

50. At Edinburgh Prison, female prisoners are located in the refurbished Ratho Hall, which used to be the Top End facility of the establishment, and consists of 86 cells spread across three landings. Prisoners are accommodated in either single or double occupancy cells, all of which possess fully partitioned in-cell sanitation and a shower unit. The cells were of an adequate size, suitably furnished and had good access to natural light and adequate ventilation.

At Greenock Prison, 48 female prisoners were being held in Darrock Hall on two landings containing 54 cells and the conditions in the cells were of a similar standard as those in Ratho Hall in Edinburg Prison.

However, the outdoor exercise yards for women in both prisons possessed no shelter from poor weather, and women met by the delegation at Edinburgh Prison complained that the light rain jackets provided by the prison were inadequate to provide protection from the wind and rain. Lack of shelter represented a clear disincentive to go outside for a large part of the year; therefore, a suitable shelter should be installed. **The recommendation in paragraph 39 above applies equally in this context.**

51. At the time of the visit, some 60 female prisoners at Edinburgh Prison were involved in work (cleaning, laundry, kitchen) and vocational (woodwork, hairdressing, plumbing) activities. Further, some women were enrolled in educational classes. However, more than 40% of the female inmate population were not engaged in any purposeful activity and, apart from one hour of outdoor exercise and two hours of recreation, they spent the vast majority of the day (i.e. 21 hours) locked in their cells. At Greenock Prison, a similar range of activities were on offer to women prisoners but many women were only engaged in such activities for a few hours a week, resulting in them spending most of the week with no purposeful activity.

**The CPT recommends that the Scottish authorities take the necessary steps to increase the range of activities on offer with a view to ensuring that all female prisoners are able to spend up to eight hours (or more) out of their cells engaged in purposeful activities.**

## 5. Health care services

### a. introduction

52. There have been considerable developments in the provision of health care in prisons in Scotland since the CPT's last visit in 2003. Health care has been transferred to the National Health Service and each prison comes under the responsibility of the local Health Board, which is charged with ensuring that the health care service in a prison is adequately resourced and properly staffed. From the information gathered by the CPT's delegation, the transfer in the prisons visited has on the whole been effected smoothly.

### b. health care in general

53. The delegation noted that prisoners could have access to a doctor within a reasonable time and that staffing levels were, with a few exceptions, adequate in the establishments visited.

At *Barlinnie Prison*, there was the equivalent of three full-time general practitioners as well as the possibility to call upon three outside medical practitioners for consultations. A 24-hour nursing presence was assured by a complement of 24 generalist nurses, six nurses for addictions and the equivalent of 2.8 mental health nurses. There were four psychiatric consultations a week and the dentist was present five mornings a week, and other specialists (for optometry, blood-borne viruses) visited on a regular basis. In light of the important turnover of prisoners and the extensive mental health issues among the prisoner population, the presence of the psychiatrist and of the dentist should be increased to the equivalent of full-time positions.

At *Cornton Vale Prison*, there were one full-time and four part-time general practitioners supported by seven mental health nurses, five primary care nurses, two specialist sexual and reproductive health nurses, two addiction nurses and one health care manager. Two psychiatrists visited the establishment for the equivalent of one day a week each, a dentist was present one day a week and other specialists (gynaecologist, optician) visited on a regular basis; a cognitive behavioural nurse also visited the establishment three times a week. Given the demand, the presence of a dentist should be increased. Further, there was not always a competent person with a recognised nursing qualification on the premises to provide first aid; at present, there are no health care staff present in the prison after 10 p.m.

At *Edinburgh Prison*, there was a team of five general practitioners[16] (two of whom were part-time) and a team of 25 nurses, including five mental health nurses and four addiction nurses, as well as a health care manager. There were a number of visiting specialists, including a gynaecologist once a week. However, as was the case at Cornton Vale Prison, there were no health care staff present at night.

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16 At the time of the visit, there was one vacant post of general practitioner.

At *Greenock Prison*, there was a general practitioner present 21 hours a week and the equivalent of some 10 full-time nurses, including one mental health nurse and two addiction nurses. A psychiatrist and a dentist each visited the prison for half a day a week. Several specialists visited the prison on a regular basis but there was no provision for visits by a gynaecologist, despite the presence of some 50 female prisoners. Considering the inmate population and notably the high numbers with addictions or mental health issues, the presence of the psychiatrist should also be increased. Further, there is a need for a dentist to spend a full day a week in the establishment. In this connection, the Governor of the prison informed the CPT's delegation that it was planned to increase the presence of the dentist.

At *Kilmarnock Prison*, there was the equivalent of one full-time general practitioner, performed by five part-time doctors, and 15 nurses, of whom six were mental health nurses and one for addictions, as well as a health care manager. Four nursing posts were vacant. Two psychiatrists visited the establishment each once a week and a dentist was present for three morning sessions a week, which the prison management was seeking to increase to eight sessions a week as it was recognised that the current provision was insufficient. In addition, given the size and needs of the inmate population, the presence of general practitioners should be increased to the equivalent of two full-time posts and a further two psychiatric sessions should be envisaged.

54. **The CPT recommends that the Scottish authorities increase the health-care staffing resources in the establishments visited to ensure that:**

- **at Barlinnie Prison, the equivalent of one full-time position is created for both a psychiatrist and a dentist;**
- **at Cornton Vale Prison, the weekly presence of the dentist is increased;**
- **at Greenock Prison, the presence of a psychiatrist is increased and provision is made for a gynaecologist to visit the establishment on a regular basis;**
- **at Kilmarnock Prison, an additional full-time post of general practitioner is provided and the number of psychiatric sessions per week is doubled.**

**Further, in each prison there should be someone competent on the premises to provide first aid at night, preferably a person with a recognised nursing qualification.**

**The CPT would also like to receive confirmation that the presence of a dentist at Greenock and Kilmarnock Prisons has been increased.**

55. In all prisons visited, the delegation learned that remand prisoners were not offered access to dental care, except for emergency extractions, or ophthalmological services, and it received many complaints from remand prisoners concerning this lack of access. In the CPT's view, there is no justification for discriminating between remand and sentenced prisoners with regard to any aspect of healthcare. **The CPT recommends that remand prisoners in all prison establishments have the same access to dental and ophthalmological services as sentenced prisoners.**

56. The health-care facilities in the prisons visited were generally of a good standard, although at Kilmarnock Prison and even more so at Cornton Vale Prison the premises were rather limited in space. There was no shortage of medication.

At Kilmarnock Prison, there was a six-cell hospital unit, located next to the health-care centre, which was accommodating four prisoners. The conditions in the cells were not particularly good and a large triple-occupancy cell, in which a cancer patient was accommodated, was rather dirty. The criteria for placement in these cells were not clear; the health care staff stated the criteria were not medical whereas the prison management thought that it was for medical reasons. The prisoners met by the delegation could quite easily have received the care and treatment they required in ordinary cellular accommodation. The CPT considers that the placement of a prisoner in such a unit should be based on clear medical criteria. Further, such a unit should be properly staffed and equipped if it is intended to provide medical treatment that cannot be offered in ordinary cellular accommodation but which does not require in-patient treatment in an outside hospital (e.g. post-operation convalescence). The hospital unit in Kilmarnock Prison did not serve a distinct medical purpose, nor was it equipped to do so, and it would therefore be preferable to close it down and use the space to provide the prison health-care centre with additional consultation rooms.

**The CPT recommends that the Scottish authorities review the use of the hospital unit at Kilmarnock Prison, in the light of the above remarks.**

57. The CPT has consistently pointed out that prison health care services can make a significant contribution to the prevention of ill-treatment of detained persons through, inter alia, the systematic recording of injuries, whether vis-à-vis new arrivals or following a violent episode in prison. In this respect, the health care services in the prisons visited generally recorded injuries observed in sufficient detail. However, in addition to a description of any injuries, the doctor should note down a full account of the statements made by the person concerned which are relevant to the medical examination. Further, the doctor should indicate the consistency between any allegations made and the objective medical findings; this will enable the relevant authorities to properly assess the information set out in the record. Such an approach was not being followed in the prisons visited.

**The CPT recommends that the necessary instructions be issued to ensure that any relevant statements by newly-arrived prisoners or an inmate involved in a violent incident in prison are recorded by the health-care service, together with the doctor's observations. The existing procedures should be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is immediately and systematically brought to the attention of the police, regardless of the wishes of the person concerned.**

58. As regards the electronic medical records, the CPT's delegation noted that at Kilmarnock Prison there were three different servers for such records (VISION for somatic care, FACE for psychiatric care and a third system for addictions) and that the various records were not available to different medical services. For the overall care of prisoners, it would be preferable if the various records could be shared amongst the relevant prison medical services. **The CPT invites the Scottish authorities to ensure that this is the case.**

c. medical screening on admission and suicide prevention

59. In all the prison establishments visited, prisoners were medically screened by one or two nurses upon admission, which usually included a medical history, a urine test and written permission to be in contact with the treating doctor in the community. Prisoners would be seen by a doctor the day after their admission. The CPT's delegation was generally impressed by the way in which the initial medical examinations were carried out in the different establishments visited, especially at Barlinnie and Cornton Vale Prisons, where the approach could certainly be considered as best practice (but see recommendation in paragraph 57).

60. The reception and first night procedures, including medical screening, have an extremely important role to play in suicide prevention; performed properly, these could identify at least some of those at risk and relieve some of the anxiety experienced by all newly-arrived prisoners. The First Night Centre at Cornton Vale Prison deserves special mention (a similar centre existed at Barlinnie Prison). A mental health nurse is present during the admission screenings and all new prisoners undergo a cell-share risk assessment (conducted with care and professionalism) before being allocated to a double-occupancy cell and provided with toiletries, bedding and a hot meal. The following day they are seen by a doctor and receive general information about the prison and the rules for the house block to which they are to be allocated.

61. More generally, once an inmate had been identified as being at risk of self-harming or committing suicide, a multidisciplinary approach called "ACT2Care" (Assessment, Context, Teamwork)[17] was set in motion. In each case, an individual care plan was drawn up, monitored and reviewed, which may involve placement in an anti-ligature observation cell, provision of rip-proof clothing and close monitoring ranging from 15 to 60 minute intervals. The CPT's delegation observed that the care provided to those prisoners on an open "Act2Care" was generally good. However, the death of an inmate, X[*], on 17 June 2012 in Barlinne Prison who was known to have mental health issues and to be at risk of self-harming or attempting to commit suicide, raises questions as to the effectiveness of the monitoring system in place at the time. Any lessons learned from the inquiry into the death of X should be disseminated throughout the prison estate.

**The CPT would like to receive a copy of the report on the inquiry into the death of X in Barlinnie Prison in June 2012, as well as information on any measures taken in the light of its findings. Further, it would like to be informed of the training provided to staff to identify persons at risk of committing acts of self-harm or suicide.**

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[17] At Kilmarnock Prison, a similar approach known as HRAT was applied.

[*] In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

d. psychiatric and psychological care

62. The CPT would recall that, in comparison with the general population, there is a high incidence of psychiatric symptoms among prisoners. Consequently, a doctor qualified in psychiatry should be attached to the health-care service of each prison, and some of the nurses employed there should have had training in this field. The provision of medical and nursing staff, as well as the layout of prisons, should be such as to enable regular pharmacological, psychotherapeutic and occupational therapy programmes to be carried out.

The CPT has noted favourably that in each of the prisons visited there were a number of mental health nurses, and all establishments had the input of a psychiatrist although in certain prisons that presence should be increased (see paragraph 54). For example, at Greenock Prison, a note was made in the medical file that an inmate who had a history of substance abuse was having thoughts of self-harming and suicide a week after entering the prison on 27 August 2012. He was placed in an observation cell, subject to “ACT2Care” protocol and seen several times a week by a mental health nurse. It was stated that he was suffering from hallucinations and paranoid thoughts. At the end of its visit to the prison, the CPT’s delegation expressed its concern that the prisoner had not been seen by a psychiatrist and that no psychiatrist was scheduled to visit the establishment before 1 October. A couple of days later, it was informed that at the case review conference of 21 September, the prisoner had indicated his desire to engage with the prison’s addiction team. Nevertheless, the CPT considers that he should have been seen by a psychiatrist earlier. **It would like to receive an update on the care subsequently afforded to this prisoner.**

63. Prisoners suffering from severe mental illnesses should be treated in a closed hospital environment. For male prisoners, transfer to the Carstairs State Hospital is an option; however, there may be delays in effecting such transfers. In this context, the CPT is concerned to note that six of the 14 prisoners held in the segregation unit at Kilmarnock Prison, with whom its delegation met, had a serious mental health illness and their condition would certainly have been better suited to treatment in a psychiatric facility rather than placement in conditions akin to solitary confinement.

