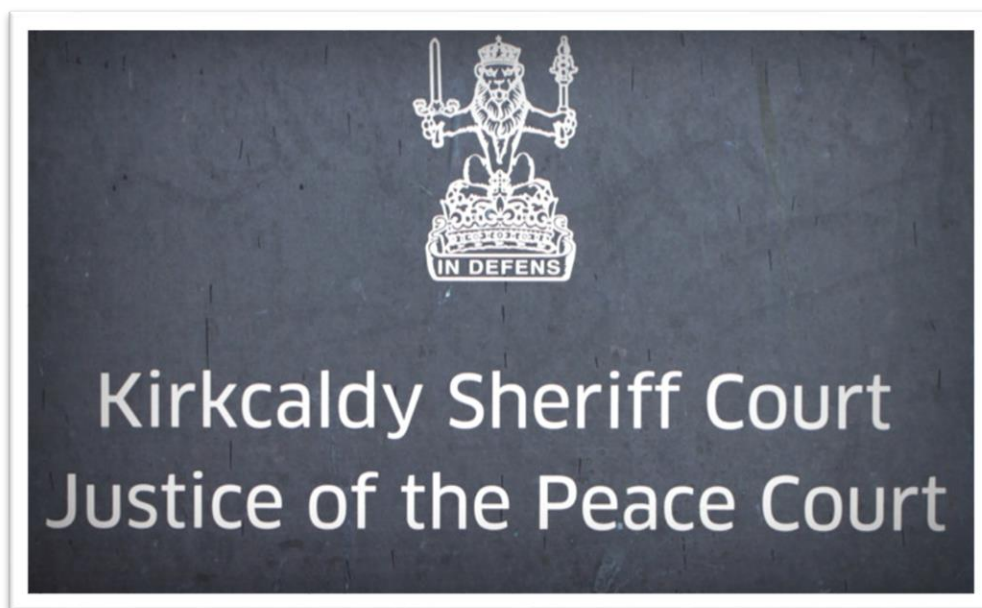


COVID-19 PANDEMIC EMERGENCY

LIAISON VISITS – PRISONS AND COURT CUSTODY UNITS



**REPORT ON A LIAISON VISIT TO THE CUSTODY UNIT AT
KIRKCALDY SHERIFF COURT ANNEX AND
UNANNOUNCED VISIT TO KIRKCALDY SHERIFF COURT**

Monday, 7 September 2020

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Introduction and Background

This report is part of a programme of liaison visits to Court Custody Units (CCUs), carried out by HM Inspectorate of Prisons for Scotland (HMIPS), during the COVID-19 pandemic emergency. These visits will contribute to the UK's response to its international obligations under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). OPCAT requires that all places of detention are visited regularly by independent bodies – known as the National Preventive Mechanism (NPM) – which monitor the treatment of and conditions for detention. HMIPS is one of 21 bodies making up the NPM in the UK.

In these challenging times, HM Chief Inspector of Prisons for Scotland (HMCIPS) acknowledges that there will be a need for amendments to the daily routines and regimes in Scotland's CCUs in order to keep people safe. HMCIPS has made it clear, however, that "protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty", and she will continue to report to the Cabinet Secretary for Justice on the treatment and conditions in which custodies are held, in line with HMIPS' [Standards for Inspecting and Monitoring Prisons in Scotland](#).

In recognition of the pressures imposed by COVID-19, HMIPS have developed an adapted methodology to their usual full inspection process; the [Liaison Visits Framework - Prison and Court Custody Units](#) that will be applied during this emergency.

HMIPS has developed an algorithm that is populated by weekly information sharing with the CCUs, which helps to provide intelligence to inform the scheduling of visits. More information can be found at [Liaison Visits Framework - Prison and Court Custody Units](#).

Process

HMIPS will contact each of the GEOAmeY Court Managers on a weekly basis to confirm numbers attending, with a focus on understanding the CCU response to COVID-19. A Log of those calls will be maintained. Where it is deemed appropriate, through telephone calls, information received from GEOAmeY, or results from the risk based HMIPS Liaison Data Algorithm, HMIPS will conduct a one day liaison visit to one of the CCUs.

