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Response

**of the Government of the United Kingdom
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to the United Kingdom**

from 17 to 25 October 2018

The Government of the United Kingdom has requested the publication of this response. The CPT's report on the October 2018 visit to the United Kingdom is set out in document CPT/Inf (2019) 29.

Strasbourg, 11 October 2019

Council of Europe European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Response from the United Kingdom to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Scotland from 17 to 25 October 2018

23 July 2019

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Abbreviations

CAAP-D	Criminal Allegations Against the Police Division
CAP	Complaint About the Police
CAPA	Care About Physical Activity
CI	Care Inspectorate
CJSD	(Police Scotland) Criminal Justice Services Division
COPFS	Crown Office and Procurator Fiscal Service
CPT	Council of Europe European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DCU	Divisional Coordination Unit
DHC	Dihydrocodeine
DIPLAR	Death In Prison Learning Audit Review
ECHR	Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms
ECPT	Council of Europe European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
FAI	Fatal Accident Inquiry
FCI	Force Custody Inspector
GIC	Governors in Charge
GMA	Governors and Managers Action Note
GP	General Practitioner (doctor)
HDC	Home Detention Curfew
HMCIPS	Her Majesty's Chief Inspector of Prisons for Scotland
HMICS	Her Majesty's Inspectorate of Constabulary in Scotland
HMP	Her Majesty's Prison
ICVS	Independent Custody Visiting Scotland

IPM	Independent Prison Monitors
MWCS	Mental Welfare Commission for Scotland
NCS	National Custody System
NHS	National Health Service
NPM	National Preventive Mechanism
NPS	Novel Psychoactive Substances
OPCAT	Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OST	Officer Safety Training
OSTh	Opioid Substitution Therapy
PIRC	Police Investigations and Review Commissioner
PMAG	Prisoner Management and Assurance Group
PSD	Professional Standards Department
SFIU	Scottish Fatalities Investigation Unit
SIO	Senior Investigating Officer
SMT	Senior Management Team
SOCG	Serious Organised Crime Group
SOP	Standard Operating Procedure
SPA	Scottish Police Authority
SPELS	Scottish Police Emergency Life Support
SPS	Scottish Prison Service
SRU	Separation and Reintegration Unit
UK	United Kingdom of Great Britain and Northern Ireland
WTE	Whole Time Equivalent
YOI	Young Offender Institution

Response to the CPT report of 1 April 2019

NATIONAL PREVENTIVE MECHANISM

Paragraph 8

The CPT's delegation met and/or spoke with several organisations that are part of the NPM, both in Edinburgh and London. The CPT has long enjoyed very good co-operation with HMIP, Her Majesty's Inspectorates of Prisons and Constabulary in Scotland and other United Kingdom inspection bodies. Moreover, it continues to pay close attention to wider discussions currently underway in the United Kingdom about the NPM's statutory basis, guarantees of independence and the need for sufficient resourcing of the NPM to ensure adequate compliance with the OPCAT. It recommends that the authorities of the United Kingdom will ensure that these matters concerning the NPM are fully in compliance with OPCAT requirements.

1. The UK set up its National Preventive Mechanism (NPM) in 2009 in accordance with the Optional Protocol to the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The NPM currently comprises 21 inspecting, visiting and monitoring bodies covering detention places across the UK. Six NPM members are based in Scotland: Her Majesty's Chief Inspector of Prisons for Scotland (HMCIPS); Mental Welfare Commission for Scotland (MWCS); Scottish Human Rights Commission (SHRC); Care Inspectorate (CI); Independent Custody Visiting Scotland (ICVS); and Her Majesty's Inspectorate of Constabulary in Scotland (HMICS). The UK continues to comply with its international obligations under the OPCAT.

2. Since 1 April 2013, the Scottish Police Authority (SPA) has had a statutory duty to maintain and manage an independent custody visiting scheme to monitor the welfare of people detained in police custody facilities throughout Scotland. Independent custody visitors are volunteer members of the local community who visit police stations unannounced to check on the treatment of detainees, the conditions in which they are being held and that their rights and entitlements are being observed. ICVS manages approximately 170 volunteer visitors across Scotland. The Scheme helps ensure that the SPA is meeting its obligations to ensure equality, diversity and that it is protecting human rights. It also helps to ensure that Scotland is doing everything it can in its public services to meet international standards set by the United Nations in OPCAT. The ICVS became a member of the NPM on 3 December 2013. Serving police officers or special constables, along with other professionals, are not eligible to apply to become a volunteer with the scheme. On 15th May 2019, at a ceremony at the House of Lords, the Scottish Police Authority was awarded a national industry standard for the quality of its independent custody visiting scheme.

3. The roles and duties of HMCIPS and Independent Prison Monitors (IPM) are set out in the Prison (Scotland) Act 1989. The Act specifies that HMCIPS functions are to inspect or arrange for the inspection of prisons and the treatment of prisoners. It also gives IPMs a power to make unannounced visits to prisons. HMIPS is required to report annually in relation to the conditions in prisons and the treatment of prisoners. The 1989 Act also requires the Scottish Ministers to make arrangements to ensure that members of the United Nations Sub-committee on Prevention of Torture may visit prisoners and access, without prior notice, any prison.

4. HMCIPS is working to reduce reliance on secondees from the Scottish Prison Service (SPS), but also notes that there are some benefits from this practice, including accessing current, up to date, professional expertise and technical advice, and also the transfer of skills and expertise back to the inspected body at the end of periods of secondment, which may increase understanding and impact.

5. The budget for HMCIPS in 2018-19 was £880,000. During the course of the year this was increased, initially to £905,000 and then to £928,000, to cover increased staffing.

LAW ENFORCEMENT AGENCIES

Paragraph 13

Moreover, it continues to be the case that foreign nationals who are suspected of staying illegally in the country 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. 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 confirmed this. Police custody suites in Scotland are equipped to hold detained persons for short stays only. 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.

6. Guidance for the management of immigration enforcement apprehensions is contained within the *Criminal Justice (Scotland) Act 2016 (Arrest Process)* Standard Operating Procedure.¹ Police Scotland engages regularly with its partners to ensure that transfers are undertaken in as a timely a period as possible. The process for making complaints about the police remains the same for all members of the public, and is designed to be fair, open and transparent.

¹ <https://www.scotland.police.uk/assets/pdf/151934/184779/criminal-justice-scotland-act-2016-arrest-process-sop>

Paragraph 15

In light of the information gathered during the 2018 visit, the CPT recommends that police officers be regularly reminded of these basic principles, including through practical training exercises. The CPT recommends that the Scottish authorities deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of appropriate sanctions. Further, the authorities should ensure that injuries are systematically recorded (paragraph 24) and that an investigation is systematically carried out into every allegation of ill-treatment.

7. It is essential that the care, welfare and security of persons held in police custody be maintained to consistently high standards. While security is of paramount importance, all persons held in custody are to be treated with care and respect, ensuring that their fundamental human rights are maintained at all times. No one in custody should receive less favourable treatment on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. Police Scotland's *Care and Welfare of Persons in Police Custody* Standard Operating Procedure (SOP)² provides instruction and guidance to all police officers and members of police staff responsible for the care and welfare of persons in police custody. ICVS undertakes unannounced visits to police stations on a regular basis to report on what it finds in custody suites, and can also inspect other parts of the suite – such as the kitchen, medical room and washing facilities.

8. All Police Scotland staff deployed within custody centres must complete and pass the Custody Officer Induction course. This 3-day course (extended from two days) is delivered by qualified Training, Learning and Development staff supported by Criminal Justice Services Division (CJSD) trainers with experience of the Criminal Justice (Scotland) Act 2016 and custody. Content is continuously reviewed to ensure it is appropriate and in line with current SOPs. The topics covered are:

- An Introduction to CJSD
- Communication skills and the National Decision Model
- Custody arrivals
- ECHR and the Criminal Justice (Scotland) Act 2016
- Arrest authorisations
- Prisoner rights
- Police interview – rights of suspect
- Reviews and extensions
- Health care professional – police custody healthcare
- Health care professional – mental health in police custody
- Care plan and continued care and welfare
- Adverse incidents and reporting

² <https://www.scotland.police.uk/assets/pdf/151934/184779/care-and-welfare-of-persons-in-police-custody-sop>

- Handovers and escalation
- Disposals and release
- Fatal Accident Inquiries (FAI)

10. As well as the Custody Officer Induction course, staff must have completed, within the previous 12 months, Officer Safety Training (OST) and Scottish Police Emergency Life Support (SPELS) courses - either an initial 5-day course for police officers, a 3-day course for police custody and security officers, or an annual refresher 1-day course. This is supported by an online e-learning package for OST, SPELS and Acute Behavioural Disorder, which must be completed and passed no more than 12 weeks before annual refresher training.

11. Furthermore, a 2-day National Custody System (NCS) IT course is mandatory in order to perform duties in a custody centre. Staff are also required to attend and pass the 3-day Health and Safety Executive First Aid at Work course.

12. Custody training is extensive and needs to prepare and equip staff to work in a high risk area of policing. Throughout the Custody Induction Course, participants are reminded that the care and welfare of prisoners is the priority, as well as ensuring that their rights are protected. Training staff repeatedly make clear that custody staff will act with the utmost professionalism and integrity at all times, and that should any staff member act in a manner that falls short of this standard then they will be subject to scrutiny and possibly to disciplinary procedures and criminal proceedings.

13. Any apprehension should be made with the minimum amount of force necessary, and the use of any force must be recorded in Police Scotland's custody record, in accordance with the *Use of Force* SOP.³ Where an 'adverse incident' or 'serious adverse incident' occurs, a Custody Adverse Incident Report (Force Form 051-002) must be completed and sent to the Cluster Inspector for the relevant area prior to the Custody Supervisor going off duty, and be copied to the Custody Division Divisional Coordination Unit (DCU). Depending on the circumstances of the adverse incident, for example internal concealment of drugs, use of any item to harm others, self-harm or attempt suicide, consideration should be given to immediately informing the Cluster Inspector and Force Custody Inspector (FCI). Cluster Inspectors/FCI/Custody on-call Chief Inspector should be informed immediately of any serious adverse incident. It is the responsibility of the on-call Chief Inspector to escalate to custody senior management after assessment, and to inform other parties, such as Professional Standards and local policing. Any allegations made are captured as complaints about the police (CAP) and are investigated through a robust process. CAP data is regularly reviewed and any trends identified are considered at a variety of governance forums.

³ <https://www.scotland.police.uk/assets/pdf/151934/184779/use-of-force-sop>

14. Procedures for the investigation of complaints is detailed in the *Complaints about the Police* SOP.⁴ In particular, Section 6 details the six-stage process around the investigation of allegations. The sanctions that may be imposed on an officer who, after investigation, has been found to have acted inappropriately in terms of use of force, are entirely dependent on the circumstances. The matter would be assessed under the terms of the Police Service of Scotland (Conduct) Regulations 2014 to consider whether the officer's actions amounted to misconduct or gross misconduct. Further details are contained in the *Conduct* SOP.⁵ The range of sanctions that may be imposed on a subject officer in terms of a conduct matter are: improvement action; verbal warning; written warning; final written warning; demotion in rank; and dismissal with or without notice.

15. See the response to paragraph 24 of the Committee's report for information concerning the recording of injuries.

Paragraph 16

The CPT considers that the detention of persons suspected of concealing drugs within their bodies requires appropriate medical supervision, due to the serious risk of acute intoxication from potential drug leakage; persons held in police custody cells should in principle not be handcuffed. While handcuffing detained persons in police custody may be necessary for short periods of time, prolonged periods when a detained person is calm cannot be justified.

[...]

The CPT welcomes the response by the authorities and the instigation of the above review and would like to be sent an update upon its completion. However, nothing is said about appropriate medical supervision. The CPT recommends that a person who is suspected of having ingested or secreted drugs within their body should be subject to a radiography examination and, if positive, placed under observation in a medical setting until the evacuation of the packages. Further, the CPT is aware that certain Guidelines exist⁶ that describe the immediate assessment of persons in police custody suspected of having substances concealed internally and the individual roles and responsibilities and the process to be followed, up to and including the process for discharge from hospital; it would appreciate information regarding whether these Guidelines are being followed in all custody facilities.