**The CPT recommends that the Scottish authorities take steps to ensure that prisoners with a serious mental health disorder are not held in segregation units and that every effort is made to transfer such prisoners to an appropriate psychiatric facility.**

64. For female prisoners there is no high-security mental health facility in Scotland which means that such prisoners may be kept in segregation for prolonged periods until a transfer to Rampton Hospital in England can be arranged. The CPT has noted that in the letter of 8 February 2013 by the United Kingdom authorities, it is clearly stated that any transfer to Rampton Hospital will be based upon clinical needs and not subject to financial considerations. This is to be welcomed. Nevertheless, the CPT remains concerned that the benchmark for deciding whether a prisoner requires specialised treatment in a psychiatric institution remains too high (see paragraph 73 below and also part II. C.).

Moreover, many female prisoners suffer from severe personality and behavioural disorders and are unable to cope with an ordinary prison regime. As there are insufficient grounds to transfer these prisoners to a psychiatric facility and no specific programmes to address their needs, the result is that these female prisoners often spend prolonged periods in the segregation unit of Cornton Vale Prison where their behaviour can be controlled. However, long term isolation is likely to exacerbate any personality and behavioural disorders and does not encourage good behaviour. An alternative is required to bridge the gap between a psychiatric hospital bed and an isolation cell. One option would be to recruit clinical psychologists to design programmes for the category of prisoner with personality and behavioural disorders.

**The CPT recommends that the Scottish authorities examine the possibility of recruiting clinical psychologists to help manage female prisoners with personality and behavioural disorders.**

65. The CPT's delegation noted that most prisoners in the establishments visited have a substance abuse problem. At Greenock Prison, roughly 80% of prisoners had either a drug or an alcohol addiction problem and the numbers were similar at Barlinnie Prison. At Cornton Vale Prison, health care staff stated that a very high percentage of the female inmate population used drugs intravenously prior to imprisonment[18] but staff believed that there was little intravenous use within the prison given the absence of needle marks, infections or abscesses.

At all three prisons a similar approach was taken towards addressing drug misuse. Upon admission, nurses attempted to ascertain prisoners' drug/substance abuse habits and a decision was taken by the health care team as to whether to place a prisoner on a detoxification programme. If a person was on methadone prior to entering the prison, the local authorities responsible for the maintenance treatment would be contacted and the prisoner usually enrolled in a methadone maintenance programme within the prison. Each prison also had mandatory and voluntary drug testing policies in place.

Prisoners were also interviewed by members of a drugs and alcohol support organisation (Phoenix Futures) who, under contract to the NHS, run a series of programmes and support services for prisoners, such as the Enhanced Addiction Casework Service.

However, other than an information brochure provided by Phoenix Futures, there was little in the way of harm reduction measures to prevent the spread of transmissible diseases in the prisons visted, such as access to disinfectant (bleach), free access to condoms or a needle exchange programme. Given the high incidence of hepatitis C among prisoners and the prevalent habits of intravenous drug use prior to imprisonment, **the CPT would be interested to receive the observations of the authorities on this matter.**

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[18] One medical officer estimated that it was as high as 90%.

## 6. Discipline and segregation

### a. introduction

66. As regards discipline[19], any suspected offence has to be reported by a prison officer no later than 48 hours after its discovery, with a hearing taking place the day after a charge is brought (except on Sundays). The prisoner must be informed in writing of the charge at least two hours before the hearing and the prison governor must be satisfied that the prisoner has had sufficient time to prepare his or her defence. At the hearing, the prisoner can call and cross-examine witnesses, and upon request, the governor may permit legal representation if he or she considers such assistance necessary. If a prisoner is found guilty of a breach of discipline, the governor may impose a range of punishments ranging from a caution to loss of privileges for up to 14 days to three days of cellular confinement (Rule 114). The prisoner has the right to appeal the decision within a period of two weeks to the Scottish Ministers, but it does not have suspensive effect. The prisoner can also lodge a complaint with the Scottish Public Services Ombudsman.

An examination of a sample of disciplinary cases in the different prisons visited indicated that the procedures were strictly followed and that the paperwork pertaining to the cases was properly kept. However, in several cases the delegation found that the prison authorities were not diligent in reviewing all available evidence prior to taking a decision. Further, it noted that the time period for making an appeal against a disciplinary decision was not communicated orally at the end of the adjudication in those cases attended by members of the delegation, and nor was it contained in the forms provided to the prisoners. Moreover, it would be desirable, in the case of the heavier disciplinary sanctions (such as cell confinement), for the prisoner to be able to receive, if desired, the assistance of a lawyer throughout the disciplinary procedure (including during the adjudication hearing). Such a decision should not rest with the governor of an establishment. **The CPT recommends that steps be taken to remedy these shortcomings.**

67. In accordance with Rule 95 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011, a prison governor may also order a prisoner to be "removed from association" for reasons of maintaining good order and discipline, protecting the interests of other prisoners and ensuring the safety of other persons. The governor's order may not last longer than 72 hours, after which any extension must be authorised by the Scottish Justice Minister in writing. The extension may be for a period of no more than one month but any number of further extensions for successive periods of one month may be granted. The prisoner must be informed in writing of any extension and the reasons explained to him/her, and he or she is entitled to make representations to the prison governor prior to any extension being made by the Scottish Ministers. The governor may allow a prisoner under such an order to associate with other prisoners for the purpose of taking part in one or more activities such as education, work, counselling and exercise.

However, Rule 95 does not foresee a hearing with the prisoner or the possibility of an appeal to an independent authority each time a decision on the application or extension of the measure of removal from association is taken.

**The CPT recommends that both a hearing and a possibility of appeal to an independent authority be introduced into the procedure concerning the application of Rule 95.**

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[19] See Rules 110 to 119, and Schedule 1, of the Prisons and Young Offenders' Institutions (Scotland) Rules 2011.

b. male prisoners

68. The segregation unit at Barlinnie Prison consisted of 20 cells, of which 16 were operational and four were used for storage purposes; at the time of the visit, the unit was holding three prisoners under Rule 95. The cells were adequately equipped (bed, table and a chair and a television) and possessed in-cell sanitation (toilet and wash basin). Artificial lighting and ventilation were adequate, and there was access to natural light; however, the cells were cold and some of them were very dirty.

**The CPT recommends that steps be taken to ensure that all the unit's cells are properly heated and kept in an acceptable state of hygiene.**

Prisoners placed in the segregation unit for reasons of good order could spend up to one hour a day in the unit's gym and were offered one hour of outdoor exercise every day in one of the six yards.

69. At Greenock Prison, the segregation unit, located in a corridor adjacent to Aisla Hall, consisted of four cells, three of which were operational, and a small exercise yard. The material conditions were not of a high standard. However, the cells were rarely used due to the additional staffing requirements necessary to operate the unit and to the poor material conditions. Instead, prisoners who committed a disciplinary offence which resulted in a sanction of cellular confinement, or who were the subject of an order under Rule 95, would be placed in their own cells for the duration of the measure. The segregation unit had last been occupied on 10 July 2012 for a period of a few hours. **The CPT trusts that the present approach towards the segregation unit will persist as long as the material conditions in the unit have not been upgraded.**

70. The segregation unit at Kilmarnock Prison consisted of 14 cells, all of which had access to natural light, were provided with sufficient artificial lighting and ventilation, were adequately equipped (bed, chair, desk) and in a decent state of repair. At the time of the visit, the unit was accommodating 14 prisoners, three of whom were serving a disciplinary sanction of three days' cellular confinement and the remainder were held under Rule 95 for reasons of good order. The unit possessed two small outdoor yards with wire mesh across the tops in which prisoners could spend up to one hour a day. In addition, persons held under Rule 95 were allocated two one-hour slots in the main gym every week. Many of the persons held under Rule 95 appeared to have a mental health illness (see paragraph 63 above) and/or were being held for reasons of protection (see paragraph 43 above).

71. The CPT considers that prisoners placed in administrative solitary confinement for preventative purposes (i.e. prisoners removed from association under Rule 95) should have an individual regime plan, geared to addressing the reasons for the measure. This plan should attempt to maximise contact with others – staff initially, but as soon as practicable with appropriate other prisoners – and provide as full a range of activities as is possible to fill the days. There should be strong encouragement from staff to partake in activities and contact with the outside world should be facilitated. Throughout the period of administrative solitary confinement, the overall objective should be to persuade the prisoner to re-engage with the normal regime.

Such an approach was not in evidence in the segregation units at either Barlinnie or Kilmarnock Prisons. Prisoners were confined to their cells for 22 or 23 hours a day, with minimal contact with staff and no opportunities to associate with other prisoners on a progressive basis.

**The CPT recommends that the Scottish authorities take the necessary steps to put in place individual regime plans for persons held in segregation under Rule 95 with a view to assisting them to return to a normal regime, in the light of the above remarks.**

c. female prisoners

72. The new segregation unit at Cornton Vale Prison (known as the Damyat Separation and Reintegration unit[20]) consists of six cells (each measuring some 10m²), all of which are equipped with a bed, chair and shelving unit, possess in-cell sanitation and a shower facility, and have adequate access to natural light and sufficient ventilation. The unit has its own small exercise yard with a shelter from inclement weather. As confirmed by the CPT's delegation, the opening of this unit has also resulted in the two small "silent cells" in Younger House no longer being used for segregation or any other purpose; they had earlier been criticised by the Chief Inspector of Prison for their dilapidated state, size and lack of access to natural light.

At Edinburgh and Greenock Prisons, women who committed a breach of discipline might be confined to their cells or have certain privileges suspended but there was no segregation unit or specific cells for placing female prisoners in solitary confinement. Any persistent breach of good order within these prisons would result in the female prisoner being returned to Cornton Vale.

73. At Cornton Vale Prison, the prison management explained that isolation is only applied as a last resort and that efforts are made through regular case conferences and management plans to return those prisoners subjected to Rule 95 to normal association as soon as possible. However, a review of the various prisoner records showed that Rule 95 is often applied for prolonged periods. In 2012, two female prisoners were placed under Rule 95 for longer than one month and two other prisoners for periods in excess of three months. The case of one female prisoner met by the CPT's delegation is particularly illustrative of the detrimental effect that may be caused by prolonged solitary confinement.

The prisoner in question (A) was first placed in a segregation cell shortly after arriving at Cornton Vale Prison in 2010, when she was only 17 years old. Apart from a few brief intervals in ordinary accommodation, she has remained in solitary confinement for over two years. At a case conference shortly before the delegation's visit, the dilemmas of how to treat such a person in prison were exposed. On the one hand it was stated by a psychiatric nurse that the isolation regime had a negative impact on prisoner "A" and was compounding her feelings of paranoia. On the other hand, it was pointed out that the prisoner's "*behaviour has historically been shown to become more negative if there is a chance of progression*" and the multidisciplinary team considered that if prisoner "A" progressed to a more open regime, it might no longer be possible to control her aggressive behaviour. Consequently, it was decided to extend the application of Rule 95 until her behaviour was stable for a significant period of time. A review of her file indicated that periods in segregation were extended based on relatively minor violations of the rules, such as writing on the cell desk which was considered as damaging prison property and thus a breach of discipline.

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[20] The unit has replaced the former "back cells" in Ross House, which had been criticised by the Chief Inspector of Prisons following his visits in February 2011 and February 2012.

In the case of prisoner "A", there had also been a long-standing debate over whether she was mentally ill and required transfer to a psychiatric hospital. In May 2012, a court-appointed consultant psychiatrist concluded that there was a need to send her to a psychiatric hospital. However, the absence of a high-security mental health facility for women in Scotland and the difficult procedures for arranging transfers to Rampton Hospital in England (see paragraph 64 above and part II. C.) seemed to have played a key role in the decision to keep her in Cornton Vale, where she remained in segregation.

Prisons are not equipped to deal with inmates with significant mental health disorders; such persons should be rapidly transferred to an appropriate psychiatric facility.

**The CPT recommends that the Scottish authorities put in place the necessary arrangements to ensure that this requirement is complied with.**

74. Regardless of whether prisoner "A" was mentally ill, it was clear that placement in the segregation unit was not conducive to improving her behaviour. Many women prisoners suffer from severe personality and behavioural disorders, have a history of self-harming, abuse and abandonment. In the absence of programmes designed for these women, they often find themselves being held in the segregation unit for prolonged periods of time.

