



## **COVID-19 PANDEMIC EMERGENCY**

## **LIAISON VISITS – PRISONS AND COURT CUSTODY UNITS**

### **REPORT ON A LIAISON VISIT TO COURT CUSTODY UNIT AT DUMFRIES SHERIFF COURT**

**Tuesday, 22 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's [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 that 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 (eRDM) 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, GEOAme, 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 Graeme Neill and Kerry Love.

*Wendy Sinclair-Gieben*

**Wendy Sinclair-Gieben**

HM Chief Inspector of Prisons for Scotland

4 December 2020

## **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.**

Staff reported to Inspectors that on arrival at the CCU reception desk, custodies were asked to confirm their name and date of birth, which was compared against their PER and computer record. When staff were satisfied that their identity had been confirmed, a photograph was taken of the custody and added to the GEOAmey IT system before the prisoner was placed in a cell. Inspectors observed this practice and identified that the custody was not asked the questions that form part of the Cell Sharing Risk Assessment (CSRA) to determine any medical or mental health issues, diversity and equality views, or all of the set questions agreed with GEOAmey in relation to COVID-19.

A selection of PER forms that accompanied the arrival of the custody were examined by Inspectors. All were found to have been completed correctly and accurately. It was noted that all further information pertaining to the custody, generated whilst within the CCU, was recorded by staff on the GEOAmey IT system.

On checking the GEOAmey IT system it was encouraging to see that there was a record of custodies being offered hand sanitiser on arrival at the CCU, but there was no record of them being asked questions in respect of COVID-19. The CCU Manager confirmed this and advised that he would begin recording this information with immediate effect.

**Recommendation 1:** as part of the CSRA all custodies arriving at the CCU should be asked the required questions that determine any medical or mental health issues, dependencies, diversity and equality views and the required questions in relation to COVID-19 on every occasion. The outcome should be recorded on the GEOAmey IT system.

**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.**

See QI 1.2 regarding the CSRA process.

Inspectors noted all custodies had been allocated to a single cell since the pandemic started.

The CCU had an effective process in place between themselves, Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS) in respect of the release of custodies from police stations to the CCU.

Communication between the agencies allowed the custody numbers to be staggered, ensuring better management of cell allocation within the CCU and as such maintaining physical distancing.

At 08:00 each day, the CCU Team Manager was in receipt of the custody names and numbers for the day and any risks associated with them. If there were more custodies than the CCU could accommodate due to COVID restrictions, the CCU Team Manager emailed Police Scotland, COPFS, and the Sheriff Clerk to inform them which custodies had arrived in the CCU and which custodies were being held back at police stations. Custodies from Stranraer Police Station, which was the furthest away, were prioritised as Dumfries Police Station was very close by and therefore custodies could be brought to the CCU quickly.

This process allowed for a relatively smooth process in relation to the timeous receipt of marked papers and the court running to time, which freed up cells and allowed the movement of additional custodies into the CCU.

## **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.**

GEOAmey advice posters relating to COVID-19 were clearly displayed within the CCU arrival area and the staff rest areas.

The CCU had five cells and all were operational. There were three custodies present in the CCU at the time of the visit and all were allocated to single cells. Two custodies had come from prison establishments and one from Stranraer Police Station. There was one custody court running on the day of the visit.

Following on from the recommendations made during the full inspection of the CCU in January this year, there was still graffiti on the walls and doors of the cells. Inspectors were advised they were due to be painted but no date had been agreed for this to happen. Inspectors were pleased to see that the air vent issue had been fixed and the recommended repairs had taken place in cell five. Tamper-proof light fittings had still to be installed. This is an area of concern.

There were two interview rooms located within the CCU, but they were not being used because they were too small to allow two people to meet and physically distance from each other. This meant that solicitors held meetings with their clients at the cell door or in the custody vehicle, and all parties wore masks. Inspectors were concerned about the safety aspect of solicitors being present in the CCU and not in a secure space, and also that it did not allow for confidential conversations to take place.