Liaison visits to CCUs, will have the following functions:

- to ensure scrutiny of CCUs continue and are grounded in human rights, looking at the treatment and conditions of those held in detention;
- to offer support to the CCU management and staff;
- to provide assurance to the Cabinet Secretary for Justice on the SPS, NHS, GEOAmeY, and Scottish Courts and Tribunals Service (SCTS) response to the COVID-19 pandemic for those in custody;
- to garner intelligence and information to make informed decisions on future HMIPS priorities; and
- to identify Good Practice that can be shared.

HMIPS assimilates information prior to the liaison visits to select the CCU to be visited and to contribute to the focus of the visit, and consequently develop evidence-based findings utilising a number of different techniques. These include:

- calls to the CCU Manager prior to the visit;
- obtaining information and documents from the SCTS and the court inspected;
- shadowing and observing staff as they perform their duties within the CCU;
- interviewing custodies and staff on a one-to-one basis;
- inspecting a wide range of facilities impacting on both custodies and staff; and
- reviewing policies, procedures and performance reports.

The information gathered facilitates the compilation of a report into the CCU against the modified standards used. A written record of the evidence gathered is produced by those undertaking the visit consisting of a detailed narrative against each of the Standard's inspected.

A log of recommendations and good practice arising from the liaison visit is completed and stored in our secure Electronic Records Document Management filing system.

Liaison visits will be undertaken in most cases by two HMIPS staff, the Inspector of Prisons and the Operations Manager who normally undertake CCU inspections, but may be accompanied by other members of staff from HMIPS.

The full inspections and our COVID-19 adapted liaison visit methodology are informed by a set of Standards as set out in our document [Standards for Inspecting Court Custody Provision in Scotland](#), published March 2017 and reviewed in January 2020. This report is set out to reflect the performance against these Standards.

These Standards contribute positively to the effective scrutiny of court custody provision in Scotland, designed to both encourage continuous improvement in the quality of care and custody of people held in court cells and to provide assurance.

Published CCU liaison visit reports provide assurance to Ministers, key stakeholders, and the wider public that inspections are conducted in line with a framework that is consistent, and that assessments are made against appropriate criteria.

This adapted inspection methodology developed in response to COVID-19 will be kept under continual review and as soon as it is safe and reasonable to do so, full CCU inspections will recommence.

Findings from any CCU Liaison Visits and issues that are highlighted from weekly CCU telephone calls, will be reported to:

1. the Cabinet Secretary for Justice; and
2. the Scottish Government Justice Directorate, GEOAmev, Police Scotland, the SPS and SCTS for information and action.

HMIPS will ensure all relevant parties are kept informed and any good practice or recommendations identified will be logged and progress monitored.

The visit team for this inspection was Calum McCarthy, Ewan Patterson, Kerry Love and Graeme Neill.

This report relates to the Liaison Visit to the Kirkcaldy Sheriff Court Annex and the unannounced visit to Kirkcaldy Sheriff Court.

Wendy Sinclair-Gieben

Wendy Sinclair-Gieben

HM Chief Inspector of Prisons for Scotland

4 December 2020

LIAISON VISIT - CUSTODY UNIT - KIRKCALDY SHERIFF COURT ANNEX

STANDARDS, COMMENTARY AND QUALITY INDICATORS

STANDARD 1 - LAWFUL AND TRANSPARENT USE OF CUSTODY

The custody service provider (“the provider”) complies with administrative and procedural requirements of the law and takes appropriate action in response to the findings and recommendations of official bodies that exercise supervisory jurisdiction over it.

Commentary

The provider ensures that all prisoners are lawfully detained. Each prisoner’s time in custody is accurately calculated; they are properly classified and allocated to cells appropriately. The provider cooperates fully with agencies which have powers to investigate matters in the custody areas.

Quality Indicators inspected

1.2 Personal Escort Record (PER) forms are accurately populated and all relevant sections are completed.

Inspectors observed the arrival of some custodies at the CCU reception desk. They were asked to confirm their name and date of birth, which was compared against their PER and the GEOAmeY IT system. When staff were satisfied that their identity had been confirmed, a photograph was taken of the custody and added to the IT system before the prisoner was placed in a cell.

On checking the GEOAmeY IT system, it was seen that there was an accurate record of custodies being offered hand sanitiser on arrival at the CCU and being asked questions in respect of COVID-19. These questions covered general health and safety and ensured awareness of the Scottish Government’s physical distancing rules, and formed part of the Cell Sharing Risk Assessment (CSRA).

A selection of PER forms were examined by Inspectors. All were found to have been completed correctly and accurately, documenting the custodies classification, vulnerabilities, medical issues, dependencies and if an interpreter was required.