Clearly, for those female prisoners with behavioural disorders who are not eligible for transfer to a psychiatric hospital, an alternative to placement in the segregation unit must be found. At present, the different needs of prisoners with behavioural disorders at Cornton Vale Prison in terms of psycho-social support, counselling and treatment are not being sufficiently met as indicated by the number of acts of self-harm. In the CPT's view, a multifaceted approach, including the recruitment of clinical psychologists to design programmes for persons with behavioural disorders, would represent a step in the right direction towards managing such prisoners outside of segregation.

**The CPT recommends that the Scottish authorities take the necessary steps towards addressing the specific needs of female prisoners with behavioural disorders through introducing tailor-made programmes, in the light of the above remarks (see also paragraph 64).**

**Further, as regards prisoner "A", the Committee would like to be informed about the current situation of this person.**

## 7. Other issues

### a. reception and induction

75. At Barlinnie Prison, prisoners entering and leaving the establishment transit through the reception unit where they are placed in one of 63 cupboard-like cubicles (measuring some 1m² and referred to as "dogboxes" by inmates). During the admission process, a prisoner will be held successively in three distinct sets of cubicles. The CPT criticised the use of these boxes in its reports on both the 1994[21] and the 2003 visits and recommended that they be replaced with larger holding facilities. The response of the Scottish authorities to the report on the 2003 visit had stated "consideration is being given to the possible renovation of the reception area, including the removal of cubicles". At the time of the 2012 visit, efforts were being made to minimise the time during which a person would be confined in one of these cubicles. Further, once the admission processing had been completed there was a larger holding cell into which several inmates could be placed pending their transfer to the admission unit (D Hall). Nevertheless, from the findings of the CPT's delegation, it was not uncommon for prisoners to spend up to two hours, and on occasion longer, in one of these cubicles during the peak admission periods to the prison.[22] Many prisoners met by the delegation felt that the practice of being held in a cubicle was degrading.

Holding a newly-arrived prisoner in one of the small cubicles for periods of hours is unlikely to alleviate the feelings of anxiety and/or depression that he might well be experiencing, and in the CPT's view could amount to degrading treatment. At the end of the visit, the Committee's delegation invoked Article 8, paragraph 5, of the Convention and requested that it be provided with a response within three months as to the action taken to remedy this issue.

By letter of 8 February 2013, the United Kingdom authorities informed the CPT that it was accepted that the "reception cubicles were far from ideal in a modern penal system and that the Scottish Prison Service will initiate a review and bring forward an options appraisal to replace the current cubicles". The CPT considers that after 18 years it is high time for action to be taken to replace the existing cubicles by larger holding facilities without further delay.

**The Committee calls upon the Scottish authorities to take the necessary steps to renovate the reception area at Barlinnie Prison, in the light of the above remarks.**

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[21] See CPT/Inf (96) 11, paragraphs 357 to 359.

[22] Monday afternoons and evenings were particularly busy as the courts did not work over the weekends and the numbers being placed in remand were usually very high, in addition to the 60-odd inmates who were going in and out of the prison to attend court on a daily basis.

76. Once a newly-arrived prisoner had been through the three stages of reception (administrative processing, including cell allocation risk assessment; health care interview; search, shower and change of clothes) he was taken to D Unit where he was allocated a cell, provided with a warm meal and given information material on the prison; he could also watch a short film about how the prison operated. The information video existed in seven languages and other information papers (first-night centre induction, frequently asked questions, health care service information, food menus and canteen) were available in nine languages. However, most of the foreign nationals met by the CPT's delegation who were not proficient in English complained that in fact they had not been provided with information about the prison in a language they could understand at the time of their admission. A few had still not been provided with any such information (for example, a Chinese prisoner) and were reliant on other prisoners with some understanding of their language to explain the procedures, and yet basic information did exist in a language they could understand.

**The CPT recommends that increased attention be paid to ensuring that all foreign national prisoners are provided with written information on the prison in a language they can understand, and are shown the video.**

**Further, the CPT invites the authorities to introduce an information video in all Scottish Prisons where this is not already the practice.**

77. At Cornton Vale Prison, all newly-arrived prisoners, with the exception of young offenders, spend their first night in the dedicated First Night in Custody area in Ross House. The capacity of the first-night centre is 14 beds in seven double-occupancy cells. Newly-arrived prisoners are placed together with another prisoner, following a cell-share suitability and risk assessment; the double occupancy placement was adopted after many prisoners complained about being isolated during their first night, which accentuated the shock of being in prison for the first time. During their stay in the first-night centre, prisoners receive general information about the prison regime and a leaflet on the rules of Bruce House, to which they are subsequently transferred, unless they are deemed particularly vulnerable in which case they will remain in Ross House.

78. At Greenock Prison, the number of prisoners being kept on remand had diminished significantly with the opening of Low Moss Prison earlier in the year, which resulted in far fewer admissions to the establishment. The reception process, including an initial risk assessment, was well managed. Subsequently, male prisoners were transferred to the first-night centre at one end of the ground floor of Aisla Hall and female prisoners to Darroch Hall. The aim of the first-night centre was to enable prisoners to familiarise themselves with the prison and to receive basic information about the establishment. In addition, new arrivals benefitted from a 91-slide standard national induction course; however, it was only provided once a week (Tuesdays for male and Thursdays for female prisoners) which meant that prisoners might have to wait for a week before attending the course. This is too long a period to wait for persons entering prison for the first time. **The CPT recommends that steps be taken to remedy this shortcoming.**

b. staffing

79. To obtain personnel of the right calibre, the authorities must be prepared to invest adequate resources into the process of recruitment and training. The real professionalism of prison staff requires that they should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. In this regard, prison management should encourage staff to have a reasonable sense of trust and expectation that prisoners are willing to behave themselves properly. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding.

80. In general, staffing numbers in the prison establishments visited were adequate and do not call for particular comment. The presence of male and female staff in all prisons can have a beneficial effect in terms of both the custodial ethos and in fostering a degree of normality in a place of detention[23], and the CPT's delegation noted favourably the practice of mixed-sex staffing in all the prisons visited. However, at Greenock Prison there was a shortage of female prison officers which meant that, at times, no female officer was on duty in Darroch Hall and they were almost never present on the male wings (Aisla and Chrisswell). Further, at the segregation unit of Kilmarnock Prison, the operating standard meant that three custody officers had to be present each time a cell was unlocked and a prisoner escorted to an activity. Prisoners complained to the delegation that on occasion they were not taken for outdoor exercise or to telephone if one or more officers had to attend to other business, such as being present at the disciplinary hearings which took place in the unit.

**The CPT recommends that additional female staff be recruited at Greenock Prison and that sufficient staff be assigned to the segregation unit at Kilmarnock Prison to enable all daily activities to be carried out.**

81. As to training, the delegation was informed that basic training for prison officers consisted of six weeks. Thereafter, there were no formal courses to complete but prison officers had to attend certain programmes in order to carry out particular tasks. The CPT considers it important to be able to offer all prison officers a programme of further training and refresher courses, such as those on mental health, psychology, suicide prevention, anti-bullying, cultural awareness, etc. In particular, an ongoing emphasis should be placed on developing inter-personal communication skills. For example, at Kilmarnock Prison, the delegation observed that some prison officers would certainly have benefitted from such training.

**The CPT invites the Scottish authorities to develop follow-up training for all prison officers. Further, it would like to receive information on the initial and in-service training provided to prison officers employed at Kilmarnock Prison.**

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[23] See also Rule 85 of the European Prison Rules and the comments thereon.

c. contact with the outside world

82. According to Articles 63 and 64 of the 2011 Scottish Prison Rules, sentenced prisoners are entitled to visiting time of not less than 30 minutes per week or 2 hours in a 28-day period, and remand prisoners to at least 30 minutes on any weekday. Further, where a remand prisoner has not received a visit on every day of the preceding week, he or she may receive a visit of 30 minutes' duration on the Saturday or Sunday. "Bonding" visits between a prisoner and his or her child are also offered and the CPT very much welcomes the organisation of such visits, which usually take place for one to two hours at the weekend for prisoners.

Nevertheless, the CPT considers that all prisoners should be entitled to the equivalent of at least one hour of visiting time every week. Consequently, **it recommends that Article 63 of the Prison Rules be amended accordingly.**

The visiting facilities could be considered as adequate in the prisons visited. The CPT also noted the valuable work of the Salvation Army at the Edinburgh Prison visitor reception centre in providing support to the families of prisoners.

Prisoners had access to the telephone on a daily basis in the prisons visited and written correspondence did not pose a problem; it was noted that in addition to sending and receiving letters at their own expense, all prisoners could send one letter per week with the postage paid by the Scottish Government.

d. complaints

83. The 2011 Scottish Prison Rules lay down several avenues for making a complaint. To begin with, prisoners are encouraged to lodge any complaint they might have with their "Residential First Line Manager", who should discuss the matter with the prisoner concerned within 48 hours of receiving the complaint. If the complaint requires further investigation, a written response must be provided to the prisoner within five days of receiving the complaint or, in exceptional circumstances, within 10 days (see Rule 122).

If the prisoner is not satisfied with the way the complaint has been handled, he or she may refer it to the Internal Complaints Committee (ICC), which is appointed by the governor and made up of three members, at least two of which must be prison officers or prison employees. The prisoner is entitled to participate in the hearing, call witnesses and be assisted by anyone working in the prison or another inmate. Within 20 days, the governor must inform the prisoners of the ICC's decision and whether it is endorsed or rejected by the governor. Notification of the decision must include information about how the prisoner can refer the complaint to the Scottish Public Services Ombudsman (SPSO) (see Rule 123).

A prisoner may also make a confidential complaint to the governor in a sealed envelope, who should respond in writing within seven days and if not advise the prisoner in writing of the timescale within which the decision will be taken. Thereafter, the prisoner may refer the complaint to the SPSO (see Rule 124).[24]

[24] The SPSO Annual Report for 2011/2012 states that 385 complaints were received from prisoners and 20 were upheld partially or in full.

84. An examination of the complaints procedures in the prisons visited seemed to indicate that minor complaints (PCF1[25]) were generally resolved at the level of the Residential First Line Manager (RFLM), which is how the system should work. Nevertheless, many prisoners, particularly at Kilmarnock Prison, preferred to write directly to the governor rather than go through the RFLM; the director of Kilmarnock Prison acknowledged that responses to PCF1 complaints were not always being followed up diligently. **The CPT would appreciate the observations of the Scottish authorities on this matter.**

85. As regards the confidential and generally more serious complaints (known as a PCF2) addressed to the governor, there was in most cases a response from the governor to the prisoner within the seven-day limit laid down by the Prison Rules explaining what action had been or would be taken. However, an examination of a sample of cases at Barlinnie Prison showed that there was no written record that the complaint had been completely resolved one way or another. In several instances, the response by the governor stated that a certain member of staff would speak with the prisoner on the matter but there was no written record that the follow up actually took place. For example, a Polish prisoner at Barlinnie Prison made a complaint that he was assaulted and had received racial abuse from a prison officer on 2 April 2012, and that a member of the kitchen staff witnessed the incident. The response to the prisoner stated that the hall manager would enquire into the matter and would speak with the prisoner. However, at the time of the visit, in September 2012, the prisoner was adamant that the last information he had received was that the governor had told him it was a serious allegation that would be looked into. The governor, on the other hand, believed that a member of staff had spoken to the prisoner and informed him that the complaint was unsubstantiated. It was acknowledged that the diversity officer had not visited the prisoner to follow up the racial abuse allegation.

The perceived lack of follow up to such complaints also fuelled a belief among a number of prisoners with whom the delegation spoke at Barlinnie Prison, but also at Cornton Vale Prison, that making a complaint against a prison officer would not achieve anything other than to make their life more difficult. As a consequence, they had little confidence in the complaints system. It is worth recalling that a properly functioning complaints system in which prisoners have trust represents an important means by which potential shortcomings can be brought to the management's attention as well as serving as an important safeguard against any abusive behaviour by staff.