16. Leakage from packages of drugs concealed inside the body can be fatal and, if it is known or suspected that a prisoner has swallowed or packed drugs, the person should be taken to hospital. NHS Boards and Police Scotland were involved in the development of *Management guidelines for persons suspected of having*

⁴ <https://www.scotland.police.uk/assets/pdf/151934/184779/complaints-about-the-police-sop>

⁵ <https://www.scotland.police.uk/assets/pdf/151934/184779/police-service-of-scotland-conduct-regulations-sop>

⁶ Police Scotland & NHS, Management Guidelines for Persons Suspected of Having Drugs Concealed Internally, 06/2015.

*controlled drugs concealed internally*⁷ and have approved their use in each area and every custody suite. A decision is made on a case by case basis, depending on risk, as to whether all elements of the guidelines are followed in every case.

17. Anyone in custody who requires hospitalisation will go to hospital. The NCS will be updated to this effect, the on-duty FCI will be informed, and an entry will be created on the FCI Log. This entry will remain open until there is a satisfactory conclusion and the person has been released from hospital.

18. A record will be created on the FCI Log in relation to any person in custody who has packed drugs, and this will be monitored by the FCI until there is a satisfactory conclusion. This could be that:

- the person is placed under constant observations until they produce the package;
- the police obtain a COPFS warrant to recover the drugs using a Force Medical Examiner, though the person must still consent to this intrusion;
- the person goes to court, concealing the drugs internally, and special arrangements are made at court, and in prison if required, if they have not produced any package by that stage.

19. The FCI ensures that the guidance is followed. Retrospectively, all Cluster Inspectors carry out cross-cluster audits and many Sergeants carry out audits of random records, which will include persons who have internally concealed or swallowed drugs. If the correct guidance has not been followed, then corrective action will be taken.

20. Police Scotland has commissioned a Use of Force in Custody short life working group, the initial function of which will be addressing extended restraint and looking at alternatives to restraint within the custody environment. It will assess training given in relation to tactical communication to reduce the need for restraint for a long period of time.

21. A trial of alternative 'soft' handcuffs started in Falkirk in July 2019 and is ongoing. If successful, it is anticipated that these can be rolled out nationally later this year. Thereafter the group will look at the use of force/OST techniques in the custody environment, undertaking benchmarking with similar organisations in the UK.

22. The working group will report its findings to the CJSD Senior Management Team and to the National Use of Force Monitoring Group. The review is expected to take a number of months and the Scottish Government will update the Committee upon its completion.

⁷<http://www.knowledge.scot.nhs.uk/media/10840608/management%20guidelines%20for%20drugsconcealed%20internally%20-%20v2.0%20final.pdf>

Paragraph 18

The right of detained persons to have a third party notified of their detention, or their refusal thereof, is provided for in Section 38 of the Criminal Justice (Scotland) Act 2016. In the course of the 2018 visit, the CPT's delegation noted that all persons with whom it spoke who had been in police detention had been afforded this right. Nonetheless, several detained persons at each of the police stations visited complained that they had not been informed about whether and when this notification had been effected. The CPT recommends that detained persons should be informed when the third party notification has been effected by custody staff; this feedback should be traceable in the police custody records.

23. Except in exceptional circumstances, a person who is in police custody has the right to have intimation sent to a solicitor and another person informing them that they are in custody and where they are being held. Details in this regard are fully recorded on Police Scotland's NCS. There is an expectation that staff will, during their routine engagements with a person in custody, advise them that any requested intimations have been completed. The expectations and obligations placed on custody officers are covered in training and are contained in the *Criminal Justice (Scotland) Act 2016 Arrest Process SOP*.⁸ Prior to an individual being released, Custody Sergeants monitor whether all intimations have been complied with. Compliance is also assessed through weekly and monthly cross-cluster audits.

24. Following the Committee's visit, Police Scotland circulated a briefing note to custody staff reminding them of their obligations around custody intimations, and this is now monitored by the CJSD management team.

Paragraph 19

The CPT has long considered 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. It recommends that the custody staff be alert to whether a detained person wants to consult with a lawyer directly and ensure that access to a lawyer must be guaranteed as from the very outset of a detained person's deprivation of liberty.

25. Details regarding notifications to solicitors are incorporated into, and recorded on, Police Scotland's NCS. Guidance and processes are in place to ensure that detained persons are made aware of their right to consultation with a solicitor and to have a solicitor present during interview. This is a legislative requirement under the Criminal Justice (Scotland) Act 2016. A letter of rights⁹ is given to all persons

⁸ <https://www.scotland.police.uk/assets/pdf/151934/184779/criminal-justice-scotland-act-2016-arrest-process-sop>

⁹ <https://www.gov.scot/publications/letter-rights-people-police-custody-scotland/>

entering custody. An easy read letter¹⁰ is provided if there are concerns that the person will not understand it or they say they do not understand it, and it will be read to them if Police Scotland believes there will be difficulties in understanding. The letter is also available in a number of different languages.¹¹ Police Scotland guidance on solicitor access is available on the Police Scotland website.¹²

Paragraph 20

As was the case in 2012¹³, the CPT again flags its concern at the possibility for 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. 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 jeopardise 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.

In 2012, the CPT flagged its concern that the relevant provision (Section 15A of the Criminal Procedure (Scotland) Act 1995) should be amended to reflect this principle. Given the recent reform of the Scottish criminal justice system and the new Criminal Justice (Scotland) Act 2016, it is disappointing that this principle appears not to have been reflected in the updated legislation. The CPT recommends that Section 44 of the Criminal Justice (Scotland) Act 2016 be amended accordingly.

26. Section 44 of the Criminal Justice (Scotland) Act 2016¹⁴ provides that a person who is in police custody has the right to have a private consultation with a solicitor at any time. It also sets out that a private consultation with a solicitor may be delayed so far as is necessary in the interests of the investigation or prevention of crime, or the apprehension of offenders. A decision to delay such a consultation may be taken only by an officer of the rank of sergeant or above who has not been involved in the investigation in connection with which the person is in custody.

27. With regard to a detained person's right to a consultation with a solicitor, the role of Police Scotland is to directly refer to the instruction provided in section 44 of the Criminal Justice (Scotland) Act 2016. If it is the police view that the investigation

¹⁰ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2018/01/letter-rights-people-police-custody-scotland/documents/rights-police-station-easy-read/rights-police-station-easy-read/govscot%3Adocument?inline=true>

¹¹ <https://www.gov.scot/publications/letter-rights-people-police-custody-scotland/pages/3/>

¹² <https://www.scotland.police.uk/assets/pdf/151934/572222/solicitor-access-guidance-document?view=Standard>

¹³ Paragraph 19, CPT/Inf (2014) 11, <http://rm.coe.int/doc/0900001680698719>

¹⁴ <http://www.legislation.gov.uk/asp/2016/1/section/44/enacted>

or prevention of a crime or the apprehension of offenders in exceptional circumstances will be hampered by a private consultation with a solicitor, then a sergeant can make the decision to delay such a consultation. There are good reasons why a Senior Investigating Officer (SIO) may request that the sergeant delays a private consultation with a solicitor. These reasons fall under the remit of an ongoing investigation or the prevention of crime or apprehension of offenders, such as credible intelligence, preservation of life, tracing outstanding alleged co-accused or persons in danger, or other urgent evidential matters. If the sergeant makes the decision that exceptional circumstances exist and the private consultation is to be delayed, this will be recorded with full rationale on Police Scotland's NCS. It is more than likely that, if it is deemed necessary to delay private consultation with a solicitor, then the delay will apply to all solicitors and not just the one that has been requested by the person in custody. In conjunction with the SIO, and as soon as reasonably practical, a private consultation with a solicitor will be granted.

28. Decisions by Police Scotland to delay access to a solicitor are rare and must be fully justified. Where it does happen, the individual can lodge a complaint using Police Scotland's established complaints process. Police Scotland is operationally independent of Scottish Ministers and responsibility for considering complaints about the conduct of police officers lies with the Chief Constable. Ultimately, a decision to delay access to a solicitor can be subject to scrutiny in court by Scotland's independent judiciary.

29. In June 2018, the Rt. Hon Dame Elish Angiolini QC DBE was jointly commissioned by the Cabinet Secretary for Justice and the Lord Advocate to review the processes for handling complaints against the police and investigating serious incidents and alleged misconduct. Dame Elish published her preliminary report on 21 June 2019, covering the first phase of the review, and will be continuing her engagement during the second phase, with a view to producing a final report by August 2020.

Paragraph 21

The CPT considers access to a doctor as a key safeguard to help prevent ill-treatment. The CPT reiterates its previous recommendation¹⁵ that the right of detained persons to have access to a doctor from the very outset of their deprivation of liberty be expressly provided for in law and in the administrative guidance regulating the deprivation of liberty by the police. The relevant provisions should make clear that a request by a detained person to be examined by a doctor should always be granted and it is not for police officers to filter such requests.

30. The general principle in relation to custody care is to grant any reasonable request which does not interfere with operational requirements or security. In particular, basic human dignity is to be respected. When a person is brought into

¹⁵ Paragraph 21, CPT/Inf (2014) 11, <http://rm.coe.int/doc/0900001680698719>

police custody they are asked a series of vulnerability questions relating to their health, which allows the custody staff to risk assess each person and design an individual care plan. The answers provided, along with the observations of the custody staff, form part of the assessment regarding further healthcare.

31. The provision of custody healthcare is the responsibility of individual health boards and the models for delivery include on-site 24 hour healthcare practitioners, nurse-led, doctor-led, provision by on-call GPs and, in some areas, police staff attending the local hospital with detainees. This is clarified in professional guidance¹⁶ and the *Care and Welfare of Persons in Police Custody* SOP.¹⁷

Paragraph 22

The CPT considers that the close proximity of police officers during medical examinations of detained persons could discourage a detained person who has been ill-treated from saying so. The CPT recommends that all medical examinations should be conducted out of the hearing and - unless the doctor or nurse concerned expressly requests otherwise in a given case - out of the sight of police staff.

32. Police Scotland takes the safety and wellbeing of its staff and NHS staff very seriously. Two members of staff should always be in attendance whenever any person in custody is taken out of a police cell, for example for a wash, solicitor consultation or medical examination. Prior to a medical examination, a full risk assessment is carried out on the individual who is to be examined. The result of that risk assessment may be that it is safe to leave the person in custody with the NHS staff in a room with the door closed as they pose no risk either to themselves or to others. In this case, the person in custody would be able to confide in private to the NHS staff out of the hearing of police staff.

33. In other cases, where a person in custody is classed as a high risk due to factors including erratic behaviour, mental health issues, withdrawal from alcohol/drugs, violence, self-harm, or previous history of violence in similar situations, it is not possible to allow all medical examinations to be conducted out of the hearing of police staff. This is for the safety of the NHS staff, police staff and the person in custody, who may still be under the influence of alcohol or drugs and may not be fully in control of their actions.

34. Where at all possible the person in custody will be left in a room alone with NHS staff and the door closed. If this is not possible, they will be left alone in a room with the NHS staff with the door open and police staff outside the room to allow them to respond quickly if required. If this is not possible, then either police staff need to be in the room with the NHS staff or, alternatively, the NHS staff must visit the

¹⁶ <https://www.policecare.scot.nhs.uk/healthcare-in-pc/>

¹⁷ <https://www.scotland.police.uk/assets/pdf/151934/184779/care-and-welfare-of-persons-in-police-custody-sop>

person in custody in their cell. If the NHS staff have any concern in relation to confidentiality, this is discussed fully with the custody officer.

35. Once released, if the person in custody believes that they have been ill-treated, they are able to report this and it will be fully investigated.

Paragraph 23

Given the possible lengthy stays in police custody facilities in Scotland, the CPT recommends that the Scottish authorities ensure that Police Scotland and the NHS take measures to standardise the approach to methadone maintenance and detoxification treatment in police custody. The CPT would appreciate information whether the type of DHC used in police custody is short-acting DHC, or long-acting DHC. In principle, switching from long-acting opioids, such as methadone, to short-acting opioids, such as DHC, should be based on an individual approach and be undertaken with specialist advice. The patient should give consent to the switch. Once the conversion has occurred, the dose of new opioids should be titrated carefully according to individual response and the patient monitored closely for side effects and efficacy. Generally, persons in police custody should have access to the same treatment as they had had in the community.