It was noted that all further information pertaining to the custody, generated whilst within the CCU, was recorded by staff electronically on the GEOAmeY IT system rather than the PER.

1.3 A Cell Sharing Risk Assessment (CSRA) is carried out on arrival, taking account of individual characteristics (including gender, vulnerability, security risk, state of mental health or personal medical condition) and individuals are then allocated to an appropriate cell.

The CCU was situated in the brand new Kirkcaldy Sheriff Court Annex building that was recently built attached to Kirkcaldy Police Station.

At the time of the visit Kirkcaldy CCU were accepting additional custodies from Dunfermline Sheriff Court following its temporary closure.

As part of the CSRA, the CCU Team Manager had implemented a daily process between GEOAmev, Police Scotland, the Crown Office and Procurator Fiscal Service (COPFS), defence agents and the Sheriff Clerk in respect of the movement of custodies from police stations to the CCU.

The CCU Team Manager was the linchpin for the process.

Around 07:10 the CCU Team Manager was in receipt of the custody names and numbers for the day and any risks associated with them. This allowed him to make a decision on which custodies could be brought to the CCU first and how the cell allocation would be applied. Custodies from police stations further away from the CCU were always prioritised.

At the time of the visit, the CCU could accommodate up to 12 custodies due to COVID restrictions, but were accepting 11 as one custody required single cell occupancy. By 08:00 the CCU Team Manager had emailed COPFS, Sheriff Clerk, defence agents, Police Scotland and the SPS to inform them which custodies had arrived in the CCU and what custodies were being held back at police stations.

The purpose of this process was to allow COPFS to consider the prioritisation of the marking of papers, to ensure they matched the custodies who first arrived in the CCU, in good time for the custody court to start. This would then assist the freeing-up of cells and the movement of additional custodies in to the CCU as the day progressed.

STANDARD 2 - DECENCY, DIGNITY, RESPECT AND EQUALITY

The custody areas should meet the basic requirements of decency and all prisoners within custody areas are treated with dignity and respect, irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

Commentary

All custody areas should be of adequate size for the number of persons they are used to detain, well maintained, clean and hygienic and have adequate lighting. Each prisoner should have access to toilets, be provided with necessary toiletries, and offered a nutritious meal. These needs should be met in ways that promote each prisoner's sense of personal and cultural identity and self-respect.

Quality Indicators inspected

2.1 The custody areas should be appropriately equipped and constructed for their intended use and be maintained to an appropriate standard.

Inspectors observed a custody being searched on arrival by a member of CCU staff wearing full Personal Protective Equipment (PPE) kit including goggles, mask, apron and gloves. No one dedicated member of staff wore the full kit throughout the day and changed when tasked with searching custodies as they arrived at the CCU.

There was adequate PPE equipment within the CCU including hand sanitiser, masks, goggles, gloves and aprons.

Staff were aware that single occupancy cells were the priority if the number of custodies permitted it. However, this rarely happened on a Monday due to the volume of custodies being processed by the CCU. It was seen by Inspectors that all cells were not of sufficient size to be clearly marked with a two metre physical distancing line or provide adequate ventilation for two occupants. As such they could not hold two custodies and comply with the current COVID-19 guidance:

"The fundamental science around distance and transmission remains unchanged. Risk increases with proximity to an infected individual. Moving from two metres therefore increases the risk of transmission from infected individuals occurring. The risks of transmission can be mitigated by reducing the time of contact, being outdoors, proper ventilation, using screens and visors and other measures including hand washing and respiratory hygiene.,

The CCU had six cells and all were operational, the Unit was expecting to process 30 custodies on the day of the visit with one custody court in operation. The Team Manager issued a 9D form to allow Police Scotland to retain the remaining custodies until cells became available in the CCU.

There were 10 custodies present in the CCU at the start of the visit. All cells were double occupancy with the exception of one observation cell, which was being retained for the imminent arrival of a custody assessed as requiring a single cell.

It was at this time that Inspectors observed the arrival of two custodies directly from the court who had both been sentenced to 18 months imprisonment. It was clear that this created a problem for staff processing them due to the unavailability of cells and handling space in the CCU generally. It was seen that one custody was subjected to a full search in an agency interview room with his property being laid out on the floor of the CCU before storage. The other was searched and processed in the spare observation cell that was awaiting the arrival of another custody, had it been occupied this would have created additional problems.