**The CPT recommends that a complete written record be made of the outcome of all complaints submitted under the confidential complaints procedure, and that additional efforts be made to reassure prisoners of the commitment of senior prison managers to properly investigate allegations pertaining to the behaviour of prison staff.**

[25] Prison Complaint Form 1 as opposed to a Prisoner Complaint Form 2 which concerned confidential complaints to the governor of the Prison.

e. foreign nationals

86. The number of foreign national prisoners being held in Scottish prisons is only some 3.5%, which compared to many other jurisdictions in Europe is particularly low. For example, at Barlinnie Prison, there were 50 foreign nationals (19 sentenced and 31 on remand) at the time of the visit (equivalent to some 4% of the inmate population). Foreign nationals are a particularly vulnerable group who require specific support and care, especially if their English language skills are poor (see paragraph 76 above). While the numbers may not justify the appointment of a dedicated foreign national officer, each prison in which foreign nationals are held should have an officer (or officers), who is available to meet and provide advice to each new foreign national and serve as a point of reference. Further, foreign nationals should be provided with clear information on immigration procedures, through surgeries and information packs, as appropriate.

**The CPT recommends that the Scottish authorities take the necessary steps to provide support to foreign national prisoners, in the light of these remarks.**

87. Several foreign nationals in prison conveyed their concern about what would happen to them at the end of their sentence. Others did not understand why they continued to be held in prison under the 1971 Immigration Act after their sentences had expired instead of being transferred to an immigration removal centre.[26] In particular, such foreign national prisoners found themselves not only being kept in prison after they were eligible for release but being subjected to a regime in which they were offered few activities and had to be confined to their cell for much of the day. Not surprisingly, the perception of these persons was they were being given an additional punishment since as a sentenced prisoner they were usually offered a diverse range of activities (see Section 3b above). The CPT has noted that in the response of 8 February 2013, it is stated that the Scottish Prison Service will seek to put in place an action plan to minimise detention of foreign nationals subject to removal after the expiry of their prison sentence.

**The CPT recommends that foreign national prisoners, if they are not deported at the end of their sentence, be transferred immediately to a facility which can provide conditions of detention and a regime in line with their new status of immigration detainees. Further, it would like to receive a copy of the action plan.**

f. transport of prisoners

88. The transport of prisoners to and from courts and between prisons was carried out by a private contractor (G4S). The delegation observed that the vehicles used for transporting prisoners did not possess seat belts in the cubicles, which represents a safety hazard. Further, there was no means of communication between prisoners placed in the back of a large transport vehicle and the escort staff. Prisoners being transported should have a means of being able to communicate with escort staff in the case of emergency. **The CPT invites the Scottish authorities to remedy these shortcomings.**

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[26] The UK Borders Act 2007 provides for the automatic deportation of all foreign nationals who are sentenced to a prison term of one year or more, on the completion of their sentence. (See also paragraph 105).

## C. Rowanbank medium-secure psychiatric clinic

### 1. Preliminary remarks

89. Rowanbank Clinic, located in Glasgow and opened in 2007, is one of two medium-secure psychiatric hospitals in Scotland run by the National Health Service (NHS) – the other one being Orchard Clinic in Edinburgh.[27] Forensic patients make up the vast majority of the Clinic's patients. The medium-secure psychiatric facilities were established to accommodate a significant proportion of patients held in the State Hospital in Carstairs who did not require such high security, but who were nevertheless unsuitable for low-security institutions. In its report on the 2003 visit, the CPT noted that many patients' stay in the State Hospital was prolonged due to the lack of any medium-secure facilities.[28] The Committee is pleased to note that this gap has now been closed.

90. At the outset, it should be emphasised that the delegation did not hear any allegations of ill-treatment by staff at Rowanbank Clinic from the patients with whom it spoke. On the contrary, staff demonstrated a very caring and professional attitude towards the patients.

91. Rowanbank Clinic is a purpose-built modern mental health hospital in a single-storey building with small wards containing individual bedrooms. It provides services to five of the 15 local health boards in Scotland, with an agreed capacity of 48 beds. A further 12 places are assigned to persons with severe learning difficulties at national (Scotland) level, of which four are reserved for female patients. In addition, the clinic provides six beds specifically for women with a mental illness (also from throughout Scotland). The total capacity currently stands at 66 beds, which were all occupied at the time of the delegation's visit.[29] All female patients are accommodated separately from male patients, in their own units. There are no patients under the age of 18 years; indeed, any juvenile in need of hospitalisation in a medium- or high-security facility would be referred to an institution in England.

92. At the time of the visit, the majority of patients was made up of persons transferred from the high-security State Hospital because of re-classifications resulting in a reduction in their security level (38 male patients). These patients were held in the rehabilitation ward and had to spend a minimum of 18 months in Rowanbank before their security level could be further re-classified to low-security. The male admission ward has 10 places for persons sent directly from the courts or from prison, usually acute cases, whose stay is usually of a shorter duration, often weeks or months, rather than years. There was no capacity gap for transfers of prisoners to mental health clinics, with the exception of high-security female patients. Approximately 20% of patients were civil and 80% forensic, and the average stay in the hospital was longer than three years.

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[27] A third such clinic is scheduled to open in 2013 in Perth.

[28] See CPT/Inf (2005) 1, paragraph 103 on the CPT's 2003 visit to the United Kingdom and the Isle of Man.

[29] Eight of the 74 beds that existed when the clinic opened are no longer in use.

93. The CPT's delegation gained, on the whole, a very favourable impression of the facility. The clinic's management aims to ensure that every patient is treated according to his or her needs with the ultimate goal of moving them to a low-security psychiatric institution. However, this is not always possible and a re-classification to high-security, and transfer to the State Hospital, may become necessary if a patient's condition deteriorates. In this respect, a problem arises as regards female patients who require a high-security environment, as the female wing in the State Hospital was closed down in 2008. Transferring a patient out of the Scottish jurisdiction, for example to Rampton high-security psychiatric hospital in England, has proven complicated, in particular when charges are still pending against a patient or when the different health boards do not agree who will pay for the patient's hospitalisation in England. Although a rare occurrence (twice in the past three years), it is a substantial problem for the individuals and institutions concerned (see also paragraph 103 below and paragraph 72 on segregation of female prisoners).

**The CPT recommends that the necessary steps be taken to ensure that, whenever required, a female patient in need of care in a high-security mental health facility is speedily transferred to an appropriate psychiatric hospital.**

### 2. Patients' living conditions and activities

94. Overall, the material conditions in the clinic were excellent. The seven separate wards are clustered around a large open inner-court area: Elm (male admission ward), Pine, Cedar and Larch (male rehabilitation wards), Sycamore (female admission ward), Elder (female rehabilitation ward), and Holly (national centre for learning disabilities).

The patients had individual rooms (12 m²) equipped with a bed, wardrobe, bed-side table, desk, and chair, as well as en-suite toilet and shower facilities (3 m²), all in good condition. Patients' rooms are not locked at night, but patients themselves can lock the door from the inside; staff have a master key to all doors. Every ward has a large common living area, equipped with tables, chairs, sofas, television and games. Wards also have a kitchen area that can be used by patients with prior authorisation from staff, who will monitor the handling and safekeeping of certain items, such as kitchen knives. Water dispensers are now available, following earlier criticism from the Mental Welfare Commission of Scotland (MWCS). Patients wear their own clothes.

95. Throughout the day, patients have access to the outdoor inner courtyard area. A football pitch is also available in this area. An activity centre offered courses ranging from sports (such as badminton, volleyball, table tennis, gym) to arts classes. The activity centre includes a small shop, in which patients can buy drinks, snacks or cigarettes. A garden area is also available and used by patients for growing different types of plants.

Opportunities for paid work at the clinic exist for those who wish to work and include gardening, managing the shop and laundry services, with a minimum weekly wage of £10. Patients may also receive money from their families or the social welfare system, and the clinic possesses a hardship fund to cover any basic personal needs a patient may have in the short term, pending support from other sources.

96. During the day, the doors of patients' rooms are locked from 9 a.m. until 1 p.m., when patients can return to their room for one hour after lunch, and are then locked again from 2 p.m. until 5 p.m. This policy was put in place with the intention that it would act as an incentive for patients to participate in group activities, which are considered to be helpful for their therapeutic progress, rather than staying alone in their own room or sleeping. However, not all units had relevant activities scheduled and in Cedar Ward, for example, the delegation observed patients sitting in the lounge area asleep on sofas or chairs. The CPT considers that if it is not possible to offer the necessary activities, the rationale for denying patients access to their rooms no longer exists. Although the CPT's delegation was informed that patients could, on an individual basis, request access to their rooms during the day, this rule did not seem to be understood by patients, who believed that they were not allowed to be in their rooms during daytime, except for the one hour lunch break.

**The CPT trusts that the necessary steps will be taken to address this matter in the light of the above remarks.**

### 3. Staffing and treatment

97. The staff to patient ratio is very good at Rowanbank Clinic and can be considered as a key strength of this institution. The staffing complement consists of some 280 persons, including 98 psychiatric nurses, 56 nursing assistants, six psychiatrists, four psychologists and 10 occupational therapists. As regards somatic care, general medical practitioner services are available three times per week. Cedar, Holly, Larch, Pine and Sycamore wards are each staffed by five mental health nursing staff during the day and three at night. Elder Ward has three nursing staff on day duty and two on night duty, and Elm Ward has six nursing staff on day duty and four on night duty.

98. Somatic and psychiatric treatment in the clinic were of a very high standard. Care and treatment for each patient is provided by a multidisciplinary team composed of a consultant forensic psychiatrist, a clinical psychologist, and designated nursing staff (a named nurse is allocated to each patient upon admission), occupational therapists, and social workers. All patients have individual treatment plans and the patients' records contain detailed up-to-date information on their treatment.

## 4. Seclusion and means of restraint

99. Seclusion, in the sense of a patient being removed from association and locked alone in a room, is not used in Rowanbank Clinic. The management of the clinic applies instead a "time-out" measure for which "quiet rooms" are used. Elm, Sycamore and Holly wards have quiet rooms, which can be used by patients after they experience psychotic episodes. Patients may request the use of these rooms, but can also be placed in such a room by the mental health nurse in charge of the ward following an incident, such as an attack on a staff member or other patients or an outburst of rage resulting in destruction of property. In the quiet room, patients are always observed by at least two psychiatric nurses, who try to calm the person down by engaging him/her in a conversation, if this is considered appropriate in the situation, or who otherwise remain quiet, but present in the room. The quiet room is designed to create a calm and relaxed atmosphere and contains no furniture, except for a padded mattress. Once aggression management techniques are deemed no longer necessary, the low stimulus environment in the room can help to continue verbal de-escalation.

As regards more specifically any incident of self-harm (attempted or implemented), patients will be brought to the quiet room, and afterwards returned to their room. Their room will, however, be emptied of any items (including furniture), which could be used for self-harm by the patient. The patient will thereafter be monitored by a staff member, who will remain present at the door to the patient's room for as long as the acute risk of self-harm is considered to exist.

The use of time-out and quiet rooms is addressed by a number of policies and protocols. The nurse in charge of the ward is obliged to ensure that the patient's care plan during placement in the quiet room is adhered to. Any prolonged use of the quiet room for a period exceeding 24 hours has to be reviewed by a multidisciplinary team of clinical staff.

100. According to staff, no mechanical means of restraint are applied in Rowanbank Clinic and the delegation did not receive any information to the contrary. If necessary, staff members apply physical (manual) restraint and pharmaceutical restraint (rapid tranquillisation). For rapid tranquillisation, intramuscular injections of Lorazepam, Midazolam and Haloperidol are given.

101. Strict record-keeping of all incidents of all restraint measures must be in place, both in a specific register as well as in the patients' individual files. Records should include the time at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, staff who participated in the application and an account of any injuries sustained by patients or staff.

The CPT's delegation found that these requirements were met at Rowanbank Clinic. It should also be noted that placements in the quiet room and any resort to pharmaceutical restraint are reviewed and assessed at monthly staff meetings with the director of the clinic.

102. In the three months prior to the delegation's visit, physical restraint had been applied 81 times, rapid tranquilisation 36 times, and the quiet rooms had been used on 33 occasions for time out.

Out of the 81 cases of physical restraint recorded, 59 occurred in the Sycamore Ward (female admission). Similarly, out of the 36 cases of rapid tranquillisation, 23 occurred in the Sycamore Ward; and out of the 33 placements in the quiet room, 25 occurred in the Sycamore Ward. It can be expected that the number of such incidents would, generally, be higher in admission wards than in rehabilitation wards; the delegation noted, however, that the figures for the patients in Elm Ward (male admissions) were much lower than in the female admission ward: four cases of restraint, with six cases of rapid tranquillisation and six placements in the quiet room. This disproportion is even more striking when taking into consideration that the female admissions ward has only six beds as opposed to 10 in the male admissions ward. **The CPT would appreciate the observations of the authorities on this matter.**

103. It appeared that one patient in the female admission ward was posing a real challenge. Of the 11 self-harm incidents recorded over the three months prior to the delegation's visit, 10 concerned this patient, who repeatedly banged her head against walls, tables or the floor. Her case illustrates the fact that some female patients may require higher-security accommodation. In fact, the decision to place her in a medium-secure environment seems to have been largely influenced by the absence of high-secure beds for women in Scotland, rather than an objective assessment of her true security level. In this context, it should be stressed that **placing a patient, who is in need of a high-secure psychiatric facility, in a medium-secure centre obviously affects the quality of life for the patient as well as that of all other patients accommodated in the same ward** (see also paragraph 93).