36. As noted above, healthcare services in custody are provided by NHS Scotland. The transfer of services to the NHS was based on the principle that healthcare provision in custody should be equivalent to that available to the general public. NHS standards for healthcare provision, including primary care, apply within custody settings.

37. NHS Boards have developed and agreed the Police Care Network's guidance on *Alcohol, Drugs and Tobacco Services in Police Custody*.¹⁸ The commitment to using this guidance was affirmed in the Scottish Government alcohol and drug treatment strategy, *Rights respect and recovery*.¹⁹ The guidance advises that it is best practice to continue Opioid Substitution Therapy (OSTh) in police custody if a person is receiving it in the community, and also covers detoxification in police custody if they are not. The Police Care Network's service mapping, undertaken in 2015, found that OSTh is provided routinely in police custody in all but one NHS Board in Scotland. Very few people in the Health Board area are prescribed methadone to be taken under direct supervision, therefore it can be difficult to ensure that the detainee concerned is taking the prescribed dose. This presents an overdose risk if, for example, methadone is given to a person who is less opioid tolerant than expected. Furthermore, healthcare professionals are not always present in the custody suite to provide medical support if an overdose were to occur.

¹⁸ <https://www.policecare.scot.nhs.uk/healthcare-in-police-custody/alcohol-and-drugs/>

¹⁹ <https://www.gov.scot/publications/rights-respect-recovery/>

38. In general, the NHS Healthcare and Forensic Medical Service offers people in police custody the choice between short-acting DHC and long-acting DHC, along with an assessment of the risks and benefits of each. There may be specific circumstances where individuals are prescribed one rather than the other.

Paragraph 24

The CPT considers that proper documentation and recording by custody staff of detained persons' injuries upon arrival at the police station is an important safeguard against ill-treatment, all the more important in light of the marked increase in the number of allegations against arresting officers received by the CPT's delegation in Scotland. Booking-in custody staff should be attuned to the need to systematically record obvious injuries observed on newly-arrived detained persons and refer these persons to NHS health-care staff for a medical examination. The CPT recommends that the Scottish authorities ensure that custody staff are reminded, through regular training, that all injuries should be immediately and properly documented and that such detained persons should be examined by NHS health-care staff; recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that should be kept in the custody records of the detained person. Also, a special trauma register should be kept.

Moreover, the CPT recommends that procedures should also be put in place to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by the detained person concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecuting authorities, regardless of the wishes of the person concerned. The person should be told of the reporting obligation by the doctor and reminded that he/she can also initiate a complaint, if they so wished. The results of the examination should also be made available to the detained person concerned and his or her lawyer. If necessary, the Scottish Standard Operating Procedure should be amended to reflect these principles.

39. There is no nationally consistent documentation of injuries, although all information is recorded and stored on the NHS Clinical IT system. During the time a person is present at the charge-bar, custody staff have an opportunity to observe and interact with them, noting their state of alertness, attitude towards their arrest and general demeanour. Custody staff will refer individuals to the NHS Healthcare and Forensic Medical Service (either the custody-based healthcare professional or the on-call Force Medical Examiner) or arrange for them to be taken to hospital if required. NHS Boards are responsible for healthcare and forensic medical provision for people in police custody and ensure that the most appropriate healthcare professional sees the person, whether this is a forensic nurse or a forensic physician.

40. All police officers who are responsible for processing persons in custody and liaising with arresting/enquiry officers must have completed Criminal Justice (Scotland) Act 2016 training. All staff deployed in key roles within a custody centre who are responsible for the care and welfare of persons must have completed the two-day National Custody Officers training course. All staff must have completed, as a minimum standard, SPELS training within the previous 12 months.

41. Former Solicitor General and Lord Advocate Dame Elish Angiolini²⁰ is leading an independent review of all aspects of police complaints handling, investigations and misconduct.²¹ A preliminary report was published on 21 June 2019²² and the final report is expected in August 2020. The Scottish Government welcomes Dame Elish's initial findings and will carefully consider her recommendations in discussion with partners and stakeholders. In the interim, Police Scotland's CJSD has reviewed its existing practices. Any injuries visible or declared by a person in custody are noted and detailed firstly on the NCS, which provides a basis for record and audit. Where an allegation is made or the circumstances suggest ill-treatment, CJSD has processes in place to ensure appropriate examination is undertaken. Depending on the circumstances, this takes the form of a documented episode report on the NCS, instigation of a full procedural review, or a referral in a briefing report to the Police Scotland Professional Standards Department (PSD) for assessment and consideration. Scrutiny is applied on an ongoing basis to custody records and circumstances through governance practices, oversight by an FCI, the availability of on-call senior management, daily review of custody cases/position at management meetings, and by regular, detailed audits of records.

Paragraph 29

The CPT is aware of discussions underway to refer all cases of alleged assault or excessive use of the police force to PIRC. The CPT considers that this would be more in line with the standards for effective investigations than the current situation referred to above. Nevertheless, this would require sufficient resources to be allocated to PIRC to fulfil any additional duties adequately. In this context, the CPT would like to be updated on the proposal to increase the mandate of the PIRC.

42. In her preliminary report, Dame Elish Angiolini recommended that all allegations of excessive force should continue to be reported immediately by PSD to the Criminal Allegations Against the Police Division (CAAP-D) – a specialist unit within the Crown Office and Procurator Fiscal Service (COPFS) - for instruction and investigation by the Procurator Fiscal, or by the PIRC on the directions of the Procurator Fiscal. This is a matter for the Lord Advocate in his capacity as head of

²⁰ <https://www.law.ox.ac.uk/people/rt-hon-dame-elish-f-angiolini-dbe-gc-frse>

²¹ <https://consult.gov.scot/independent-reviews/police-complaint-handling-investigation-misconduct/>

²² <https://www.gov.scot/publications/preliminary-report-independent-review-complaints-handling-investigations-misconduct-issues-relation-policing/>

the system of criminal prosecution in Scotland. Dame Elish has indicated that her final report will further examine the role and responsibilities of the PIRC.

Paragraph 30

The CPT recommends that the Scottish authorities take measures to ensure that the system of handling of complaints made by persons deprived of their liberty, irrespective of the place or situation in which they are held and the legal framework applicable to their deprivation of liberty, observes certain basic principles: availability, accessibility, confidentiality/safety, effectiveness and traceability²³. The CPT would like to be updated on the measures proposed to ensure the police complaints procedure in Scotland complies with these basic principles.

43. The Scottish Government notes the CPT's recommendation. Dame Elish Angiolini's preliminary report made recommendations for improving systems and processes for handling police complaints, as well as for enhancing the accessibility of information and guidance. As noted above, the Scottish Government welcomes Dame Elish's initial findings and will carefully consider her recommendations in discussion with partners and stakeholders. Further recommendations for improvement are expected to follow in Dame Elish's final report next year. In the meantime, the process for making complaints about Police Scotland remains the same for all members of the public and is designed to be fair, open and transparent.

Paragraph 31

The single occupancy cells were of an adequate size, measuring 8m² or more. Each cell had a call bell, a concrete plinth, and a steel toilet, and detained persons were provided with a thin blue waterproof mattress and blanket, and three meals per day (including standard microwave meals with options for halal and other specific dietary needs). In all cells, artificial lighting and ventilation were sufficient; however, the majority of cells visited were fitted with opaque glass bricks permitting only very limited access to natural light and some cells had no access to natural light at all. The CPT recommends that all police custody cells should have access to natural light (see also paragraph 33).

44. Police Scotland has recently developed a new *Custody Estate Strategy*, which proposes a range of best practice principles in respect of the infrastructure within custody centres. There is a focus on the dignity and wellbeing of persons in police custody, and a principle that all cells should have natural and artificial light.

²³ See "Complaints mechanisms", Extract from the 27th General Report of the CPT, CPT/Inf(2018)4-part, <https://rm.coe.int/16807bc1cf>

Paragraph 32

On a positive note, at most of the police stations visited (including Govan, Glasgow City Centre), the surveillance of CCTV screens occurred in a separate room, by gender specific officers, depending on the gender of the detained person. That said, at St Leonard's Police Station, these screens were located in the main offices, and at least one of the screens had the pixilation misaligned thus revealing the female detained person using the toilet to any officer who walked past. The CPT considers that this specific situation is unacceptable. The CPT recommends that the authorities move the CCTV monitors covering the special observation cells at St. Leonard's Police Station into a separate room, as is the practice at Govan and Glasgow City Centre Police Stations, and dedicated officers should be made responsible for supervision, duly taking into account the gender of the observed person(s). Further, the cameras should be re-aligned to pixelate the toilet area in all cells.

45. Police Scotland has developed a new CCTV policy and guidance document, which clearly sets out best practice standards. It recognises the need to ensure that CCTV monitors used for prisoner observations are in an area that provides privacy and is an appropriate, quiet environment for the task. In addition, the guidance proposes that CCTV coverage of toilet areas should be pixelated.

46. The instance at St Leonard's Police Station was a single incident which has now been rectified and Police Scotland has taken action to temporarily improve the situation. All CCTV screens are either blacked out at the toilet area or the actual CCTV observation screen is behind a wall so it can only be viewed by the person assigned to carry out constant observations. An officer of the same gender as the person in custody will carry out these observations. This action is intended to prevent a similar situation happening in the future.

47. In the longer term, plans are in place to build a separate room for CCTV observation purposes to house the observation screen, thereby increasing the privacy of the persons being observed.

48. In addition, a full review of all custody CCTV across Scotland has been undertaken and no other such situations have been identified.

Paragraph 33

[...] the Committee recommends that the Scottish authorities take steps to decrease the high numbers of persons held in police custody facilities for longer than 24 hours (i.e. between Friday and Monday mornings), through, *inter alia*, the opening of some Saturday courts. Further, any newly planned police custody facilities should provide for access to sufficient natural light, ventilation and outdoor exercise facilities.

49. The presumption of liberty provided for in the Criminal Procedure (Scotland) Act 2016 ensures that people are not detained unnecessarily and will be released on the basis of an assessment of the threat, risk or harm.

50. At a national level, the Scottish Parliament's Justice Committee has given consideration to seven-day custody courts. Given the current working pattern of Scotland's courts, there remains a requirement in certain cases as a consequence of threat, risk and harm to detain persons in police custody over a weekend.

51. Police Scotland has no plans to commission any new custody facilities. However, if such a development is considered in the future, the principles contained in Police Scotland's Custody Estate Strategy and the CCTV Policy and Guidance Document will be reviewed and implemented.

PRISON ESTABLISHMENTS

Paragraph 37

The CPT is aware that there is considerable debate within Scotland on the use of remand in Scottish prisons.²⁴ At the same time, the CPT would appreciate being sent an analysis of the other reasons for overcrowding in Scottish prisons, such as the increase in numbers of longer sentences, and the measures envisaged to tackle overcrowding and Scotland's comparatively high incarceration rate.²⁵

The CPT would also appreciate being sent an update on the measures envisaged to be taken, within which timeframes, in response to the Justice Committee's recommendations in its inquiry into the use of remand in Scotland.

52. While bail decisions are a matter for the courts, remand is just as disruptive as short prison sentences and the Scottish Government is committed to reducing the unacceptably high rate of imprisonment in Scotland. National guidance on bail supervision was published in January 2019.²⁶ This fulfils a Scottish Government Programme for Government commitment and supports recommendations made by the Justice Committee inquiry on remand. The Scottish Government will double capacity for bail supervision services from 2019-20, and the 2019-20 budget includes an additional £550,000 (£1.65 million over the next three years) to make available additional community based alternatives to the use of remand. Scottish Government analysts are exploring options for research this year that will support a better understanding of remand and the remand population.

53. There is a complex range of factors across the Scottish justice system that impacts the prison population. These include changes in the number and nature of offences being prosecuted, sentencing decisions, decisions made by the Parole Board, releases on Home Detention Curfew (HDC), and changes to early release rules. SPS and Scottish Government officials are taking forward, as a matter of urgency, a set of immediate actions in response to the growing prison population. A Prisons Resilience Leadership Group of senior officials from a range of justice agencies and the NHS, under the Scottish Government's Justice Board, has been established and will ensure cross-agency engagement and oversight. The group agreed to meet frequently and provide support to the SPS in its planning for, and responses to, a rising prison population. The SPS has robust contingency measures in place to ensure that the safety and security of staff and those in its care are

²⁴ On 3 October 2018, a debate on remand was opened in the Scottish Parliament on behalf of the Justice Committee, to talk about its inquiry report on remand;
<https://digitalpublications.parliament.scot/Committees/Report/J/2018/6/24/An-Inquiry-into-the-Use-of-Remand-in-Scotland#Executive-Summary>.