When the findings from the unannounced visit to Kirkcaldy Sheriff Court CCU were viewed in line with this visit to the Sheriff Court Annex, it was clear that both CCUs were not working in harmony. Whilst Inspectors were observing this challenging situation at the Kirkcaldy CCU Annex, Kirkcaldy CCU had staff, but no custodies at all in its cells. When this was later discussed with a member of SCTS and the Sheriff Clerk, Inspectors were informed that from the outset the intention was to have both Kirkcaldy CCUs working together to facilitate the holding and movement of custodies. However this was not happening.

Recommendation 1: the cells within Kirkcaldy CCU Annex were not of sufficient size to accommodate double occupancy and retain physical distancing, they should be moved to single occupancy without delay.

Recommendation 2: as a matter of urgency, partner agencies should agree a process that utilises both Kirkcaldy CCU Annex and Kirkcaldy CCU in the holding and movement of custodies, as was the intention ahead of Kirkcaldy CCU Annex becoming operational.

2.2 Good levels of cleanliness and hygiene are observed throughout the custody areas ensuring procedures for the prevention and control of infection are followed.

The CCU had two toilets, one for males and one for females. The female toilet displayed information posters in relation to sanitary products and had a sanitary bin. Both were seen to have cleaning facilities with a soap dispenser, paper hand towels and sinks.

The toilet areas were very clean and in good order.

It was noted that the CCU was part of a daily cleaning rota by a dedicated SCTS cleaner who attended each evening. Floors and toilets were cleaned with particular attention to handles and work surfaces. Staff regularly cleaned cuffs, keys and search wands.

An agreement was in place that all cells were cleaned by a SCTS cleaner dedicated to the CCU between changes of occupants. The CCU Manager reported to Inspectors that an SCTS cleaner was not always available to carry out this task and as such the cells were either not cleaned or cleaned by CCU staff. This point was

later disputed by the SCTS Manager who gave assurances that this service was in place and cleaners were always available. This may be a breakdown in communication causing some confusion.

It was seen that hand sanitiser was offered to custodies on arrival, when leaving their cells, before the provision of refreshments, using the toilets or when leaving and returning to the CCU.

Recommendation 3: GEOAmev and SCTS should resolve the communication breakdown relating to the cleaning of cells between changes of occupants.

STANDARD 4 - EFFECTIVE, COURTEOUS AND HUMANE EXERCISE OF AUTHORITY

The implementation of security and supervisory duties is balanced by courteous and humane treatment of custodies in the CCU.

Commentary

Procedures relating to perimeter, entry and exit security, and the personal safety, searching, supervision and escorting of custodies are implemented effectively. The level of security and supervision is proportionate to the risks presented at any given time.

Quality Indicators inspected

4.2 The systems and procedures for the movement, transfer and release of custodies are implemented effectively and courteously.

Inspectors did not observe any custodies arriving at the CCU from a Court Custody Vehicle. CCU staff provided assurances that when a custody was being handcuffed and escorted into the CCU, the member of staff always wore gloves and a mask.

The process in place for taking custodies from the CCU to appear in court was that the custody was single handcuffed to a member of staff. Inspectors did not observe this but were informed that staff wore gloves and masks when escorting custodies.

Staff controlled the movement of custodies through the CCU to ensure that only one was out of the cells at any time. If there was an overlap, custodies were kept well apart and returned to their cells without delay.

Staff were aware of the need to wear full PPE when dealing with any custody displaying or reporting COVID-19 symptoms.

4.3 The systems and procedures for access and egress of visitors to the CCU are implemented effectively and courteously. There is adequate accommodation to facilitate such visitors.

Visitors, including legal representatives and agency workers, had not entered the CCU since the new Unit opened and COVID-19 measures were in place. Any contact with custodies was always through a glass partition in one of the three interview rooms accessed by legal representatives from outside the CCU. Staff cleaned the interview rooms on the CCU side between visits with antiseptic wipes.

STANDARD 6 - HEALTH, WELLBEING AND MEDICAL TREATMENT

All reasonable steps are taken to ensure the health and wellbeing of custodies while in the CCU, and appropriate and timeous medical treatment is available when required.

Commentary

Where it is necessary to do so, custodies should receive treatment that takes account of all relevant NHS standards, guidelines and evidence-based treatments.