**The Committee would like to receive up-dated information on the case of the above-mentioned female patient.**

### 5. Safeguards

104. Forensic patients are usually committed to a psychiatric clinic based either on a "treatment order" (while on remand) or a "compulsion order" (convicted patients or those acquitted "*due to insanity*") issued by a court, based on psychiatric assessments.[30]

Patients who wish to challenge their hospitalisation can do so by bringing a case before the Scottish Mental Welfare Tribunal, which can decide to lift an order. Compulsion and treatment orders (which are the basis for hospitalisation of most patients in Rowanbank Clinic) can be appealed after six months and then annually.

[30] The Criminal Procedure (Scotland) Act 1995, as amended, sections 52M and 57.

105. At the time of the visit, approximately 50% of patients in Rowanbank were either not giving consent to their medication or deemed unable to give such consent. Section 243 of the Mental Health (Care and Treatment) (Scotland) Act 2003 provides for the possibility of compulsory treatment, in exceptional circumstances and only "*where it is necessary as a matter of urgency for medical treatment to be given*".[31] In these cases, a second psychiatric opinion is required as a safeguard before resorting to any compulsory treatment. This second opinion is provided by the Mental Welfare Commission of Scotland (MWCS) and in the event of disagreement with Rowanbank's doctors, a consensus is usually reached on an interim medication regime for a period of two to three months, before a re-evaluation takes place.

### 6. Complaints system

106. Patients may make an *internal complaint* through a formal system available in the clinic, using a complaint form. The outcome of any internal investigation (together with a report on the steps taken by the clinic) has to be forwarded to the Glasgow Health Board Directorate for review and approval.[32] In the clinic's response to the patient, information is provided about the possibility to appeal to the Scottish Ombudsman, if the patient is not satisfied with the outcome or the way in which the complaint was handled.

Since the opening of the clinic in 2007, the number of complaints has reduced steadily from eight complaints in 2007 to one during the first nine months of 2012. The complaint made in 2012 was not related to the conditions in Rowanbank Clinic, but concerned another clinic where the patient had previously resided.

Rowanbank Clinic staff attend a special complaints-handling training, organised by the Scottish Ombudsman, and all managers have to attend a refresher course at least once a year. The CPT's delegation noted this professional attitude towards the complaints mechanism. The number of official complaints is very low. The good relationship between staff and patients observed by the delegation facilitated the resolution of problems in a more direct and informal manner.

107. There was also an *Independent Advocacy Group* based within Rowanbank Clinic. This group is mandated to act as an independent monitoring and complaints mechanism examining the living conditions and general treatment of patients in the clinic. The independent advocacy service is a statutory obligation under the Scottish Mental Health Act (2003) and, following a public tender, was awarded to an outside charitable organisation, "*Circles Network*".

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[31] Compulsory treatment can only be given for the purpose of: saving the patient's life; preventing serious deterioration in the patient's condition; alleviating serious suffering on the part of the patient; and preventing the patient from behaving violently; or being a danger to the patient or to others.

[32] The Directorate can request an independent external investigation of the complaint concerned, but this has only happened on one occasion in 2007, shortly after Rowanbank started operating.

The advocacy group has four core and two part-time members of staff, who visit the patients in each unit at least once a week and talk with the patients in private. The patients, with whom the delegation spoke, stated that they trust the advocacy group members; positive experiences were recounted of the group assisting patients to resolve certain problems, such as minor complaints about clinic staff or conditions, problems with other patients, official correspondence and dealing with the authorities, including social services and social welfare offices.

In the CPT's opinion, this advocacy service is an example of good practice; it makes a valuable contribution towards ensuring a patient's well-being and acting as an effective safeguard against ill-treatment. The independence and the permanent presence of the advocacy group in the establishment are positive features of this mechanism.

108. The *Mental Welfare Commission for Scotland* (MWCS), a member of the United Kingdom National Preventive Mechanism, also visits the clinic to carry out routine inspection visits and publishes its reports, including recommendations for improvements. The CPT noted that MWCS recommendations have been implemented in the past.

**ENGLAND AND WALES**

## D. Immigration detention

### 1. Preliminary remarks

109. The immigration detention estate in the United Kingdom is comprised of ten Immigration Removal Centres (IRCs), three short-term holding facilities, and a unit for families. Seven of the ten existing IRCs are run by private "service companies", contracted and overseen by the United Kingdom Border Agency (UKBA), which itself is under the authority of the Home Office.

As of 30 September 2012, 3,091 people were in immigration detention, for a capacity of 3,395 places.[33] The number of persons entering immigration detention is rising each year and in the 12 months ending September 2012, 28,705 people entered immigration detention, while 28,442 persons left detention, 61% of whom were removed from the UK.

110. The administrative detention of foreign nationals is governed by Schedules 2 and 3 of the 1971 Immigration Act (as amended). The decision to detain is a purely administrative one taken by UKBA Immigration Officers or Home Office caseworkers. The criteria to detain are set out in the Home Office's Operational Enforcement Manual. It states that a person may be held in immigration detention to: effect removal where there is a risk of absconding or reason to believe that the person will fail to comply with any conditions attached to the grant of temporary admission or release; when a risk of harm to the public has been identified; or to establish a person's identity or basis of claim, including as a part of the "detained fast-track system" whereby asylum seekers can be detained if their claims appear unfounded and capable of being decided quickly. Undocumented migrants found in the United Kingdom may be detained pending a decision on whether they are to be removed or pending arrangements for their removal.

The largest category of detained persons are those who have sought asylum at some stage of their immigration process but whose claims had been rejected. In 2011, this category of persons accounted for over 50% of the total immigration detainee population. Further, all foreign national prisoners who have been sentenced to a period of imprisonment of 12 months or more are subject to automatic deportation from the UK, unless they fall within one of the five exceptions[34] laid down in Section 33 of the UK Borders Act 2007.

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[33] At the time of the 2008 visit, there were some 2,400 persons in immigration detention for a capacity of 2,466 places.

[34] Breach of a Convention right or the Refugee Convention; the person was under the age of 18 on the date of conviction; breach of a right under the Community treaties; could be subject to extradition; could be subject to a guardianship of mental health order – see Section 33, paragraphs 2 to 7, of the 2007 UK Borders Act.

111. The decision to detain a foreign national is not automatically reviewed by a court or an independent review body. However, a detained person can apply to a judge for review of his or her detention. There is no time limit on the length of detention[35] under the Immigration Act 1971, but active measures must be ongoing to deport an individual for the detention to remain legal and there is a duty on the UKBA to carry out a monthly review. When there is no reasonable likelihood of being able to deport a person, for example, due to the situation in the country of origin, persons should not – or no longer - be detained. Detention has been declared unlawful by the courts where the duty to carry out a monthly review of the detention has not been complied with.[36]

A snapshot of the 7,186 persons who left immigration detention during the third quarter of 2012, revealed that 4,796 had been in detention for less than 29 days; 1,185 for between 29 days and two months; 731 for between two and four months; and of the 474 remaining, 72 had been in detention for between one and two years and 15 for two years or longer. At the time of the visit, 667 had been in detention for longer than four months, of whom 122 had been in detention for between one and two years and 27 for two years or longer.

The CPT remains concerned by the number of persons detained for lengthy periods in IRCs. Indeed, the negative impact that the open-ended nature of detention caused in individuals was noticeable to the delegation when it held interviews with persons who had been in IRCs for more than a year. Further, the long periods of uncertainty exacerbates mental health issues.[37]

**The CPT recommends that the United Kingdom authorities reconsider their policy of indefinite immigration detention.**

112. As regards the detention of children, the current UK government announced in December 2010 that every effort would be made to avoid their detention. Since then, the number of children in detention has dropped significantly from 1,119 in 2009 to 436 in 2010 to 99 in 2011. During the first nine months of 2012, 161 children entered detention. As of 30 September 2012, there were no children in immigration detention in the UK. Further, the length of detention of children has been reduced; of those leaving detention in the third quarter of 2012, only seven had been detained for more than three days. The CPT welcomes this development **and trusts that the United Kingdom authorities will pursue their efforts to ensure that the detention of any child prior to deportation is a measure of last resort, taken in the best interest of the child and for the shortest possible period.**

113. In the course of the visit, the CPT's delegation gathered information which indicated that there were, at times, problems in the flow of information both between the courts and UKBA and between UKBA case-workers and detainees. At present, immigration case-workers are detached from the detainees for whom they are responsible, and on-site UKBA staff appear unable to bridge the gap, leaving detainees often uncertain of where their case stands. Communications from UKBA are not always understood by the detainees as individual written communications are only provided in English, and detainees claimed that the contents were not always explained in a language they understood.

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[35] The United Kingdom opted out of the 2010 EU Returns Directive, which limits immigration detention to a maximum of 18 months.

[36] See SK (Zimbabwe) (FC) v Secretary of State for the Home Department, May 2011 http://www.supremecourt.gov.uk/docs/UKSC_2009_0022_ps.pdf .

[37] See study by Robjant et al, 2009, in the British Journal of Psychology which links prolonged detention with mental health deterioration amongst those who have suffered a psychological trauma.

The problem of communication also arises in the context of removals from the country. For example, a Nigerian national appealed his rejected asylum claim on 12 July 2012 and received a letter dated 10 September 2012 from the relevant court stating that a hearing concerning his asylum application had been scheduled for 20 December 2012. The detainee clearly believed that he would not be subject to deportation until after his court hearing. However, four days later, on 14 September, UKBA attempted to deport him via a commercial flight, which he resisted, resulting in allegations of ill-treatment by escort staff (see paragraph 117 below). The CPT understands that in certain cases a pending judicial review may not be a bar to removal. Nevertheless, in order to clearly understand the administrative and judicial procedures and sequencing of events, **the Committee would like to receive relevant information in relation to this specific case.**

In another case, a Cameroonian national had received a temporary injunction against his removal on 31 August 2012, but was nevertheless brought from Colnbrook IRC to Heathrow airport on 3 September with the intention of removing him from the country. This case seems to further illustrate the need for improved communication and information sharing between the different institutions involved in the relevant decision-making processes. **The CPT would appreciate the observations of the United Kingdom authorities on this matter.**

## 2. Colnbrook and Brook House Immigration Removal Centres

### a. introduction

114. The CPT's delegation visited Colnbrook and Brook House Immigration Removal Centres (IRC), both of which are built to the security level of a category B prison in England and Wales.

Colnbrook IRC, near Heathrow Airport, opened in August 2004. It is managed by a private contractor (Serco) and has a maximum capacity of 409 places and held 357 persons at the time of the visit. There are four main wings (A, B, C, and D), each with a capacity of 64 places, subdivided into two units. In addition, there is a segregation unit, a small female unit (eight beds) and a medical unit with six beds for sick and vulnerable detainees. The former Short-Term Holding Facility is now used for first-night / last-night accommodation and as an Induction unit. There is also a separate custody unit with 20 places used by HM Revenue and Customs for detaining persons arrested for smuggling offences.

Brook House IRC opened in March 2009 and is located near Gatwick Airport. It is also managed by a private contractor (G4S) and has 426 places and accommodated 403 detained persons at the time of the visit. There are four main sections: A-wing, which contains standard accommodation on three floors; B-wing, which contains the induction centre on the first and second floor and the pre-departure as well as the care and support units on the ground floor (the ground floor is also known as E-Wing); C-wing, which also has three floors and contains standard accommodation as well as the segregation unit; and D-wing, which has three floors of enhanced accommodation units, primarily holding persons detained for lengthy periods.