²⁵ 145 per 100,000 population

²⁶ <https://www.gov.scot/publications/national-guidance-bail-supervision/>

maintained. In order to ease immediate pressure, the SPS has purchased 96 additional places at HMP Kilmarnock and a further 96 places at HMP Addiewell.

Paragraph 38

The CPT reiterates its recommendation²⁷ 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;²⁸ Recommendation CM/Rec (2017)3 on the European Rules on community sanctions and measures;²⁹ Recommendation Rec(2003)22 on conditional release (parole);³⁰ Recommendation Rec(2006)13 on the use of remand in custody;³¹ and Recommendation Rec(2010)1 on the Council of Europe Probation Rules.³²

Further, the CPT would be interested to receive an update from the Scottish authorities when the extension of the presumption to sentences of less than 12 months has taken effect.

54. See the response to paragraph 37 of the CPT's report above concerning measures to reduce the prison population.

55. There are well-established arrangements for providing prisoners in Scotland with opportunities for temporary release from prison and early release from custody (in the form of parole), subject to an assessment of the risk that they present. Further information about these arrangements is contained in the SPS Risk Management Progression and Temporary Release Guidance (attached as Annex 1) and the Parole Handbook (a revised version is currently being developed).

56. HDC is also used in Scotland to provide structure for those returning to their community from custody, and the Scottish Government remains committed to working with stakeholders on the expansion of electronic monitoring. The Management of Offenders (Scotland) Bill 2019,³³ which was passed by the Scottish Parliament on 25 June 2019, amends section 3AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993, providing greater flexibility in how HDC can be configured. The direct impact of the change was minimal in terms of altering the current eligibility for HDC, but in the context of a historically high prison population the purpose of the change is to allow ministers to have sufficient powers to configure HDC differently in the future if they need to do so.

²⁷ Paragraph 32, CPT/Inf (2014)11, <http://rm.coe.int/doc/0900001680698719>

²⁸ <https://rm.coe.int/native/09000016804d8171>

²⁹ Adopted by the Committee of Ministers on 22 March 2017 at the 1282nd meeting of the Ministers' Deputies, <http://rm.coe.int/native/0900001680700a5a>

³⁰ <http://rm.coe.int/native/09000016805df03f>

³¹ <http://rm.coe.int/native/09000016805d743f>

³² <http://rm.coe.int/native/09000016805cfbc7>

³³ <https://www.parliament.scot/parliamentarybusiness/Bills/107731.aspx>

57. The Scottish Government's Programme for Government 2018-19, *Delivering for today, investing for tomorrow*,³⁴ committed to extending the current presumption against short sentences from 3 months to 12 months, once additional safeguards for victims in the Domestic Abuse (Scotland) Act 2018 were in force. The 2018 Act came into force on 1 April 2019 and an affirmative order to extend the presumption against short sentences received parliamentary approval in June. The 12 month presumption took effect in relation to all offences committed on or after 4 July 2019. This is a presumption, not a ban, and sentencing in each case remains a matter for the court to decide based on the facts and circumstances of the case.

58. The greatest anticipated impact of extending the presumption in respect of prisons is in relation to the “churn” and the number of receptions and discharges dealt with by the SPS and other agencies, rather than on the size of the prison population.

Prison establishments for men

Paragraph 40

[...] the CPT considers that control and restraint operations do inherently pose a risk of excessive use of force if not undertaken correctly. Moreover, it is almost impossible to monitor and determine the actual level of pain inflicted in a non-planned pain-compliance operation merely from the CCTV footage review, especially when the operation involves four or more officers controlling one inmate, or if the restraint procedure is undertaken in an inmate’s cell, with no CCTV coverage. Thus, in the spirit of the prevention of abuse, the CPT recommends that the Scottish prison authorities regularly remind prison staff, including through ongoing training and refresher courses, that no more force than is strictly necessary should be used to control prisoners; such training should include a reminder about oversight measures and applicable sanctions should disproportionate force be found to have been used.

The CPT also invites the Scottish authorities to consider taking measures to ensure that body-cameras are worn by front-line prison staff and turned on for all control and restraint operations.

59. The SPS seeks to provide a caring and compassionate service for all those in its care. The Prisons and Young Offenders Institution (Scotland) Rules 2011³⁵ describe at Rule 91 when force can be used against a prisoner. Specifically, any force used must be proportionate to the risk posed by the prisoner and no more than necessary for the purposes of that situation. It is the last resort after failing to enlist

³⁴ <https://www.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/>

³⁵ <http://www.legislation.gov.uk/ssi/2011/331/contents/made>

the willing cooperation of the prisoner. Comprehensive control and restraint training is an essential part of the Officer Foundation Programme. All operational staff must be deemed 'competent' in this area and are required to complete an annual refresher course, where they must satisfy their competence to utilise approved control and restraint techniques. Understanding of Rule 91 and the circumstances in which force can be applied is a core competency assessed during this training.

60. The SPS takes all allegations of inappropriate use of force seriously and investigates each complaint, including, where necessary, referring the matter to Police Scotland. Processes are in place for the timely reporting of use of force via corporate documentation and reporting procedures. Heads of Operations in local establishments review each form as part of the assurance process that force has been used in line with Rule 91.

61. All planned removals in the SPS are required to be filmed by hand-held cameras, and the SPS has access to body-worn cameras that can be deployed during level 2 or level 3 incidents. The SPS Use of Force policy states that all control and restraint operations are overseen by a Supervising Officer (normally a first line manager). No control and restraint operation can take place without this supervision. The role of the Supervising Officer is to manage the operation, and to ensure that all staff are appropriately trained and that the health and safety of prisoners and staff involved are maintained. All instances where control and restraint techniques are deployed require to be recorded on a 'use of force' form, which is submitted to the establishment Head of Operations for review. The SPS considers that the Use of Force policy and processes, combined with the built-in assurance process, mean there is no requirement for body cameras at this time.

Paragraph 42

The CPT recommends that the Scottish authorities take concrete steps to ensure that a greater investment in preventing violence is undertaken at both Edinburgh and Grampian Prisons; as well as by the establishment of measures designed to help stem and prevent future violence, such as the use of follow-up reports on violent incidents and individual concern files.

62. The SPS is facing many challenges that are drivers behind the violence in local establishments. These include a change in the static population, with a significant increase in the numbers of those involved in serious organised crime groups (SOCG); the changing nature of substance misuse; people entering custody with mental health issues; and a focused presentation of violence in certain areas of establishments, such as Separation and Reintegration Units (SRU).

63. The SPS is reviewing the national incident reporting process to ensure that all incidents of violence are recorded and motivations identified. The introduction of a standardised Violent Incident Review System will also ensure consistent practice across all sites. All SPS establishments publish an anti-violence strategy, record levels of inter-prisoner violence and take pro-active steps to minimise it within their

local establishment. This includes the use of intelligence products to help profile both core nominals and key issues, and to inform decision making. Each prison is required to discuss violence and the response to it at monthly tactical tasking meetings, which are informed by intelligence products.

64. The CPT notes that the rates of inter-prisoner violence at HMP Grampian are no higher than at other prisons, however there is a perception of a general lack of safety among its staff and some of its inmates. The SPS continues to record the level of violence at HMP Grampian and is developing strategies both to support current members of staff and to increase staffing levels in the establishment.

Paragraph 43

The CPT urges the authorities to continue to invest in measures designed to effectively identify the drugs flowing into prisons, stem and prevent drug use within the prison and invest further in substance addiction programmes in Scottish prisons.

65. The SPS continues to invest in technology to support the disruption of illicit articles into the prison estate. For example, the SPS has recently purchased a number of Rapiscan Itemisers, which can assist in detecting substances that may have been concealed in items of mail or personal property being sent into prisons. Other technologies include x-ray machines and body scanners, which can help detect attempts to introduce illicit substances to prisons. The SPS also has a number of drug detection dogs. In addition, the SPS has recently agreed a 3 year postgraduate research project with the University of Dundee, which will increase understanding of the changing nature of substance misuse within Scottish prisons.

66. Addictions programmes in Scottish prisons are delivered by NHS staff.

Paragraph 44

[HMP Barlinnie] The CPT would appreciate being provided with an update on the plans for the replacement of Barlinnie Prison once the timing and scale of the refurbishment have been finalised.

67. The SPS has identified a potential site that may be suitable for the development of HMP Glasgow to replace HMP Barlinnie. However, this would be subject to the conclusion of a contract to purchase and receipt of planning permission. The SPS continues to negotiate with the site owner and is participating in planning discussions.

Paragraph 45

[HMP Barlinnie] The CPT recommends that, in light of the plans to refurbish Barlinnie Prison, the Scottish authorities ensure that cells of 8m² hold no more than one prisoner, and cells of 12m² hold no more than two prisoners. It also recommends that the call bells throughout the prison and especially in Halls A

and D are regularly tested and that response times to call bells are tracked and monitored by management.

68. The Scottish Government notes the CPT's recommendation. The recognised design capacity of HMP Barlinnie is 987. Unfortunately, its current population of 1,451 necessitates the sharing of spaces. The size of cells will be considered as part of the design process for replacing HMP Barlinnie.

69. The cell call system in HMP Barlinnie has been replaced and became operational in December 2018. The new system is similar to others in use and provides an audible alarm until the task is physically completed. The cell call system is tested every day as part of the cell certification process.

70. All Scottish prisons have emergency cell call systems and intercom facilities are operational in each of the accommodation units. All of the emergency cell call systems in place are auditable and all prisons confirmed that the audit can determine when the cell call system was activated and acknowledged. At HMP & YOI Polmont a monthly audit of response times to emergency cell calls is carried out, and HMP Perth has a system that allows the electric control room to answer a call after two minutes if it has not been answered. All other prisons reported that response times are not routinely audited and are done so on a case by case basis.

Paragraph 46

[HMP Barlinnie] The CPT recommends that the redesign and refurbishment plans for Barlinnie Prison should take into account the need for shelter against inclement weather and seating facilities in the exercise yards.

71. This recommendation will be taken into account when designing the replacement prison for HMP Barlinnie, or during any refurbishment of existing exercise spaces.

Paragraph 47

[HMP Barlinnie] The CPT urges the Scottish authorities to take some simple but necessary steps to renovate the reception area at Barlinnie Prison; a simple solution to expanding the cubicles would be to remove the wall between every two cubicles (i.e. to reduce the overall capacity to some 33 cubicles). The CPT considers that after 24 years it is high time for action to be taken to replace the existing cubicles by larger holding facilities without further delay. At the end of the visit, the Committee's delegation invoked again 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.

Paragraph 48

[HMP Barlinnie] The CPT acknowledges that this is a temporary situation, until HMP Glasgow is built; nevertheless, in the meanwhile, the situation remains as described above and the Committee urges the Scottish authorities to take some simple but the necessary steps to renovate the reception area at Barlinnie Prison; a simple solution to expanding the cubicles would be to remove the wall between every two cubicles (i.e. to reduce the overall capacity to some 33 cubicles).

72. Following the CPT's visit to Scotland in 2012, HMP Barlinnie carried out a full review of the reception facilities, including the holding cubicles, and took technical advice regarding feasible options. Replacement plans for HMP Barlinnie are underway with a full design model for HMP Glasgow under development. Meanwhile, the use of the reception cubicles will continue, though the time individuals spend in them is kept to a minimum, with appropriate staff supervision and access to facilities.

Paragraph 50

[HMP and YOI Grampian] the CPT recommends that the Scottish authorities should take steps to maximise the utilisation of the available space in Cruden Hall (such as designating half of the Hall for non-juvenile inmates), including ensuring a sufficient staff complement to re-open that Hall. This reorganisation could also take the strain off the staff in Ellon 1 who have to juggle and balance the needs of a plethora of different categories of inmate, which was inevitably negatively impacting the functioning of the normal regime (see paragraph 51 below).