GEOAmev advice posters relating to COVID-19 were clearly displayed within the CCU arrival area and physical distancing markers were clearly visible on the floor of the CCU. All staff were observed to be maintaining physical distancing rules whilst standing in the CCU. When not dealing with custodies they were observed to be wearing gloves and masks.

Staff were able to communicate the process in place for a custody attending the CCU with COVID-19 symptoms and for a custody developing such symptoms whilst in the CCU.

ScotNurse had only been required once since the new Unit opened and this was carried out successfully and attendance was within the agreed timescales.

UNANNOUNCED VISIT TO KIRKCALDY SHERIFF COURT

On Monday, 7 September 2020, HMIPS Inspectors carried out an unannounced visit to Kirkcaldy Sheriff Court CCU. This visit was in conjunction with an announced liaison visit to the recently opened Kirkcaldy CCU Annex. The main purpose of the visit was to review previous recommendations and to:

- **Determine the operational capability of the combined Units following the opening of the new Annex.**

Inspectors were met by the CCU Team Manager who adhered to physical distancing guidelines by wearing a mask. At the time of arrival the Team Manager was the only member of staff in attendance, followed shortly after by another who was also found to be in full compliance with PPE guidelines. A third member of staff was expected later that morning.

The reason provided for the minimal staffing numbers was that the CCU was only expecting two custodies that day, a prisoner from HMP Edinburgh and another from police custody. It was noted that by 10:30 they had not yet arrived and it was unclear to staff if they would still be attending. This CCU was not accepting any other custodies on the day of the visit, irrespective of the volume of custodies at the new CCU Annex. It was clear that they were not working in unison to manage the placement and movement of custodies to help reduce multiple cell occupancy in Kirkcaldy CCU Annex.

Recommendations from the previous liaison visit were reviewed:

- **Due to their size, all cells in Kirkcaldy CCU should be single occupancy with phased management of custodies.**

No custodies were present in the CCU at the time of inspection so it was not possible to assess implementation of this recommendation.

- **All key agencies should work together to improve the scheduling to aid phased management of custodies through the Team Manager.**

It was noted that this was ongoing.

- **Staff should continue to wear masks at all times where physical distancing is not able to be maintained.**

This was observed to have been met.

- **Additional cleaning by the SCTS contract cleaners during COVID-19 should be carried out whenever possible.**

All cells were found to be ready for the arrival of custodies. They appeared clean, however it was noted that since the last COVID-19 liaison visit on the 9 July 2020 the cleaning process had not changed, and cells were still only cleaned at night or if requested.

- **Whilst it is necessary to have viewing panels within toilet doors, these should be reviewed to ensure that the individuals using them are afforded sufficient privacy and decency whilst using the facilities.**

This was observed not to have been met and further work is therefore needed to address this recommendation.

Recommendations in respect of this unannounced visit to Kirkcaldy Sheriff Court form part of the recommendations in the main body of this Liaison Visit report.

Summary of Recommendations

QUALITY INDICATOR	RECOMMENDATION	RELEVANT AGENCY
2.1	Recommendation 1: the cells within Kirkcaldy CCU Annex were not of sufficient size to accommodate double occupancy and retain physical distancing, they should be moved to single occupancy without delay.	GEOAmeY
2.1	Recommendation 2: as a matter of urgency, partner agencies should agree a process that utilises both Kirkcaldy CCU Annex and Kirkcaldy CCU in the holding and movement of custodies, as was the intention ahead of Kirkcaldy CCU Annex becoming operational.	GEOAmeY SCTS
2.2	Recommendation 3: GEOAmeY and SCTS should resolve the communication breakdown relating to the cleaning of cells between changes of occupants.	GEOAmeY SCTS

ACRONYMS

CCU	Court Custody Unit
COPFS	Crown Office and Procurator Fiscal Service
COVID-19	Coronavirus Disease 2019
CSRA	Cell Sharing Risk Assessment
HMCIPS	HM Chief Inspector of Prisons for Scotland
HMIPS	HM Inspectorate of Prisons for Scotland
HMP	Her Majesty's Prison
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
PER	Personal Escort Record
PPE	Personal Protective Equipment
SCTS	Scottish Courts and Tribunals Service
SPS	Scottish Prison Service
9D form	A process to prevent the admission of custodies into a CCU due to capacity issues with regard to health and safety



HM Inspectorate of Prisons for Scotland is a member of the UK's National Preventive Mechanism, a group of organisations that independently monitor all places of detention to meet the requirements of international human rights law.

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First published by HMIPS, December 2020

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