115. Persons held in Immigration Removal Centres are subject to the *Detention Centre Rules 2001*[38], which were complemented by the "*Detention Services Operating Standards manual for Immigration Service Removal Centres*".[39] The Detention Centre Rules set out the rights of detained persons and the purpose of the IRCs as being to provide for the secure but humane accommodation of detainees in a "relaxed" regime, with as much freedom of movement and association as possible consistent with maintaining a safe and secure environment; and to encourage and assist detained persons to make the most productive use of their time, whilst respecting in particular their dignity and the right to individual expression.[40] The Rules also state that due recognition is to be given in IRCs to the need for awareness of the particular anxieties to which detained persons may be subject and the sensitivity that this will require, especially when handling issues of cultural diversity.[41]

b. ill-treatment

116. On the whole, relations between staff and detainees in Brook House seemed to be positive. However, at Colnbrook IRC, many detainees complained about the unsupportive and negative attitude of staff.

Further, the CPT's delegation received three allegations of excessive use of force, one at Brook House and two at Colnbrook. At Brook House, one person stated that staff had used unnecessary force on him. The incident was captured by the CCTV system and had already been brought to the attention of the management. The director was aware of the case and ensured the delegation that appropriate steps would be taken. Subsequently, the United Kingdom authorities informed the CPT that this incident had been investigated and that "a number of lessons learned have been identified and actioned."

In Colnbrook, one detainee claimed that, approximately three months before the delegation's visit, he had been grabbed by five or six custody officers following a verbal dispute over the quantity of food served and that he was thrown to the ground, and one custody officer had stamped on his right foot. Another detainee alleged that on 23 July of 2012, following a "dirty protest" in his segregation cell, four custody officers entered the cell and violently twisted his arms to handcuff him behind his back.

Further, in the Induction and Reception Unit at Colnbrook, the atmosphere was noticeably tense and many detainees complained about rude behaviour and verbal abuse by some staff members.

**The CPT recommends that the United Kingdom authorities remind staff in the Brook House and Colnbrook IRCs that no more force than is strictly necessary should be used to bring agitated/recalcitrant detainees under control. Further, it should be made clear to staff members at the Induction and Reception Unit in Colnbrook that all detainees are to be treated with respect and that abusive language will not be tolerated.**

**As for the above-mentioned incident at Brook House, the CPT would like to be informed of the lessons learned and action taken.**

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38 SI 2001/238 http://www.opsi.gov.uk/SI/si2001/20010238.htm; Those held in Prison Service accommodation are subject to the procedures set out in PSO 4630, Immigration and Foreign Nationals in Prison.

39 http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/immigrationremovalcentres/

40 Rule 3.1.

41 Rule 3.2.

117. In Colnbrook IRC, the CPT's delegation received a few allegations of excessive use of force and ill-treatment by escort staff (Reliance) in the course of removal operations.[42] In particular, the Nigerian national referred to above (see paragraph 113) alleged that during the attempted deportation of 14 September 2012, he was punched, kicked and stamped on his right foot by three escort staff in order to force him to take his seat on the aircraft. Following the failed removal attempt he was seen by a doctor upon his readmission to Colnbrook and the following injuries were recorded in detail: cut to lower lip on left side, bruising to inner left leg, grazing and swelling to both wrists, grazes to inside of right forearm, injury to right big toe. The injuries were also photographed. On 15 September 2012, the treating doctor informed the Director of Colnbrook and sent a form to UKBA on which he wrote that he had seen a detainee who alleged ill-treatment by three officers during an attempted removal and he also enclosed a copy of the body map of injuries. The detainee submitted a complaint to UKBA. By letter of 8 February 2013, the United Kingdom authorities informed the CPT that all allegations of ill-treatment of a detainee by escort staff are referred to the police and that the investigation into this case had been completed. The investigation concluded that there was "no evidence to support the allegation that the escort staff had deliberately hit and kicked the detainee to cause his injuries and it was found on the balance of probabilities that the allegation of assault was unsubstantiated. The detainee stated that he intended to prevent his removal, and it is concluded that his injuries were as a result of his own actions in trying to prevent his lawful removal from the United Kingdom."

c. conditions of detention

118. The material conditions in the two IRCs visited were, on the whole, satisfactory. Detained persons were accommodated in double-occupancy cells, measuring some 15 m². All the cells were equipped with two beds, two chairs, a desk, a television and storage space, and possessed a fully-partitioned sanitary annex containing a toilet and a sink. Artificial lighting and ventilation was adequate and access to natural light was good.

119. In both centres, shower facilities were located in each unit and detainees could shower as often as they wanted. Each wing also possessed laundry facilities. However, at the Induction and Reception Unit in Colnbrook, those detainees interviewed by the delegation claimed that they did not receive any clothes from the Centre following admission and that they did not have the possibility to wash themselves or clean their clothes for up to seven days. Further, the delegation observed that two cells of that unit were flooded with water but continued to be used to accommodate detainees. The Colnbrook management acknowledged to the CPT's delegation that such problems existed. By letter of 8 February 2013, the Committee was informed that measures had been taken to resolve the flooding problem and assurances provided that this will not happen again.

**The CPT would like to receive confirmation that the matter of washing and availability of clean clothes has been satisfactorily resolved.**

[42] The treatment of detainees during the removal process was the focus of a separate visit by the CPT to the United Kingdom in October 2012 – see CPT (2012) 74.

120. In both IRCs, detained persons could spend up to 14 hours per day outside of their cells, moving freely within their units and having access to communal areas as well as to outside yards, adjoining each accommodation unit. However, the CPT's delegation noted that not all outside exercise yards were equipped with a means of rest and shelter from poor weather. By letter of 8 February 2013, the United Kingdom authorities informed the CPT that UKBA and its contractors were working to address this concern. **The Committee would like to receive confirmation that this matter has been resolved.**

Detained persons have access to a variety of activities, such as English and IT-courses, Gardening and Arts & Crafts classes. While some courses are limited to 12 participants due to the room size, the delegation was informed that this limit is rarely reached. Detained persons could access games (such as table tennis, billiard, and board games), a gym and a "cultural kitchen" (although with a waiting list). The centres also have a multi-lingual library, different places of worship (a chapel, a mosque, and a multi-faith room) and a kiosk-type shop. In sum, the activities available were suitable for short periods of stay. However, there should be a broader range of purposeful activities (vocational and work) for persons staying for more than a few months; **the CPT invites the United Kingdom authorities to develop such activities for the detainees concerned.**

d. induction and removal from association

121. Both IRCs have induction units, in which newly arrived detainees spend up to seven days. Detainees are interviewed and receive information regarding the rules and regulations in the centre, access to legal advice services, available activities, the possibility of visits and access to health care. At Brook House, all detained persons with whom the delegation spoke stated that they received relevant information in a language they understood. However, at Colnbrook a number of detained persons claimed that they did not understand the information provided to them upon admission. The United Kingdom authorities subsequently informed the Committee that this matter was now being reviewed.

**The CPT recommends that the management of Colnbrook ensure that the necessary information is provided during the induction period in a language that detainees can understand.**

122. At times, when a detained person did not speak English another detained person with the necessary language skills was requested to act as an interpreter. A number of detained persons complained to the delegation that they did not feel comfortable conveying personal information (for example, about health problems) through another detained person. **The CPT considers it inappropriate to use detained persons as interpreters apart from emergency situations.**

123. The induction and reception units at the IRCs had exercise yards to which detainees had, in principle, access every day. However, several detainees in the Induction and Reception Unit in Colnbrook informed the delegation that on some days they were not allowed access to outdoor exercise. **The CPT recommends that the United Kingdom authorities ensure that detained persons are allowed a minimum of one hour outdoor exercise per day, including when accommodated in an induction and reception unit.**

124. According to Rule 40 of the *Detention Centre Rules*, a detained person may be removed from association (i.e. separated from other detainees) in the interests of security or safety. In such cases, the removal cannot last longer than 24 hours without the Secretary of State's authorisation and such authorisation cannot be for longer than 14 days. The detained person should be provided with written reasons within two hours of that removal. Further, Rule 42 provides for the possibility of temporary confinement of refractory or violent detainees for up to three days, with an authorisation of the Secretary of State also being necessary after the first 24 hours. Under both Rules, the Centre's manager, a medical practitioner and an officer of the Secretary of State should visit the person at least once a day, and the delegation noted that this requirement was observed in practice.

The information gathered during the visit, including from relevant registers, indicated that removal from association and temporary confinement were applied sparingly and rarely for more than 24 hours. As for the conditions in the cells of the segregation unit, they were adequate and do not call for any particular comment.

125. Detainees in the segregation units were in principle offered one hour of outdoor exercise per day. However, at Colnbrook IRC, detainees who did not comply with instructions or were unruly, would not be allowed outdoor exercise until their behaviour changed. The delegation was informed that such a situation only occurred twice in the past three years. Nevertheless, **the recommendation already made in paragraph 123 applies equally here.**

e. health care

126. At *Colnbrook*, medical services were provided by two general practitioners who assured a daily, seven days a week, service as well as an at night call service. They were supported by 14 nurses (of whom the equivalent of five and half were mental health nurses) and four health care assistants. Three further nursing posts were vacant at the time of the delegation's visit. Such staffing levels as regards general practitioners and nurses are in principle sufficient for a detainee population of up to 400 persons. However, the delegation received several complaints about delays in accessing the services of a general practitioner. **The CPT would like to receive the observations of the United Kingdom authorities on this matter.**

The IRC was visited by two psychiatrists with a combined presence of three sessions per week. In addition, there were three psychologists and a part-time dentist (one day per week). Given the number and the high turnover of detainees (1,120 new admissions during the third quarter of 2012), as well as the particular psychological profile of many detainees, there is a need to increase the presence of the psychiatrist. The delegation came across several detainees with severe mental health problems, such as schizophrenia, some of whom had obvious florid symptoms and were not receiving treatment (see also paragraph 133).

**The CPT recommends that the presence of a psychiatrist in Colnbrook be increased to at least the equivalent of a half-time post. It would also be desirable to increase the presence of a dentist.**

127. The deaths of two detained persons with chronic health problems, Y[*] and Z[*] at Colnbrook IRC in 2011 raised questions about the quality of health care. With regard to Y, who had a pre-existing heart condition, a coroner's court had concluded in May 2012 that neglect and health-care related failures at Colnbrook contributed to the death, caused by coronary heart disease. The delegation was informed that an internal review had been launched at Colnbrook to identify shortcomings and learn lessons. As regards Z, he had been transferred from neighbouring Harmondsworth IRC to Colnbrook shortly before his death, apparently caused by a ruptured aorta, and the outcome of the inquest was still awaited. **The CPT would like to be informed, in due course, about the outcome of the internal review in respect of the first case and of any steps taken as well as of the findings in relation to the second case.**

128. At *Brook House* IRC, a duty roster of seven external general practitioners was used to provide medical services. One of them was available every weekday for six hours and at weekends for four hours. There were seven nursing staff, of which one was a specialised mental health nurse. A psychiatrist usually visits the centre every Friday. However, at the time of the visit, there was a temporary shortage of psychiatric care, due to changes to the duty roster. Further, it appeared that the psychiatrist only saw a maximum of three patients per session, for both Brook House and the neighbouring Tinsley IRC, as opposed to the number of patients seen being needs-based. A dentist visits the centre once every two weeks for two hours. For a detainee population of more than 400, with a high turnover (876 new admissions during the third quarter of 2012) there is a need to increase the presence of a general practitioner.

**The CPT recommends that the presence of general practitioners be increased by the equivalent of a half-time post. The presence of the psychiatrist should be increased to offer a sufficient number of sessions to cover the existing needs. The presence of a dentist should also be increased.**

129. The medical facilities in both centres were adequate and in a good condition. Medical confidentiality was well respected and files were kept in good order.

130. For specialised medical expertise and treatment, or in case of emergencies, detained persons were escorted to nearby public hospitals. Persons were handcuffed when taken to a hospital. They remained handcuffed inside hospitals and during medical consultations they usually remained linked to an escort staff via a 1.5 meter long chain. It was reported that, on occasion, doctors requested the escort staff to remove the handcuffs. The centre's management explained that they carry out an individual risk assessment before deciding on whether handcuffs should be used when escorting a detained person outside the centre. However, the delegation gained the distinct impression that handcuffing was a routine measure.

**The CPT recommends that the United Kingdom authorities ensure that the application of handcuffs to persons escorted out of an IRC is based upon a thorough individual risk assessment.**

As for detainees being handcuffed during medical consultations and them remaining linked by a chain to an escort officer, this is unacceptable. Practices of this kind will inevitably jeopardise the development of a proper doctor-patient relationship, violate the principle of medical confidentiality and may well be prejudicial to the establishment of objective medical observations.