73. Alternative arrangements are now in place to alleviate the overcrowding referred to in the CPT's report, and the SPS Operations Directorate leads corporate overview of population. Given the reduction in the number of young people in SPS care, HMP & YOI Polmont offers the most appropriate regime and accommodation to meet their needs.

Paragraph 51

Each prison visited had exercise yards for the relevant category of inmate. However, in each of the prisons visited, the outdoor exercise yards possessed no shelter from poor weather for the inmates and few benches or other means of rest. The CPT takes note of the response outlining security concerns provided by the Scottish authorities to the CPT's previous recommendation on this issue after its 2012 visit.³⁶ Nonetheless, the CPT notes that solutions have been found in various other Council of Europe member states that mitigate concerns as to security risks posed by installing shelters and means of rest in

³⁶ Response of the Government of the United Kingdom to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the United Kingdom from 17 to 28 September 2012, CPT/Inf (2014) 12, <http://rm.coe.int/doc/090000168069871a>

prison exercise yards, when configured carefully. The CPT recommends that a shelter and a means of rest be installed in the outdoor exercise yards.

74. HMP Edinburgh offers exercise, and the men and women in its care can choose to attend if they wish. Due to the current population mix and recent incidents that have disrupted the prison regime, there are no plans to place shelters in the exercise areas; however, the position will remain under review. Meanwhile, in the event of inclement weather prisoners are able to return to the residential area.

75. At HMP Cornton Vale, an area within each exercise yard will be identified and a means of shelter sourced locally.

76. At HMP Grampian, there is provision for shelter and means of rest in the female exercise area but not in the adult male exercise areas.

77. This recommendation will be taken into account when designing the replacement prison for HMP Barlinnie, or during any refurbishment of existing exercise spaces.

Paragraph 57

The CPT recommends that the Scottish authorities take action at Barlinnie, Edinburgh and Grampian Prisons to develop the number of purposeful activities on offer to remand prisoners and to improve the daily programme for these inmates; the objective should be to ensure that all prisoners spend a reasonable part of the day (8 hours or more) outside of their cells, engaged in purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association).

78. The Prison Rules require the SPS to ensure that all convicted prisoners, where it is deemed appropriate, are offered the opportunity to work, take part in education or other activities that will promote their successful resettlement, morale, attitude and self-respect. Furthermore, all convicted prisoners, where it is deemed appropriate, are required to work. Under the Prison Rules, untried prisoners are not required to work, although they may do so where appropriate and it should not be at the expense of work being available for all other prisoners.

79. At HMP Edinburgh, due to high prisoner numbers and a mixed regime within Glenesk, there are difficulties in providing eight hours out of cell activity time. Some categories of remand prisoners have up to six hours out of cell activity, including recreation, gymnasium and time in the open air. Given the number of different categories of prisoner within HMP Edinburgh, it is difficult to provide work opportunities for every individual.

80. At HMP Grampian, remand prisoners have access to a range of activities, such as education, sport, recreation and a library, and some also access work opportunities. However, fluctuations in both the convicted and remand populations can impact upon the activities provided, particularly with regard to work.

81. At HMP Barlinnie, not all convicted people undertake work as part of a purposeful activity regime. Given Barlinnie's higher numbers, more time is required to provide access to showers and phones. The building design of the prison's large halls does not naturally facilitate open association in the way that can be delivered in newer accommodation and, as such, the regime needs to be more structured. As well as in-hall activities, such as recreation and the hairdresser, those on remand have time out of their cells to access chaplaincy services, library facilities, physical training and education services, where space allows. The SPS is working to enhance timetabling in order to utilise space as effectively as possible.

Paragraph 61

[HMP and YOI Grampian] the Grampian Prison authorities should check that all television sets are properly functioning and that inmates have their own functioning remote controls.

82. At HMP Grampian all prisoners are provided with a functioning TV and remote control upon admission, and a system is in place to replace these as required.

Paragraph 63

[HMP and YOI Grampian] At the end of the visit, the delegation invoked Article 8, paragraph 5, of the Convention and requested that the Scottish authorities ensure that all inmates (including segregated and non-offence protection prisoners) are offered at least one hour of outdoor exercise every day. The CPT considers that the aim should be for all segregated prisoners to be offered at least two hours of meaningful human contact³⁷ every day and preferably even more.

By letter dated 27 January 2019, the Scottish authorities responded that the SPS accepted this recommendation and that a Governors and Managers Action Notice would be issued to all establishment senior management teams to remind them of the legal requirement to provide exercise or, where weather permits, to spend time in the open air for not less than one hour every day. The CPT welcomes the response by the authorities. The CPT trusts that this Action Notice has now been dispatched, and urges the Scottish authorities to take measures to ensure that it is complied with in practice.

³⁷ For a more detailed understanding of what constitutes "meaningful human contact" please see 'Essex paper 3: Initial guidance on the interpretation and implementation of the UN Nelson Mandela Rules', page 88, <https://rm.coe.int/16806f6f50>

83. At HMP Grampian, every individual has access to time in the open air. At HMP Edinburgh, issues around accommodating all of the different populations within Glenesk have been resolved and every individual has access to time in the open air. Senior management at HMP Barlinnie noted the contents of GMA 011A/19 (attached as Annex 2) and people in its care have opportunities to undertake outside exercise for no less than one hour per day. Where operational incidents take place during exercise periods every effort is made to continue with the normal running of that session.

Paragraph 64

[HMP and YOI Grampian] The CPT recommends that the Scottish authorities revise the regime for non-offence protection prisoners and for inmates held outside of the SRU on extended Rule 95 orders at Grampian Prison to ensure that they are afforded at least two hours of meaningful human contact each day and preferably even more.

84. The Prison and Young Offenders Institution (Scotland) Rules 2011 make provision for exercise and time in the open air. Rule 87 states that every prisoner must be given the opportunity to take exercise or, where the weather permits, to spend time in the open air for not less than one hour every day. The SPS recognises that practices may vary between establishments and, as a result, has formed a short life working group to review SRU guidance and provide recommendations that promote positive conditions for those held in SRUs. The group is chaired by a senior Deputy Governor, supported by a cross section of staff involved in delivering SRU regimes.

Paragraph 65

The CPT recommends that the Scottish authorities take appropriate steps to provide prisoners in all Scottish prisons placed on non-offence protection for more than a short period with a range of purposeful activities, education and sport and, where security permits, enable these prisoners to spend a reasonable part of their day unlocked and in contact with other risk-assessed inmates.

85. Non-offence protection prisoners across the SPS estate are given the opportunity to take part in a full regime, including access to exercise, work opportunities, learning, library services, health and wellbeing and work in their hall. Due to the need to provide these prisoners with additional separation, the majority of these activities take place separately from the mainstream population. Prisoners in a non-offence protection regime will be regularly reviewed and reintegrated to the mainstream population on an individual, risk assessed basis.

Paragraph 68

Further, by letter dated 27 January 2019, the Scottish authorities acknowledged that practices for inmates in SRUs may vary across establishments, and informed the CPT that, as a result, a short life working group had been formed to review SPS SRU guidance and provide recommendations that promote positive conditions for those in SPS care held in SRUs. The CPT welcomes this information and would like to receive a copy of the recommendations made by this group.

86. The short life working group that reviewed the role and purpose of SRUs has made its initial recommendations to the programme sponsor. These will be shared with stakeholders before agreeing an approach going forward.

Paragraph 74

The CPT recommends that the Scottish authorities consider developing step-down facilities to provide a feasible alternative to prolonged segregation in SRUs. In this vein, it invites the Scottish authorities to consider investing more in the concept of the establishment of more small therapeutic units that can provide a robust psycho-social support system to engage with these prisoners and help facilitate the reintegration process and to take off the strain from the current - over-used and nearing full capacity - SRUs.

With this in mind, the aim should be for the Scottish authorities to ensure that the regimes in the Separation and Reintegration Units across Scottish prisons enable all prisoners - no matter what their category - are offered at least two hours of meaningful human contact each day³⁸.

The longer the measure of Rule 95(11) segregation continues, the more resources should be made available to attempt to (re)integrate the prisoner into the main prison community.

87. Through the Prisoner Management and Assurance Group (PMAG), the SPS continues to review cases of individuals held for three months or more in SRUs and management plans to seek to find alternative locations. The group will, where necessary, offer additional resources to support specialist work with individuals to support their reintegration into the main prison system.

³⁸ See, in this regard, pages 88 and 89 of the Essex paper 3 on the “Initial guidance on the interpretation and implementation of the Nelson Mandela Rules” (Penal Reform International/Human Rights Centre, Essex University, February 2017, <https://rm.coe.int/16806f6f50>). The term “meaningful human contact” is referred to as “the amount and quality of social interaction and psychological stimulation which human beings require for their mental health and well-being. Such interaction requires the human contact to be face to face and direct (without physical barriers) and more than fleeting or incidental, enabling empathetic interpersonal communication. Contact must not be limited to those interactions determined by prison routines, the course of (criminal) investigations or medical necessity.”

88. Step-down facilities within the SPS are created locally by developing bespoke but robust reintegration plans that provide meaningful opportunities for those exiting SRU conditions, including through gradual reintegration into mainstream activities. Such plans are developed with the individual concerned and are often supported by NHS and SPS psychological services. They include visits to a mainstream hall and meeting assigned personal officer(s), visiting the gymnasium, education, work party and chapel.

89. In relation to the establishment of more small therapeutic units, the short life working group that reviewed the role and purpose of SRUs has made its initial recommendations to the programme sponsor. These will be shared with stakeholders before agreeing an approach going forward.

90. The Prison and Young Offenders Institution (Scotland) Rules 2011 make provision for exercise and time in the open air. Rule 87 states that every prisoner must be given the opportunity to take exercise or, where the weather permits, to spend time in the open air for not less than one hour every day. A Governors and Managers Action Notice was issued in February 2019 to all establishment senior management teams reminding them of this legal requirement.

Paragraph 80

The CPT recommends that the Scottish authorities revise the regime in the Separation and Reintegration Units at Barlinnie, Edinburgh, Grampian and Shotts Prisons to ensure that all prisoners are afforded at least two hours of meaningful human contact each day, including being offered purposeful activities of a varied nature.

The longer the time spent in segregation, the more developed the regime on offer to inmates should be; in light of the situation of the prolonged “carousel” SRU prisoners, the purposeful out-of-cell time and the regimes on offer should be as long and as varied as possible.

It also recommends that the Scottish authorities take the necessary steps to put in place well-developed individual regime plans tailored specifically for persons held in segregation under Rule 95 with a view to assisting them to return to a normal regime, in light of the above remarks.

Further, the CPT would appreciate being sent more information on the due process safeguards regarding the use of disciplinary sanctions of 14 days’ segregation for those inmates in the SRU who refuse to reintegrate into the mainstream prison population.

91. The short life working group that reviewed the role and purpose of SRUs has made its initial recommendations to the programme sponsor. These will be shared with stakeholders before agreeing an approach going forward.

92. The PMAG will, where necessary, offer additional resources to support specialist work with individuals to support their reintegration into the main prison system. All case management plans for those held over three months are reviewed on a monthly basis at the PMAG meeting.

93. Information on the due process safeguards regarding the use of disciplinary sanctions for inmates in the SRU who refuse to reintegrate into the mainstream prison population are contained in GMA 11A/11 (attached as Annex 3).

Prison establishments holding women and female juvenile inmates

Paragraph 86

The CPT recommends that the Scottish authorities further develop the admission process at Cornton Vale and Grampian Prisons to take into account the vulnerabilities of women prisoners. This should include screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to prison and ensuring that such information is considered in the drawing up of a care plan for the woman in question. Further, steps should be taken to ensure that the admission procedure is always comprehensively carried out.

94. The Scottish Government notes the CPT's recommendation. The admission process at Cornton Vale is a robust one, where reception risk assessments are completed, *Talk to me* interviews held and interviews undertaken by NHS staff. Where there are signs of possible abuse, NHS staff are advised and can direct the prisoner to appropriate care and support. Prisoners are also advised of the possibility of access to Women's Aid during the induction process. Care plans in Cornton Vale are individualised as required and specific to each prisoner. Staff work closely to ensure that the appropriate care is given at all times and is at the pace of the prisoner to ensure the care plan's success.