The CCU had one shared toilet available for custodies to use and it was in a very poor condition. Inspectors were advised that there were plans to refurbish it, but there was no timescale for this to happen.



**Recommendation 2:** the SCTS should consider what alternative accommodation can be made available to allow solicitors to meet with their clients in a secure and confidential setting.

**Recommendation 3:** SCTS should prioritise the refurbishment of the shared toilet in the CCU area.

## **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.**

All staff were observed to be trying their best to maintain physical distancing rules whilst seated in the CCU, but this was more difficult when moving around as the area was very small. However, they were seen to be wearing masks at all times.

Inspectors were informed that one member of staff wore full Personal Protective Equipment (PPE) kit including goggles, a mask, gloves and an apron and they were 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.

As mentioned under QI 2.1 there was one shared toilet in the CCU which was in a poor condition and required refurbishment. The toilet displayed information posters in relation to sanitary products and had a sanitary bin. It had cleaning facilities with a soap dispenser, paper hand towels and sinks.

The process for cleaning the CCU was very good. They had an SCTS cleaner specifically allocated to them who cleaned the CCU area every night and the cells between usages. They also visited the area regularly throughout the day to clean the toilets and do anything else that was required.

Staff were encouraged to clean wands and keys regularly and to use hand sanitiser.

Staff were observed offering hand sanitiser to custodies in Interview Room 1 after they had been processed at the reception desk, and inspectors were advised they were offered it when leaving their cells, using the toilet or when leaving and returning to the CCU.

## **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 were advised that custodies were brought from the Court Custody Vehicle handcuffed to a member of staff who wore a mask and gloves. The only difference in the process when taking custodies from the CCU to appear in court was that the custody also wore a mask and kept it on whilst in court. A mask is also offered to custodies who are released, for their onward journey.

Staff controlled the movement of custodies through the CCU to ensure that only one was out of cell at a time.

If custodies require a travel warrant for their onward journey, the CCU Team Manager informed inspectors that he directed them to Criminal Justice Social Work.

#### **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 to the CCU, including legal representatives and agency workers wore masks. As mentioned under QI 2.1, meetings with clients were held at the cell door or in the custody vehicle. Inspectors were concerned about the safety aspect of visitors being present in the CCU and not in a secure space and also that it did not allow for confidential conversations to take place.

Inspectors were advised that CCU staff informed solicitors when their clients were in receipt of their papers. It was observed that there was no process in place for solicitors arriving in the CCU to meet their clients in a controlled manner. As there were no secure doors separating the CCU from the rest of the court, solicitors turned up unannounced and walked straight into the custody reception area. This was observed by inspectors, as a solicitor arrived at the same time as a custody was being processed from the custody vehicle. This exposes all involved to unnecessary risk.

**Recommendation 4:** a process should be put in place to alert the CCU whenever a visitor requires access, to allow them to gain safe access to the custody area.

## **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.**

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.

Following on from the January 2020 inspection, there continue to be issues with ScotNurse meeting their one hour timescale due to the location of the CCU.

## Summary of Recommendations

QUALITY INDICATOR	RECOMMENDATION	RELEVANT AGENCY
1.2	<b>Recommendation 1:</b> as part of the CSRA all custodies arriving at the CCU should be asked the required questions that determine any medical or mental health issues, dependencies, diversity and equality views and the required questions in relation to COVID-19 on every occasion. The outcome should be recorded on the GEOAmey IT system.	GEOAmey
2.1	<b>Recommendation 2:</b> SCTS should consider what alternative accommodation can be made available to allow solicitors to meet with their clients in a secure and confidential setting.	SCTS
2.1	<b>Recommendation 3:</b> SCTS should prioritise the refurbishment of the shared toilet in the CCU area.	SCTS
4.3	<b>Recommendation 4:</b> a process should be put in place to alert the CCU whenever a visitor requires access, to allow them to gain safe access to the custody area.	GEOAmey

**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
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
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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