[*] In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

**The CPT calls upon the United Kingdom authorities to take steps to ensure that detained persons are not handcuffed during medical examinations and that all such examinations are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of escorting officers. In order to ensure that these requirements can be met at the same time as meeting security needs, provision should be made for a secure room in each hospital where examinations of detained persons regularly occur.**

131. Upon arrival, all new detainees undergo a medical screening, including a risk assessment for mental health problems. However, in Colnbrook a few detainees stated that they had only been seen by a nurse upon arrival, not by a doctor; **such an approach is acceptable provided that the nurse concerned is fully qualified and reports to a doctor on the outcome of the screeening.**

132. Under Rule 35.3 of the *Detention Centre Rules*, UKBA or its contractors have to ensure that the medical practitioner reports on any detained person who may have been the victim of torture. In the two IRCs visited, the delegation came across cases where a doctor had examined a detained person and found that medical observations were consistent with torture claims in their countries of origin. However, the rules are unclear about what to do in such cases, as Rule 35.3 by itself seems to have no further consequences. In the cases mentioned above, it appeared that there had been no further meaningful review of the detainees' situation. It is only under Rule 35.1 that doctors are required to "report to the manager on the case of any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention". In the CPT's view, a finding under Rule 35.3 should automatically trigger a review under Rule 35.1.

**The CPT recommends that cases falling within Rule 35.3 be rapidly reviewed in order to determine whether continued detention is appropriate.**

133. It goes without saying that persons with a severe mental illness should not be detained in an Immigration Removal Centre. In this connection, the CPT notes that there have been a number of recent judgments by courts in the United Kingdom which have found that holding mentally ill persons in prolonged detention was a violation of Article 3 of the European Convention of Human Rights (ECHR).[43]

At Colnbrook, the CPT's delegation came across a number of detainees who suffered from mental health problems, such as schizophrenia, paranoia, or psychotic episodes, and whose suitability for detention was, at best, questionable. Some of them were not receiving any psychiatric treatment.

One detained person (a Sri Lankan national), had at various points in time received diagnoses of mental health problems, including paranoid schizophrenia, borderline personality, depression and suicidal tendencies. He claimed that he had been severely tortured in Sri Lanka and his medical records stated that he had scars consistent with his descriptions of torture. At the time of the delegation's visit he had already been in immigration detention for more than one year and being held in a detention setting clearly worsened his mental health condition. A psychiatrist had confirmed several months prior to the visit that he was suffering from flashbacks, which he claimed detention conditions aggravated.

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[43] See R (HA (Nigeria) v Secretary of State for the Home Department (17 April 2012); and R (BA) v SSHD (26 October 2011); and R (S) v SSHD (05 August 2011).

Another detainee with a very severe and complicated medical history, who spoke no English and had poor communication skills in his native language, suffered from severe delusions. At the time of the visit, he had been lying in his bed for several days, wide awake but eyes closed, refusing to communicate, displaying paranoid behaviour. An entry in his medical record prior to detention stated that should the patient´s mental state detoriate, he should be referred for assessment and admission to a forensic unit. However, no such referral had been made while in Colnbrook IRC.

The delegation also met a detainee with a diagnosis of schizophrenia, who exhibited paranoid behavior and was not associating with other detainees; he also suffered from weight loss. The medical admission screening noted that he had schizophrenia and was very thin; however, it was stated that there were no mental health concerns and he was not prescribed any medication.

**The CPT recommends that steps be taken to ensure that any detainee displaying a significant mental health disorder is transferred without delay to an appropriate psychiatric facility.**

Further, **it would like to receive up-dated information on the case of the Sri Lankan national above.**

f. other issues

134. The delegation noted that the staff in both centres were ethnically diverse, which no doubt contributed to the low levels of racism observed in these establishments. However, in discussions with staff it emerged that there is a need for further training on inter-personal skills. **Such training should be provided on an ongoing basis, in particular as regards interacting with potentially vulnerable detainees.**

135. Contacts with the outside world were generally satisfactory. Detainees can keep their private mobile phones and have access to internet and email via the computers available in the centres. There are no restrictions placed on the number or the duration of visits a detainee can receive. Further, the visiting facilities were adequate.

136. Both centres had functioning complaints mechanisms. Detained persons can make confidential complaints through complaint forms, which can be placed in a sealed envelope in the appropriate boxes available in each unit. The boxes can only be opened by UKBA staff, not by the centre management. Complaints about serious misconduct or ill-treatment by staff are investigated by UKBA's Professional Standards Unit; while others concerning service delivery are forwarded to the management of the centres to deal with. The Prisons and Probation Ombudsman can also receive complaints from detainees who have already exhausted UKBA's internal complaints procedures.

137. All Immigration Removal Centres are visited by the Inspectorate of Prisons for England and Wales, which last visited Brook House in September 2011 and Colnbrook in August 2010. For each centre, there is also an Independent Monitoring Board, which visits the establishment regularly.

# APPENDIX I

## LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

## INTRODUCTION

### Cooperation between the CPT and the United Kingdom and Scottish authorities

comments

- the CPT trusts that the United Kingdom and Scottish authorities will take the necessary steps to ensure that for future visits, all places where persons are deprived of their liberty are made aware of the Committee's mandate (paragraph 5).

### Development of a National Preventive Mechanism

comments

- the CPT trusts that the United Kingdom authorities will continue to ensure that the NPM as a whole is properly resourced (paragraph 8).

## SCOTLAND

### Law enforcement agencies

**Preliminary remarks**

comments

- the CPT trusts that detained irregular migrants will be transferred as quickly as possible to an immigration removal centre, which is specifically designed to manage persons held for administrative reasons. Police custody areas are only suitable for short stays (paragraph 12).

requests for information:

- on the proposal to introduce a maximum time limit of 36 hours for police custody (paragraph 10).

**Ill-treatment**

comments

- the Scottish authorities must remain vigilant and continue their zero-tolerance policy towards ill-treatment (paragraph 13).

**Safeguards against ill-treatment**

recommendations

- appropriate measures to be adopted to ensure that the power to delay notification of custody is clearly defined in law, strictly limited in time and accompanied by safeguards (paragraph 16);

- Section 15A of the Criminal Procedure (Scotland) Act 1995 to be amended to allow access to another independent lawyer who can be trusted not to jeopardize the legitimate interests of the investigation when a detained person's access to a lawyer of his/her choice is delayed under this Section (paragraph 19);

- the right of a detained person to have access to a doctor to be expressly provided for in law and in the administrative guidance regulating the deprivation of liberty by the police (paragraph 21);

- the Scottish authorities to ensure that written information on detained persons' rights is available in all police detention areas and is effectively given to persons detained (paragraph 22).

comments

- the CPT invites the Scottish authorities to explore with the Bar Associations ways of ensuring that persons detained by the police have prompt and effective access to legal-aid lawyers when recourse is had to the services of such lawyers (paragraph 18);

- the CPT trusts that the "Independent Custody Visiting Scheme" will be implemented across Scotland as part of the process of establishing a single unified police service (paragraph 25).

requests for information

- the new mandate and structure of the Police Complaints Commissioner. Further, the CPT would like to be informed of the professional profile of staff recruited to carry out the proposed investigative tasks entrusted to the Commissioner (paragraph 26).

**Conditions of detention**

recommendations

- all persons detained for longer than 24 hours to be offered the possibility of access to outdoor exercise (paragraph 27).

comments

- the CPT invites the Scottish authorities to enable persons in custody for longer than 24 hours to use the shower facilities (paragraph 27).

**Glasgow Sheriff Court**

recommendations

- steps to be taken to reduce the occupancy levels in the cells used for accommodating adult males, in the light of the remarks in paragraph 30 (paragraph 30).

requests for information

- the Scottish authorities' observations on the issue of the quality of food served to detained persons (paragraph 31).

## Prisons

**Preliminary remarks**

recommendations

- the Scottish authorities pursue their efforts to reduce the prison population, taking due account of the relevant Recommendations of the Committee of Ministers of the Council of Europe in this area; in particular: Recommendation No. R(99)22 concerning prison overcrowding and prison population inflation; Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures; Recommendation Rec(2003)22 on conditional release (parole); Recommendation Rec(2006)13 on the use of remand in custody; and Recommendation Rec(2010)1 on the Council of Europe Probation Rules (paragraph 32).

requests for information

- the results of the presumption against imprisonment measure adopted in 2011 and whether the Scottish authorities are considering extending the measure beyond the current limit of three months (paragraph 32).

**Ill-treatment**

recommendations

- prison officers at Barlinnie Prison to be reminded that no more force than is strictly necessary should be used to control prisoners and that there can be no justification for striking a prisoner after he or she has been brought under control or for physically assaulting a prisoner who refuses to obey an order (paragraph 35);

- female prison officers at Cornton Vale Prison to be reminded to treat prisoners with respect at all times and, more specifically, to use appropriate language when talking to them (paragraph 35);

- a more proactive stance to be taken towards tackling bullying at Kilmarnock Prison (paragraph 36).

**Conditions of detention in Barlinnie, Greenock and Kilmarnock Prisons**

recommendations

- the lack of shelter from poor weather in the outdoor exercise yards in the three prisons visited to be remedied (paragraph 39);
- action to be taken at Barlinnie Prison to develop the number of purposeful activities on offer to prisoners, with special emphasis on increasing the number of sentenced prisoners with work and improving the daily programme for remand prisoners; the objective should be to ensure that all prisoners spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) (paragraph 41);
- the Scottish authorities to take appropriate steps to provide prisoners placed on protection for more than a short period with purposeful activities and proper support from the health-care service (paragraph 43).

comments

- the CPT trusts that efforts will continue to be made to accommodate prisoners at Barlinnie Prison one to a cell (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (paragraph 37);
- it would be desirable for the exercise yards in the three prisons visited to be equipped with a means of rest (paragraph 39);
- the Scottish authorities are encouraged to make further efforts to offer meaningful activities to all prisoners at Greenock Prison, especially those allocated to Chrisswell House (paragraph 42).

requests for information

- the measures taken at Kilmarnock Prison to address complaints about the lack of halal meat and the preparation of food for muslim prisoners (paragraph 40).

**Female prisoners**

recommendations:

- at Cornton Vale Prison, cells of $7m^2$ not to accommodate more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone) (paragraph 46);
- steps to be taken at Cornton Vale Prison to ensure that the communal toilet and shower facilities in Younger House are fully partitioned (paragraph 46);

- the necessary steps to be taken at Cornton Vale Prison to ensure that waiting times for accessing toilet facilities in Bruce and Younger Houses are reduced to a minimum; prisoners should have ready access to a proper toilet facility at all times (paragraph 47);

- steps to be taken at Cornton Vale Prison to offer activities to young offenders at weekends (paragraph 49);

- the Scottish authorities to take the necessary steps at Cornton Vale Prison to increase the range of activities on offer to all prisoners (paragraph 49);

- the lack of shelter from poor weather in the outdoor exercise yards for women at Edinburgh and Greenock Prisons to be remedied (paragraph 50);

- the Scottish authorities to take the necessary steps at Edinburgh and Greenock Prisons to increase the range of activities on offer with a view to ensuring that all female prisoners spend up to eight hours (or more) out of their cells engaged in purposeful activities (paragraph 51).

comments

- the CPT encourages the Scottish authorities to examine the feasibility of running the relevant female offender programmes in Edinburgh and Greenock Prisons (paragraph 45).

requests for information

- on implementation of the recommendations contained in the Commission on Women Offenders' report, notably as regards the development of new facilities for female offenders and the future of the existing ones (paragraph 44).

**Health care services**

recommendations

- the Scottish authorities to increase the health-care staffing resources in the establishments visited to ensure that:
    - at Barlinnie Prison, the equivalent of one full-time position is created for both a psychiatrist and a dentist;
    - at Cornton Vale Prison, the weekly presence of the dentist is increased;
    - at Greenock Prison, the presence of a psychiatrist is increased and provision is made for a gynaecologist to visit the establishment on a regular basis;
    - at Kilmarnock Prison, an additional full-time post of general practitioner is provided and the number of psychiatric sessions per week is doubled.