Paragraph 89

[HMP & YOI Cornton Vale] The segregation unit at Cornton Vale Prison (known as "the Dumyat" SRU) consisted of six cells (each measuring some 10m²), all of which were equipped with a bed, chair, locker and a shelving unit, as well as a fully partitioned in-cell sanitation and a shower annexe. Access to natural light was adequate and ventilation was sufficient. All six cells were occupied at the time of the delegation's visit.

The unit had two small exercise yards, divided by a fence (to enable a degree of association), both of which possessed a means of rest and shelter from inclement weather.

Two of the six cells were "safer cells", designed for inmates posing an exceptional level of high risk who needed constant or regular observation. For safety reasons, these two cells did not have electrical sockets, which meant that the occupants could not have access to a television or a kettle. The CPT is

of the view that the two safer cells should not be counted within the ordinary capacity of the SRU, and should only be used for the purpose originally foreseen, to monitor those at exceptionally high risk of self-harm; it trusts that the official capacity of the SRU at Cornton Vale will be revised.

95. The cells currently remain in the SRU capacity at Cornton Vale, however they are not routinely in use. An occupancy review of all the cells in the SRU commenced in April 2019 and will continue for 16 weeks. In the interim, safer cells within Dumyat have only been used for women being cared for under the *Talk to Me* policy.

Paragraph 90

[HMP & YOI Cornton Vale] The CPT recommends that the Scottish authorities put in place a psycho-social support system for prisoners held for longer than two weeks in Cornton Vale Prison's SRU and provide them with greater opportunities for association and engagement in purposeful activities.

The aim should be for all prisoners under Rules 95 and 41 to be offered at least two hours of meaningful human contact³⁹ every day and preferably even more. The longer the measures of segregation continue, the more resources should be made available to attempt to (re)integrate the prisoner into the main prison community.

96. All prisoners entering the SRU are given the opportunity for outside exercise each day and are encouraged to integrate with other prisoners where possible. Access to occupational therapists is provided, and the opportunity for daily one-to-one sessions with gymnasium staff is in place if circumstances are appropriate. All prisoners on Rule 41 and Rule 95 are provided with one hour of exercise per day and more if the regime allows. Not all prisoners held under Rule 41 conditions are located within the SRU as some women are located in Ross House, where they have open access to the hall for the duration of the working day, excluding lock up periods.

97. All Rule 95 prisoners held in the SRU are visited by the Unit Manager on a daily basis. Where possible, reintegration at staged intervals is encouraged to reintroduce recreation, exercise and for meals to be taken with the rest of the population group.

Paragraph 94

[HMP & YOI Cornton Vale] The CPT recommends that the Scottish authorities take the necessary steps towards addressing the specific needs of female prisoners with personality/behavioural disorders through introducing therapeutic tailor-made programmes.

³⁹ See Essex Paper 3 of February 2017 on the "Initial guidance on the interpretation and implementation of the UN Nelson Mandela Rules" and in particular pages 88 and 89, <https://rm.coe.int/16806f6f50>

The Scottish authorities, the SPS, the NHS, the judiciary, and social services need to work together to protect these women inmates, suffering from personality and behavioural disorders, and/or having a history of self-harming, abuse and abandonment. Where such prisoners are not eligible for transfer to a psychiatric hospital, a multi-faceted approach should be adopted, involving clinical psychologists in the design of individual programmes, including psycho-social support and treatment.

In this respect, the CPT recommends that the Scottish authorities establish clear protocols and operating procedures among the SPS, NHS, the judiciary, and social services to ensure that vulnerable women who cannot be treated under the Scottish Mental Health Act are afforded the necessary care in an appropriate environment, in the light of the remarks made above. The SRU and Ross House of Cornton Vale Prison are not suitably equipped or staffed at present to provide proper care for such vulnerable women as those described.

98. On 8 March 2019, Scotland's Minister for Mental Health announced an independent review of the delivery of forensic mental health services in Scotland.⁴⁰ The review is expected to make recommendations by the end of June 2020 and will cover:

- demand for forensic mental health services, including bed availability and use in hospitals across the levels of security and in the community;
- delivery of forensic mental health services in prison;
- delivery of high secure forensic services in hospital, given the decline in the number of patients at the State Hospital;
- the capacity of medium secure services to deliver forensic mental health services for all patients who require such services;
- the impact of excessive security appeals at medium security on low security;
- the availability of specialist, open (i.e. unlocked) forensic rehabilitation services;
- movement of patients from low or medium security into the community.

The review will take account of the Committee's findings, and of work that is underway in Scotland or has been completed, such as on pathways for women across forensic mental health services, and the Commission on Women Offenders, which published its report in 2012.⁴¹

99. Cornton Vale has a fully functioning multi-disciplinary mental health team, which comprises:

- 6.8 whole time equivalent (WTE) mental health nurses, who deliver a service 7 days per week (07:00-21:30 Monday to Friday; 08:30-18:00 at weekends);
- a mental health team leader;

⁴⁰ <https://news.gov.scot/news/improving-mental-health-services-1>

⁴¹ <https://www2.gov.scot/Topics/archive/reviews/commissiononwomenoffenders/finalreport-2012>

- 0.6 WTE addictions/mental health specialist nurse.

This is in addition to:

- two Consultant Psychiatrists over three sessions per week;
- two Clinical Psychologists one day per week;
- an Occupational Therapist and an Occupational Therapist assistant, one day per week;
- a Speech and Language Therapist one day per week.

100. The mental health clinical team works in close partnership with the SPS to ensure it can support women with complex multifaceted needs, who use challenging behaviours as a means to communicate their distress. Care plans are in place to ensure the communication of care needs and the actions or guidance planned to address them. These are reviewed regularly at the weekly multi-disciplinary team meeting, at which the SPS is also represented.

101. All Scottish prisons are supported by SPS-employed forensic psychologists, whose main duties include assessment and management of risk, offending behavioural programme activity and providing consultancy to staff and people in SPS care. At Cornton Vale, Fife College also provides an art therapist.

102. The review of the delivery of forensic mental health services in Scotland will also consider:

- the ease of movement of people between prison and hospital;
- the impact any lack of forensic mental health provision has on sentencing decisions, for example for women requiring high secure care;
- the provision of professional and expert witness psychiatric and psychological reports to Scottish Courts and the impact any delays may have on people awaiting sentencing;
- the availability and provision of forensic mental health services generally, in the context of the investigation and prosecution of crime, including, in particular, to persons accused of crime.

103. While Ross House and Dumyat are not purpose built to care for women who should be treated under the Mental Health Act, operational and NHS colleagues work in partnership to support these women. Operational staff are undertaking mental health first aid training provided by NHS colleagues to support them in this work.

Paragraph 96

[HMP & YOI Cornton Vale] The Scottish authorities informed the CPT in the same letter [of 27 January 2019] that there are a small number of women who require high secure psychiatric inpatient care. The current pathway is to Rampton Special Hospital in England. In May 2018, at the request of NHS Chief Executives, the Forensic Network established a national short life working

group to explore female pathways across the forensic mental health estate at all levels of security, including those at a high level. The group is expected to report to NHS Chief Executives in March 2019 with its findings and recommendations. The CPT would appreciate being sent an update on this as soon as possible.

The CPT welcomes the response by the authorities and the commitments set out in the Mental Health Strategy 2017-2027 and the securing of additional funds to provide increased mental health services and develop SPS staff in supporting women with mental health issues. In light of this, the CPT recommends that urgent consideration be given to developing a small specialised psychiatric unit within Scotland to care for such women, in order to close the gap concerning the lack of high-secure psychiatric places for women inmates with severe mental health needs and to ensure that access to mental health treatment is provided on the same basis as for male prisoners. In the meanwhile, the CPT would appreciate being informed about whether considerations have gone into moving such women to a medium-secure hospital such as Rowanbank psychiatric facility.

Finally, the CPT requests a specific update on the three mentioned women held in Cornton Vale's SRU under Rule 41 on the date of its delegation's visit; it trusts that immediate action will be taken by the Scottish authorities to facilitate their care in an appropriate environment (i.e. outside of a prison environment).

104. In May 2018, at the request of NHS Chief Executives, the Forensic Network established a short life working group to explore female pathways across the forensic mental health estate at all levels of security, including those at a high level.

105. One of the working group's recommendations is that high secure facilities for women could be co-located next to medium secure facilities that provide care and treatment for women. This is under consideration by NHS Boards. The emerging findings from this work will be considered by the review of the delivery of forensic mental health services in Scotland alongside consideration of the re-provision of unused bed capacity at the State Hospital.

106. Wherever possible, a person who meets the requirements for medium secure care would be moved to a medium secure hospital, such as Rowanbank. However, where a woman requires low secure or, rarely, high secure care, a medium secure psychiatric facility would not meet their needs. Women who require high secure care will continue to be considered for such care at the National Women's Service, Rampton Hospital. Pathways also need to be better developed for the more frequent scenario in which a woman requires transfer from prison to a low secure facility. The short life working group for female pathways has recognised that the availability of these services varies across Scotland and in some areas requires development. This

is likely to be considered as part of the review of the delivery of forensic mental health services in Scotland (see paragraphs 86 and 90 above).

107. The three women held under Rule 41 at the time of the Committee's visit have all been released. One was sentenced but due to time served on remand was released at court; one was sectioned under the Mental Health (Care and Treatment) (Scotland) Act 2003 and transferred to Leverndale Hospital, Glasgow; one was released at court and was subsequently admitted to HMP Cornton Vale, sectioned under the Mental Health Act and transferred to Woodland View in Ayrshire.

Paragraph 97

[HMP & YOI Cornton Vale]

At the time of the visit, four women were being held in Ross House under Rule 95 of the Prison Rules, for 72 hours and were segregated in their own cells. However, in practice several of these women were in fact held continuously for seven to nine days in segregation: first for three days under Rule 95, then for one to three days in cellular confinement as a disciplinary punishment, and then for another three days under Rule 95. During this time, the women concerned were kept in their cells for more than 23 hours per day.

The delegation examined the disciplinary and separation records and interviewed the women and staff involved and was concerned by two main issues. First, that the segregated women had not been fully informed of the reasons for their continued segregation after the expiry of their period of cellular confinement for a disciplinary offence. A small slip of paper placed under their door informed them of the fact of continued segregation this time under Rule 95, and gave them very limited time to appeal (a matter of minutes). The CPT considers that the inmates involved should be fully informed of and kept updated of the reasons for any continuation of their segregation and given adequate time to appeal the measure.

Second, it appeared to the delegation that a practice was developing of the systematic use of three full days of Rule 95(1) for reasons of investigation into an alleged disciplinary violation (including, in one case, disobeying a prison officer order). The CPT acknowledges that it may be necessary to impose special measures (including segregation from other prisoners) to prevent violence and maintain internal order and security. However, it fails to see the need for systematically imposing such a measure for every kind of alleged disciplinary offence.

The CPT would appreciate the comments of the Scottish authorities on these two issues. It also recommends that due process is followed with any extensions of any sort of segregation and that the relevant prisoners are given sufficient time to both understand, and appeal, the reason for the extension.

108. The Scottish Government notes the CPT's recommendation. The Governor may order that a prisoner is removed from association under Rule 95 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011 ("the 2011 Rules") only if he or she is satisfied that it is appropriate: to maintain good order or discipline; to protect the interests of any prisoner; or to ensure the safety of other persons. Removal from association under Rule 95 can last up to 72 hours but can be extended if authorised by Scottish Ministers. Under Rule 114(d), the Governor may also impose punishment in the form of cellular confinement for up to 3 days, where a prisoner is found guilty of a breach of discipline.

109. Where it is being proposed that an individual should be removed from association under Rule 95(1) of the 2011 Rules, then the opportunity to make self-representations should be given, where practicable, prior to any order being made or any time after the order has been made, before the case conference. Representations made by the individuals under Rule 95(9) must be made in writing by the person or transcribed by an officer or other official on the person's behalf. Representations must be taken into account by the Governor. Where an individual refuses to make representations, then staff are required to annotate the refusal and this must be witnessed by another staff member.

110. If the Governor seeks to apply for an extension of the period of removal from association under Rule 95(11), a case conference must be convened within the 72 hours of the Rule 95(1) order having been made. After the case conference, the person will be provided with the written reason for the intention to apply for an extension to the rule and must be permitted two hours to make self-representations. The person's self-representations must be taken into account prior to the application for a Rule 95(11) extension being submitted to Scottish Ministers for approval. Thereafter, the person will be afforded 24 hours to make self-representations each time an application for a Rule 95(12) extension is to be made.

111. If a person receives three days' cellular confinement as a disciplinary measure, then they have the right to present mitigating factors at the disciplinary hearing. These will be considered and recorded by the adjudicator prior to a decision on any subsequent punishment. Individuals can appeal punishments determined by the adjudicator through the disciplinary appeals process.

Paragraph 98

[HMP & YOI Cornton Vale] in Ross House, the single-occupancy cells (measuring some 7m²) were sparsely furnished, had opaque windows restricting access to natural light and only limited artificial lighting and some were dirty. The cells were not decorated and were generally worn from graffiti and daily wear and tear. Ventilation was sufficient and the cells had their own sanitary annexes. On a more positive note, Ross House also had a bright and airy communal central section with tables and chairs for joint eating, a servery and a recreation room upstairs.

The CPT recommends that the above-mentioned deficiencies in Ross House be remedied.

112. All rooms in Ross House have been painted and walls are free from any graffiti or signs of wear and tear. Furnishings have also been upgraded and floor coverings replaced where there were signs of damage or ageing. Some work requires to be completed in five rooms, which is difficult to manage due to them being in constant use as they are situated on the lower floor and are required to ensure the safety and wellbeing of the vulnerable population.

Paragraph 101

[HMP & YOI Cornton Vale] The CPT recommends that the Scottish authorities develop more meaningful and structured activities for all categories of prisoners in Ross House to enable structure to be given to the generous time allocated out of cell during the day. Additionally, all prisoners should be systematically offered the possibility of outside exercise. Lastly, the CPT encourages the Scottish authorities to consider extending the reach of offending behaviour programmes for women with sentences of less than four years.

113. Structured activities are in place within Ross House and are advertised through posters, user voice forums and notice boards. Every prisoner is offered outside exercise at least once a day and in better weather there is the opportunity to access it for most of the afternoon and evening period.

114. A pilot of the “Ultimate Self: women finding their own way” programme is being undertaken, with consideration being given as to whether this should be extended to the planned community custody units and a wider female audience.

Paragraph 102

[HMP Edinburgh] The CPT recommends that the Scottish authorities increase the places available for work and purposeful activities for all categories of women prisoners at Edinburgh Prison to ensure that all women prisoners can benefit from these on an equal basis to male prisoners. This may require increasing the staffing complement.

115. Given the number of prisoner categories at HMP Edinburgh, it is difficult to provide equality in all aspects of the regime. Despite increasing numbers of women in Ratho Hall and staffing constraints, the SPS has made progress towards offering a ‘Therapet Initiative’ and has organised events such as ‘International Women’s Day’. The Unit Manager for Ratho Hall has been tasked with increasing provision using creative approaches.

Paragraph 103

[HMP & YOI Grampian] The CPT invites the Scottish authorities to continue their efforts to offer work and purposeful activities for all women inmates at Grampian Prison. It also would appreciate being sent updated information and statistics on the female offending programme.

116. All women at HMP Grampian are provided with the opportunity to engage in purposeful activity, which is further enhanced by regular, themed activities and events throughout the year. The revised female offending behaviour programme, "Ultimate Self: women finding their own way", is currently awaiting approval from the Scottish Advisory Panel on Offender Rehabilitation and is planned to run in both Grampian and Polmont in 2019-20. The SPS would be happy to share the available learning upon completion of this pilot programme.

Paragraph 104

[HMP & YOI Grampian] The CPT recommends that the Scottish authorities revise the way in which they are holding female juvenile inmates at Grampian Prison and Young Offender Institution and take concrete measures to turn the juvenile section into a truly juvenile-centred unit. This should be composed of a small well-staffed unit, with regular attendance by personal officers and staff with specific juvenile-centric training, and should offer psychological, post-trauma and social/welfare support. Juveniles should be unlocked for the majority of the day and provided with a range of purposeful activities throughout the day, and staff should promote a sense of community within the unit. Staff should also be constantly vigilant for signs of possible inter-juvenile bullying.

117. The Scottish Government notes the CPT's recommendation. The staffing complement and training profile at HMP & YOI Grampian would not support the creation of a truly juvenile-centred unit. In addition, the small number of young women entering and leaving custody would present difficulties concerning consistency of regime delivery. However, Grampian has a contract with the charity Barnardos and support from SHINE (a women offender mentoring service) and the network Aberdeen Women's Connect, which works specifically with young women located there. If the management team at Grampian deemed that a young woman would benefit from juvenile-specific regime elements not provided locally, then consideration would be given to whether transferring her to HM YOI Polmont would outweigh the benefits of her being located closer to home.

Healthcare services

Paragraph 106

In 2017, the Health and Justice Collaboration Improvement Board was established to draw together senior leaders from Health, Justice and Local Government to lead the creation of a much more integrated service response to people's needs where Health and Justice services intersect. By letter dated 27 January 2019, the Scottish government informed the CPT that there were current work streams looking at different strands of health-care delivery in custody and these included clinical IT, revised Memorandum of Understanding, and leadership and governance. These groups would produce guidance and policies that would address many of the systematic deficiencies highlighted by the CPT's delegation in its Preliminary Observations.

The CPT welcomes this information and requests that the Scottish authorities send it a copy of both the Health and Justice Collaboration Improvement Board's guidance and the strategic plan covering prison social and health-care, along with outlined concrete measures on how it will be addressing the deficiencies highlighted in the 2017 Parliamentary Report on the state of the health-care system in Scottish prisons.

118. The Health and Justice Collaboration Improvement Board does not have a strategic plan, however its work and its programme is set out in a letter of 22 February 2019 from the Minister for Public Health, Sport and Wellbeing to the Convener of the Scottish Parliament Health and Sport Committee.⁴² This letter provides an update on action taken to address the recommendations made in the 2017 *Healthcare in Prisons* report.

119. The Care Inspectorate (CI) has a statutory responsibility for inspection and improvement in criminal justice social work services. It also inspects accommodation for ex-offenders and secure accommodation for young people. There are five of each type of service in Scotland and, as of July 2019, grading across all quality themes is either 'good', 'very good', or 'excellent'.

120. The CI is working with the SPS to provide improvement support in relation to the health and wellbeing of older prisoners. Learning events based on the Care About Physical Activity (CAPA)⁴³ resource pack were held in August and October 2018 at HMP Edinburgh and HMP Glenochil prisons. CAPA has been received positively by staff and older prisoners, specifically for:

⁴²

https://www.parliament.scot/S5_HealthandSportCommittee/Inquiries/20190225_Ltr_IN_from_Minister_PHSW.pdf

⁴³ <http://www.capa.scot/>

- a change in culture, resulting in people being supported to move around more and cell doors being left open for longer than in other regimes;
- reduction in the times the prisoner is locked up;
- the establishment of community-led activities (e.g. bowling and walking clubs);
- reduction in prisoner isolation and indications of improvement in mental health and wellbeing;
- better levels and quality of engagement between staff and older, less mobile prisoners.

121. The Health and Social Care Standards, *My support, my life* (June 2017),⁴⁴ seek to provide better personal outcomes and ensure basic human rights are upheld. Underpinned by five principles – dignity and respect; compassion; be included; responsive care and support; wellbeing - they are helping to drive quality improvement, including in health, social care, and community justice. The Standards are being considered as part of the Health and Social Care in Prisons Programme, to help develop a suite of health and social care quality indicators for use in prisons, in order to assess the quality of services provided in prison and the transition of care in and out of prison. Further information about the programme is contained in the letter from the Minister for Public Health, Sport and Wellbeing referred to above.

Paragraph 110

In light of the prisoner population numbers, their often complex health-care needs and, in particular, the extensive mental health issues existent among the prisoner population, the CPT recommends that the Scottish authorities increase the health-care staffing resources in the establishments visited to ensure that:

- **at Barlinnie Prison, three full-time posts of GP should be provided (i.e. increased by two full-time equivalent of GPs) and the mental health nurse positions should be increased by three (i.e. to a total of six);**
- **at Cornton Vale Prison, one full-time post of GP should be provided and the presence of the dentist should be increased to full-day weekly visits. Further, the vacant posts for a team leader for mental health and addiction and a prison health-care addiction worker should be filled;**
- **at Edinburgh Prison, for the size and diverse needs of the mixed category prisoner population, two full-time posts of GP should be provided (i.e. increased by 1.5 full-time equivalent of GPs) and the presence of a psychiatrist should be increased. Further, the vacant post for an addiction nurse should be filled;**
- **at Grampian Prison, an additional full-time GP should be provided and 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. Also, the vacant posts for four addiction nurses should be filled; and**

⁴⁴ <https://www.gov.scot/publications/health-social-care-standards-support-life/>

- at Shotts Prison, the presence of GPs should be increased to the equivalent of one and a half full-time posts (i.e. increased by one full-time GP) and a further two psychiatric sessions should be provided. Also, the vacant post for a primary care nurse should be filled.

Further, at Cornton Vale, Edinburgh, Grampian and Shotts Prisons, there should be preferably a person with a recognised nursing qualification to provide first aid at night.

On a positive note, at Edinburgh Prison, a number of nurses, including all five mental health nurses, were qualified in non-medical prescribing.⁴⁵ The CPT considers that this good practice would be of benefit to others and invites the Scottish authorities to consider replicating this across the penitentiary system.

122. Since 2006, NHS Scotland's staffing levels have increased by over 13,500 WTE or 10.7% (Sep 2006 - 127,061.9 WTE; Dec 2018 - 140,710.2 WTE).

123. Under the National Health Service Reform (Scotland) Act 2004,⁴⁶ NHS Scotland Boards are required to have the correct staff in place to meet the needs of the service and ensure high quality patient care. In 2017-18, the Scottish Government published a national health and social care workforce plan, which is committed to safe staffing legislation covering both health and care settings.^{47 48 49} As well as changes in the nature of demand on Scotland's health and care services, effective workforce management must account for external factors, including an ageing workforce, an ageing population, and UK withdrawal from the European Union. A fully integrated health and social care workforce plan will be published this year, with annual iterations thereafter, to ensure the right people are in the right place at the right time to continue to deliver high quality care that meets the needs of Scotland's population.

124. Concerning Grampian Prison, psychiatrists are present for 12 sessions per month (one band 6 at 0.5 WTE) and a 0.5 WTE post is currently being advertised. With regard to nursing staff, there are 2.8 WTE band 5 nurses and a full time post being advertised.

125. Through Action 15 of the Mental Health Strategy,⁵⁰ there is also a commitment by the Scottish Government to increase access to the overall mental health workforce by 800 additional staff. GP surgeries, Accident and Emergency

⁴⁵ i.e. non-GPs who are licenced to prescribe a range of medication.

⁴⁶ <http://www.legislation.gov.uk/asp/2004/7/contents>

⁴⁷ <https://www.gov.scot/publications/national-health-social-care-workforce-plan-part-1-framework-improving/>

⁴⁸ <https://www.gov.scot/publications/national-health-social-care-workforce-plan-part-2-framework-improving/>

⁴⁹ <https://www.gov.scot/publications/national-health-social-care-workforce-plan-part-3-improving-workforce/>

⁵⁰ <https://www.gov.scot/publications/mental-health-strategy-2017-2027/>

services (A&Es), police custody suites and prisons will have access to this workforce, which is being supported by investment rising to £35 million by 2021-22. As of 1 July 2019, 268 additional mental health workers are now in place.⁵¹

Paragraph 113

The CPT recommends that the record of injuries drawn up after the medical screening and included in the Vision system should contain:

- i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment),**
- ii) a full account of objective medical findings based on a thorough examination, and**
- iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.**

The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded.

The record should also contain the results of additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment given for injuries and of any further procedures conducted. The same approach should be followed whenever a prisoner is medically examined following a violent episode in prison.

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. Health-care staff must advise detained persons of the existence of the reporting obligation, explaining that the writing of such a report falls within

⁵¹ <https://www.gov.scot/publications/mental-health-workers-quarterly-performance-reports/>

the framework of a system for preventing ill-treatment and that the forwarding of the report to the competent prosecutor is not a substitute for the lodging of a complaint in a proper form.