  (paragraph 54);

- in each prison, someone competent to provide first aid to be on the premises at night, preferably a person with a recognised nursing qualification (paragraph 54);

- remand prisoners in all prison establishments to have the same access to dental and ophthalmological services as sentenced prisoners (paragraph 55);

- the Scottish authorities to review the use of the hospital unit at Kilmarnock Prison, in the light of the remarks in paragraph 56 (paragraph 56);

- the necessary instructions to be issued to ensure that any relevant statements by newly-arrived prisoners or an inmate involved in a violent incident in prison are recorded by the health-care service, together with the doctor's observations. The existing procedures should be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is immediately and systematically brought to the attention of the police, regardless of the wishes of the person concerned (paragraph 57);

- the Scottish authorities to take steps to ensure that prisoners with a serious mental health disorder are not held in segregation units and that every effort is made to transfer such prisoners to an appropriate psychiatric facility (paragraph 63);

- the Scottish authorities to examine the possibility of recruiting clinical psychologists to help manage female prisoners with personality and behavioural disorders (paragraph 64).

comments

- the CPT invites the Scottish authorities to ensure that medical records can be shared amongst the relevant prison medical services (paragraph 58).

requests for information

- confirmation that the presence of a dentist at Greenock and Kilmarnock Prisons has been increased (paragraph 54);

- a copy of the report on the inquiry into the death of X[*] at Barlinnie Prison in June 2012, as well as information on any measures taken in the light of its findings (paragraph 61);

- on the training provided to staff to identify persons at risk of committing acts of self-harm or suicide (paragraph 61);

- an update on the care subsequently afforded to the prisoner in Greenock Prison referred to in paragraph 62 (paragraph 62);

- the observations of the authorities on harm reduction measures to prevent the spread of transmissible diseases in the prisons visited (paragraph 65).

[*] In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

**Discipline and segregation**

recommendations

- steps to be taken to remedy the shortcomings referred to in paragraph 66 in relation to the reviewing of all available evidence, the communication of the time period for making an appeal and the right to the assistance of a lawyer in disciplinary proceedings, including during the adjudication hearing (paragraph 66);

- a hearing and a possibility of appeal to an independent authority to be introduced into the procedure concerning the application of Rule 95 of the Scottish Prison Rules (paragraph 67);

- steps to be taken to ensure that all the cells in the segregation unit of Barlinnie Prison are properly heated and kept in an acceptable state of hygiene (paragraph 68);

- the Scottish authorities to take the necessary steps to put in place individual regime plans for persons held in segregation under Rule 95 with a view to assisting them to return to a normal regime, in the light of the remarks in paragraph 71 (paragraph 71);

- the Scottish authorities to put in place the necessary arrangements to ensure that inmates with significant mental health disorders are rapidly transferred to an appropriate psychiatric facility (paragraph 73);

- the Scottish authorities to take the necessary steps towards addressing the specific needs of female prisoners with behavioural disorders through introducing tailor-made programmes, in the light of the remarks in paragraph 74 (paragraph 74).

comments

- the CPT trusts that the present approach towards the segregation unit in Greenock Prison will persist as long as the material conditions in the unit have not been upgraded (paragraph 69).

requests for information

- the current situation of prisoner "A" in Cornton Vale Prison (paragraph 74).

**Other issues**

recommendations

- the Scottish authorities to take the necessary steps to renovate the reception area at Barlinnie Prison, in the light of the remarks in paragraph 75 (paragraph 75);

- increased attention to be paid to ensuring that all foreign national prisoners at Barlinnie Prison are provided with written information on the prison in a language they can understand, and are shown the information video about the establishment (paragraph 76);

- steps to be taken at Greenock Prison to ensure that prisoners entering prison for the first time have access to the national induction course without delay (paragraph 78);

- additional female staff to be recruited at Greenock Prison and sufficient staff to be assigned to the segregation unit at Kilmarnock Prison to enable all daily activities to be carried out (paragraph 80);

- Article 63 of the Scottish Prison Rules to be amended to ensure that all prisoners are entitled to the equivalent of at least one hour of visiting time every week (paragraph 82);

- a complete written record to be made of the outcome of all complaints submitted under the confidential complaints procedure, and additional efforts to be made to reassure prisoners of the commitment of senior prison managers to properly investigate allegations pertaining to the behaviour of prison staff (paragraph 85);

- the Scottish authorities to take the necessary steps to provide support to foreign national prisoners, in the light of the remarks in paragraph 86 (paragraph 86);

- foreign national prisoners, if they are not deported at the end of their sentence, to be transferred immediately to a facility which can provide conditions of detention and a regime in line with their new status of immigration detainees (paragraph 87).

<u>comments</u>

- the CPT invites the authorities to introduce an information video in all Scottish Prisons where this is not already the practice (paragraph 76);

- the CPT invites the Scottish authorities to develop follow-up training for all prison officers (paragraph 81);

- the CPT invites the Scottish authorities to remedy the shortcomings referred to in paragraph 88 with regard to the transport of prisoners (paragraph 88).

<u>requests for information</u>

- on the initial and in-service training provided to prison officers employed at Kilmarnock Prison (paragraph 81);

- the observations of the Scottish authorities regarding the responses to PCF1 complaints in Kilmarnock Prison (paragraph 84);

- a copy of the Scottish Prison Service action plan to minimise detention of foreign nationals subject to removal after the expiry of their prison sentence (paragraph 87).

**Rowanbank medium-secure psychiatric clinic**

**Preliminary remarks**

recommendations

- the necessary steps to be taken to ensure that, whenever required, a female patient in need of care in a high-security mental health facility is speedily transferred to an appropriate psychiatric hospital (paragraph 93).

**Patients' living conditions and activities**

comments

- the CPT trusts that the necessary steps will be taken to address the question of patients' access to their rooms during the day, in the light of the remarks in paragraph 96 (paragraph 96).

**Seclusion and means of restraint**

comments

- placing a patient, who is in need of a high-secure psychiatric facility, in a medium-secure centre obviously affects the quality of life for the patient as well as that of all other patients accommodated in the same ward (paragraph 103).

requests for information

- the observations of the authorities on the extent of the recourse in Sycamore Ward to physical restraint, rapid tranquillisation and placements in the quiet room (paragraph 102);

- on the case of the female patient referred to in paragraph 103 (paragraph 103).

## ENGLAND AND WALES

## Immigration detention

### Preliminary remarks

recommendations

- the United Kingdom authorities to reconsider their policy of indefinite immigration detention (paragraph 111).

comments

- the CPT trusts that the United Kingdom authorities will pursue their efforts to ensure that the detention of any child prior to deportation is a measure of last resort, taken in the best interest of the child and for the shortest possible period (paragraph 112).

requests for information

- in relation to the specific case of a Nigerian national referred to in paragraph 113 (paragraph 113);
- the observations of the United Kingdom authorities on the case of a Cameroonian national referred to in paragraph 113 (paragraph 113).

### Colnbrook and Brook House Immigration Removal Centres

recommendations

- the United Kingdom authorities to remind staff in the Brook House and Colnbrook IRCs that no more force than is strictly necessary should be used to bring agitated/recalcitrant detainees under control. Further, it should be made clear to staff members at the Induction and Reception Unit in Colnbrook that all detainees are to be treated with respect and that abusive language will not be tolerated (paragraph 116);
- the management of Colnbrook IRC to ensure that the necessary information is provided during the induction period in a language that detainees can understand (paragraph 121);
- the United Kingdom authorities to ensure that detained persons are allowed a minimum of one hour outdoor exercise per day, including when accommodated in an induction and reception unit (paragraphs 123 and 125);
- the presence of a psychiatrist in Colnbrook IRC to be increased to at least the equivalent of a half-time post (paragraph 126);

- the presence of general practitioners at Brook House IRC to be increased by the equivalent of a half-time post. The presence of the psychiatrist should be increased to offer a sufficient number of sessions to cover the existing needs. The presence of a dentist should also be increased (paragraph 128);

- the United Kingdom authorities to ensure that the application of handcuffs to persons escorted out of an IRC is based upon a thorough individual risk assessment (paragraph 130);

- the United Kingdom authorities to take steps to ensure that detained persons are not handcuffed during medical examinations and that all such examinations are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of escorting officers. In order to ensure that these requirements can be met at the same time as meeting security needs, provision should be made for a secure room in each hospital where examinations of detained persons regularly occur (paragraph 130);

- cases falling within Rule 35.3 of the Detention Centre Rules (2001) to be rapidly reviewed in order to determine whether continued detention is appropriate (paragraph 132);

- steps to be taken to ensure that any detainee displaying a significant mental health disorder is transferred without delay to an appropriate psychiatric facility (paragraph 133).

comments

- the CPT invites the United Kingdom authorities to develop a broader range of purposeful activities for detainees staying for more than a few months in immigration detention (paragraph 120);

- it is inappropriate to use detained persons as interpreters apart from in emergency situations (paragraph 122);

- it would be desirable to increase the presence of a dentist at Colnbrook IRC (paragraph 126);

- medical screening by a nurse upon admission to an IRC is acceptable provided that the nurse concerned is fully qualified and reports to a doctor on the outcome of the screening (paragraph 131);

- staff training on inter-personal skills should be provided on an ongoing basis, in particular as regards interacting with potentially vulnerable detainees (paragraph 134).

requests for information

- on the lessons learned and action taken after the incident at Brook House referred to in paragraph 116 (paragraph 116);

- confirmation that the matter of washing and availability of clean clothes has been satisfactorily resolved at the Induction and Reception Unit at Colnbrook IRC (paragraph 119);

- confirmation that the lack of means of rest and shelter from poor weather in the outdoor exercise yards at both Brook House and Colnbrook IRCs has been resolved (paragraph 120);

- the observations of the United Kingdom authorities on complaints received about delays in accessing the services of a general practitioner at Colnbrook IRC (paragraph 126);

- the outcome of the internal review following the death of Y[*] at Colnbrook IRC in 2011 and of any steps taken, and the findings in relation to the death of Z[*] at Colnbrook IRC in 2011 (paragraph 127);

- on the case of a Sri Lankan national referred to in paragraph 133, who was being held in Colnbrook IRC at the time of the CPT's visit (paragraph 133).

[*] In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

# APPENDIX II

## LIST OF THE AUTHORITIES AND NON-GOVERNMENTAL ENTITIES WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

### A. United Kingdom authorities

Ministry of Justice:

| | |
|---|---|
| Anna DEIGNAN | Deputy Director, Human Rights and Security Policy Justice Policy Group |
| Amanda WILLIAMS | Human Rights and Security Policy |
| Eddie COLEMAN | Human Rights and Security Policy |
| Ben CHARNOCK | International Visits Manager and Policy Officer for the British Overseas Territories and CPT Liaison Officer |

United Kingdom Border Agency:

| | |
|---|---|
| Colin PUNTON | Director for Returns |

Deputy Director, Detention Operations

Detention Policy Officer

### B. Scottish authorities

Scottish Government

| | |
|---|---|
| Humza YOUSAF | Minister for External Affairs and International Development |
| Joe GRIFFIN | Deputy Director for Community Justice |
| Geoff HUGGINS | Deputy Director for Reshaping Care and Mental Health |
| Aileen BEARHOP | Head of Police Powers |
| David FERRY | Police Powers Policy Officer |
| Duncan ISLES | Head of Human Rights, Directorate for Culture, External Affairs and Constitution |
| Trevor OWEN | Human Rights Policy Manager, Directorate for Culture, External Affairs and Constitution and CPT Liaison Officer |

Scottish Prison Service

| | |
|---|---|
| Eric MURCH | Director of Partnerships and Commissioning |
| Dan GUNN | Director of Prisons |

Office of the Police Complaints Commissioner Scotland

| | |
|---|---|
| Ian TODD | Director |

## C. National Preventive Mechanism (NPM)

HM Inspectorate of Prisons (England and Wales)

| | |
|---|---|
| Nick HARDWICK | Chief Inspector of Prisons for England and Wales and Head of the NPM |
| Laura PATON | Senior Policy Officer and NPM Coordinator |
| Hindpal SINGH BHUI | Team Leader for Immigration issues |

HM Inspectorate of Prisons (Scotland)

| | |
|---|---|
| Hugh MONRO | Chief Inspector |
| Margaret BROWN | Deputy Chief Inspector |

Independent Monitoring Boards (IMBs)

| | |
|---|---|
| Anna THOMAS-BETTS | Member of the National Council for IMBs and member of the IMB at Colnbrook |

Mental Welfare Commission for Scotland

| | |
|---|---|
| Donald LYONS | Chief Executive |

Office of the Children's Commissioner for England

| | |
|---|---|
| Maggie ATKINSON | Children's Commissioner for England |
| Ross HENDRY | Director of Policy |

Scottish Human Rights Commission

| | |
|---|---|
| Bruce ADAMSON | Legal Officer |

## D. Civil Society Organisations

Association of Visitors to Immigration Detention,

Bail for Immigration Detainees,

Detention Action,

Detention Advice Service,

Equality Rights Trust,

Howard League, Scotland

Medact,

Medical Justice