126. A review of the recording of injuries and existing procedures will be carried out by the National Prisoner Healthcare Network, which works to resolve prisoner health and social care related issues that require a national approach. The network spreads best practice, and supports healthcare professionals to improve services and innovate.

Paragraph 115

The CPT recommends that the Scottish authorities establish systems to facilitate the sharing of medical records amongst the relevant medical services for the benefit of the overall care of prisoners. Consideration should be given to merging the information into one unified electronic system, to ensure swift and easy access to relevant medical information for prison health-care staff and to enable adequate continuity and equivalence of care for inmates, both to and from the outside community. In this vein, it also recommends the establishment of an electronic prescribing system for medication (i.e. replacement of the Kardex system) linked to the overall prison medical recording system as well as to the wider external NHS for more efficient use of health-care staff's time, to prevent delays in access to medication and to ensure adequate continuity of care for inmates after admission and upon release from prison.

127. Processes are in place to ensure the sharing of medical records when a person enters prison. Records are automatically sent from the community GP to the prison health centre when the person is registered with the prison practice. The process works in reverse upon the person's release.

128. This process is facilitated by PSD who have put in place a system whereby any paper record coming from the community into prison will be held in storage with relevant paper-based information scanned to Docman and electronically transferred to the prison practice.

129. The Scottish Government has made a commitment in its 2018-19 Programme for Government to improve clinical IT systems in prisons to make services safer and more efficient. An NHS National Services Scotland (NSS) review of the use of clinical IT across all prisons and NHS Boards will include options for delivering electronic prescribing in prisons as part of its wider work to address national barriers to improvement of services.

Paragraph 116

The CPT recommends that the admission screening should include a history of any sexual abuse and other gender-based violence and that this should inform any care plan established for the woman to ensure appropriate care and prevent re-traumatisation.

130. The Admission Guideline includes a question on whether the patient has been a victim of discriminatory abuse. In response to the Committee's recommendation, steps will be taken to include 'sexual abuse' and 'gender based violence'.

Paragraph 118

The CPT considers that while it is positive that the DIPLAR and FAI systems are in place, it recommends that the authorities review the operation of the overall FAI system to find solutions to speed up the process.

131. In 2019, the Inspectorate of Prosecution in Scotland plans to undertake and publish a follow up report on its 2016 thematic review of FAIs.⁵² It will report on the progress made by the COPFS in implementing its recommendations.

132. The average length of time to complete FAIs has been gradually decreasing. In 2013-14, the average number of days taken to complete an inquiry was 927; whereas in 2017-18 the average was 690 days.

133. Depending upon the circumstances, a death investigation can be complex and technical. There are very often legitimate and unavoidable reasons for delays, for example:

- the need to obtain expert advice;
- the need to consider whether criminal proceedings are appropriate ;
- the overriding necessity of conducting investigations thoroughly – this factor is of particular relevance in relation to the complexity of some investigations.

134. The Scottish Government is providing an additional £5 million in the Crown Office budget for 2019-20 to continue to increase staffing in response to an increasingly complex caseload. This will allow the Scottish Fatalities Investigation Unit (SFIU) to reduce the time required to complete death investigations.

Paragraph 119

Access to a psychiatrist was also decided by the multi-disciplinary mental-health team. Waiting time for access to a psychiatrist differed in the prisons visited. In some prisons, psychotic patients were seen by a psychiatrist in two weeks, in others waiting times were much longer. At Grampian Prison, the CPT's delegation met a female prisoner who had undergone the amputation of

⁵² <https://www.gov.scot/publications/thematic-review-fatal-accident-inquiries/pages/1/>

a leg during imprisonment without receiving any mental health support, despite the fact that she had made several requests for this. She was on high doses of psychoactive medication, including antipsychotic medication prescribed before imprisonment, and her therapy was being continued without any review. The loss of a limb can be devastating and is likely to cause significant disruption to many aspects of a person's life. The CPT considers that the absence of any mental health support represented a form of medical negligence and recommends that this person, as well as others who might be in similar situation, be given rapid access to the mental health team.

135. The Scottish Government notes the CPT's recommendation but does not consider that it is clinically necessary, or appropriate, for every surgical procedure to be accompanied by an automatic mental health assessment. The Scottish Government also considers that mental health services should not routinely review every patient who has had major surgery or other serious physical illness. All healthcare practitioners have expertise in advising and supporting patients who are seriously unwell or who require surgery. However, when a patient also has significant psychiatric problems or seeks mental health support, it must be clear to personnel in all healthcare settings how to access mental health services. All prisons in Scotland have mental health teams with straightforward referral mechanisms and readily available access to specialist nurses and, if necessary, other medical staff.

Paragraph 120

The CPT recommends that prisoners suffering from severe mental illnesses be transferred to a closed hospital environment for treatment, without delay.

136. Under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003, there are arrangements that would allow a prisoner suffering from a mental disorder for which treatment is available to be taken to hospital for care and treatment to keep the prisoner and others safe. However, depending on the care and treatment and the level of security required, there may be a wait until a secure bed becomes available.

Paragraph 122

The CPT would like to be informed of what concrete measures the prison authorities intend to take to tackle NPS, within a wider anti-drug strategy, in the Scottish prison system.

The CPT recommends that the Scottish authorities develop a peer-led programme of substance misuse education in each prison to educate prisoners, particularly new arrivals, about the dangers and other consequences of synthetic cannabis use.

137. The SPS is aware of the emerging risk of the use of psychoactive substances within the prison estate, the difficulties in identifying their misuse, and the operational challenges that arise as a result. Components within psychoactive substances

change frequently and, as such, products used for testing quickly become obsolete, which makes it difficult to detect the substances in a custodial environment. The SPS will continue to review policy and tactical options to address this emerging problem.

138. The SPS has established a Strategic Risk and Threat Group, which provides an ongoing overview of emerging threats and trends across the prison estate, including those linked to psychoactive substances. It provides a mechanism for decision-making that identifies risks and priorities, and considers the deployment of resources/tactical options in response.

139. The SPS continues to work with partners across the justice sector to understand the emerging risks of psychoactive substances. The SPS is also a member of the Psychoactive Substances Centre for Excellence Working Group alongside representatives from the Scottish Government, Police Scotland, Scottish Ambulance Service, NHS and subject matter experts in the field of illegal drug use. The SPS has also engaged with independent experts to share knowledge and expertise, leading to a better understanding of the challenges presented.

140. The SPS has robust mail handling procedures in place across all establishments. These procedures deter and disrupt attempts to introduce illicit articles to the prison estate, and supports the identification of any substances recovered. These procedures consider the health and safety of SPS staff and, as new and emerging substances come to light, will be reviewed to ensure that they address attempts to use mail to smuggle articles or substances into prisons.

141. Operational guidance has been developed and issued to staff to support their understanding of how to minimise exposure to unknown substances. The SPS will continue to develop its understanding of the use of psychoactive substances and deploy a range of tactics charged with addressing the alleged use of such substances within Scottish prisons.

Paragraph 123

The CPT recommends that the Scottish authorities review the way in which prescription drugs are distributed and their intake supervised; as well as ensure the enforcement of sanctions against perpetrators who bully and/or steal medication from other inmates.

In addition, the CPT recommends that the prescription policy should be revised. The misuse of gabapentinoids within the prison population is well documented. In February 2015, UK prisons reported high numbers of prisoners being prescribed gabapentinoids in a manner not in keeping with best clinical practice.⁵³

⁵³ Advisory Council for the Misuse of Drugs; Letter RE: Pregabalin and Gabapentin Advice 2016, <https://www.gov.uk/government/publications/advice-on-the-anticonvulsant-drugs-pregabalin-and-gabapentin>

142. Medicine checks are routinely carried out in Scottish prisons to ensure that people in prisons are in possession of the appropriate quantity of prescription drugs. Any discrepancies regarding compliance with medication that are identified during this process are clinical issues which will be dealt with by the NHS. Only where there is evidence of diversion or bullying will SPS disciplinary procedures be invoked.

143. A dynamic risk assessment process is applied to determine if a person is suitable for in-possession medicines, taking into account of the individual concerned, the medicine they have been prescribed and their environment. These assessments can be, and are, reviewed with the aim of ensuring safe and effective use of medicines in prisons.

144. There is no legal requirement for individuals taking Gabapentinoids to be supervised and patients in prison should not experience any difference in the quality of their treatment to those in the wider community. As long as the medication has been legitimately prescribed by a recognised clinician then the drug is no longer controlled. It is, however, strongly recommended that, within custodial settings, due to the potential for abuse of these drugs, consideration is given to supervised administration where appropriate. Due to evidence that Gabapentinoids are being abused, it is important to reduce the opportunity to divert or extort these drugs.

145. On 15 February 2019, the National Prisoner Healthcare Network Expert Advisory Group for Medicines issued guidance to the nine NHS Boards that provide clinical services to prisons, which followed previous communications sent to Area Drug and Therapeutic Committees, requesting that teams review patients prescribed Gabapentinoids and reduce the prescription burden within SPS establishments where clinically appropriate.

146. Prior to this, in December 2018 the Expert Advisory Group had issued guidance following the reclassification of pregabalin and gabapentin (gabapentinoids) to Schedule 3 POM (Prescription Only Medication) CD (Controlled Drug). The group recommended that prison clinicians use the reclassification of gabapentinoids as an opportunity to review the prescribing of these drugs to ensure that those in receipt of them for neuropathic pain have a confirmed diagnosis and meet the prescribing criteria. Those who do not have a confirmed diagnosis of neuropathic pain and do not meet the prescribing criteria should have their gabapentinoid discontinued following the dose reduction titration contained within the guidance produced by the Effective Prescribing and Therapeutics Branch of the Scottish Government, and an alternative analgesic be prescribed if required.

Paragraph 125

The CPT recommends that the Scottish authorities put measures in place to ensure that inmates can continue their substitution programme from the day of their admission to prison; and that a needle-exchange programme be introduced in the prison system.

147. The Scottish Government notes the CPT's recommendation. The SPS has actively worked with partners to understand and take appropriate action to combat substance abuse within prisons. The Scottish Government recognises that more can and must be done to ensure people in prisons have access to the same range and quality of services as those in communities across Scotland. This is explicitly referenced in *Rights, respect and recovery*, Scotland's alcohol and drug treatment strategy. The Health and Justice Board has established the Health and Social Care in Prisons Programme, which is actively addressing structural barriers to better health and social care in prisons across a number of areas, including substance abuse (see paragraph 105 above).

Other issues

Paragraph 127

[HMP & YOI Grampian] The CPT recommends that the staffing situation is addressed at Grampian Prison to ensure that activities and exercise entitlements are not curtailed due to short staffing or absences.

It also recommends that the Scottish authorities develop the notions of dynamic security among the penitentiary staff working in the male halls of Grampian Prison by organising appropriate in-service training courses which focus in particular on inter-personal skills.

148. Several initiatives are in place to try and address the staffing situation at HMP Grampian. It is not possible to give an assurance that activities will never be limited, however access to exercise has never been and will not be curtailed for staffing reasons.

149. The establishment's annual training plan has started to address the Committee's recommendation and this will be supported by the recruitment of an additional training support resource.

Paragraph 128

The CPT continues to consider 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.

150. The SPS gave serious consideration to how it could implement a similar recommendation from the Committee following its visit in 2012. In 2014, Governors in Charge (GIC) were consulted with regard to the possibility of implementing a change to the Prisons and Young Offenders Institutions (Scotland) Rules 2011, which would increase the visits entitlement for convicted prisoners from not less than 30 minutes per week to one hour. The GICs had no equivocation about the spirit of the proposed change and its alignment to the SPS Vision, *Helping to build a safer Scotland - Unlocking Potential - Transforming Lives*, however they considered that not all prisons would be able to facilitate the increase. This was due to prisoner numbers, the diversity of the population groups held in individual prisons, the space available within visiting areas, and staffing arrangements.

151. Notwithstanding this, in addition to the statutory minimum entitlement the SPS has been able to provide, in some prisons, enhanced visits, including additional parent and child visits as part of a Family Contact Strategy. Across Scottish prisons, visit times now range between the minimum statutory requirement and up to two hours per week.