



## **COVID-19 PANDEMIC EMERGENCY**

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

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

**THURSDAY, 19 AUGUST 2021**

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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 Her Majesty's 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, Her Majesty's 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, 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

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 Court 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.
- 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 could 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 Visit 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 and Kerry Love.

**Wendy Sinclair-Gieben**

HM Chief Inspector of Prisons for Scotland

November 2021

## **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 co-operates 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.**

On the day of the visit, two custodies were observed by inspectors arriving at the CCU and being processed. The custodies identities were confirmed, a photograph was taken, and added to the GEOAmey IT system. Inspectors noted that the camera used to take the photographs was taped to the ceiling, and as such was not fixed adequately to take an acceptable photograph. When viewed by inspectors, the top of custodies heads were missing in each photograph.

The custodies were offered hand sanitiser and were made aware of the Scottish Government’s COVID-19 guidance. Further questions covered general health and safety and the Cell Sharing Risk Assessment (CSRA) before the custodies were placed in single cell accommodation. The officer asking the questions was very clear and concise and dealt well with one custody who was acting aggressively.

The relevant PER forms and entries on the GEOAmey IT system were examined by inspectors and were found to have been completed correctly and accurately. However, inspectors found that the GEOtrack IT system’s “markers box” which is used to identify warning markers associated with the custody, did not allow staff to accurately document the answers to the CSRA questions. Inspectors witnessed a custody inform staff in response to these questions that he was racist, when GEOtrack was reviewed it was seen that there were no warning markers to match the CSRA questions. Therefore, when the custody appears again in a CCU the warning marker for racist would not be picked up. This was discussed with GEOAmey managers during the visit and they stated they would try and resolve this with their IT team.

**Recommendation 1:** the GEOAmey IT system “markers box” should be updated to accurately capture the outcome of the PER CSRA questions.

**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 above re the CSRA.

The CCU had six cells and all were operational on the day of visit. Four custodies planned to appear at court that day. Three adult males, one from HMP Low Moss and the other two from police custody, and one adult female from HMP YOI Cornton Vale. As the day progressed a decision was taken to allow the female to appear remotely from prison for health and safety reasons.

Inspectors were informed that GEOAmey had issued an instruction to all CCUs on 9 August 2021 advising them that they could allocate two custodies per cell, where they were able to keep them one metre apart. The CCU Manager advised inspectors he would only do this where absolutely necessary and that he would move custodies who were sharing a cell when a spare cell became available.

All cells had floor markings that showed they were deemed suitable for double occupancy with two metre distancing. Inspectors found that cells 1, 2, 3 and 4 were big enough to allow two custodies to stay two metres apart. Cells 5 and 6 were smaller and did not allow for this.

It is HMIPS view that during a pandemic custodies should not share cells. The CCU had poor ventilation and a 9D could be issued to Dunfermline Police Station, which is located next to the Sheriff Court building, and accommodates people in single cells. However, where a decision is taken to hold two custodies, cells 5 and 6 should be avoided and their use designated as single custody.

It was noted that cells were thoroughly cleaned by CCU staff between changes of occupants.

At the time of the visit, Dunfermline CCU were not accepting custodies from anywhere else other than their own catchment area, and they were dealing with a small number of custodies. The custody court started at 10:00 each day. The management of papers appeared to run smoothly, with occasional delays due to more complex cases.

**Recommendation 2:** all cells should be single occupancy and in particular cells 5 and 6 .

## **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.**

Dunfermline CCU had no reception desk.

The procedures in place for processing a custody on arrival at the CCU posed a security and safety risk. Custodies are brought to the open door of the staff kitchen/office, where there was no facility to separate them from staff, and uncuffed. Should any custody decide to step forward and close the door behind them a hostage situation could arise. The kitchen utensils located next to the sink, facing the custody, added an additional risk.

The receiving custody officer was hidden from view behind the door with a desktop computer, instantly causing communication problems. The officer asked the custody the relevant questions and recorded them on a sheet of paper before returning to his desk to update the GEOAmey IT system with the outcome. This elongated the process due to the officer having to move between asking the custody questions face-to-face and returning to his desk to record the answers.

These issues were brought to the attention of GEOAmey and the Scottish Courts and Tribunal Service (SCTS) during the visit and both were in agreement that this should be urgently addressed. There is an immediate requirement for an assessment of risk by SCTS in respect of providing a reception area fit-for-purpose that keeps all staff and custodies safe, and allows the reception process to be carried out in an accurate and efficient manner. The GEOAmey manager immediately requested that all custodies remain handcuffed whilst being processed and the kitchen utensils be removed from position until a secure processing area could be identified.



Inspectors also noted that two cell doors and the male toilet door opened inwards considered a health and safety risk. These should be replaced with doors that open outwards as a priority.

GEOAmey advice posters relating to COVID-19 were seen to be positioned on a wall within the CCU staff office, therefore not clearly displayed for all to see in the corridors of the CCU or the area of reception.

All staff were observed to be wearing gloves and masks and were observed to be physical distancing from each other, where possible.

There was adequate Personal Protective Equipment (PPE) within the CCU including hand sanitiser, masks, goggles, gloves and aprons.

**Recommendation 3:** a secure custody processing area should be created as a matter of urgency to ensure staff security and safety and the accurate recording of custody photographs (see QI 1.2) and information.

**Recommendation 4:** the two cell doors and the male toilet door that open inwards should be replaced with doors that open outwards.

**Recommendation 5:** GEOAmey COVID-19 advice posters should be repositioned so all custodies and staff entering the CCU can clearly see them.

## **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 was thoroughly cleaned each day by contract cleaners from the SCTS. This included the toilets and this was recorded on a rota sheet displayed on the toilet door. In addition, the CCU staff cleaned the cells and interview rooms between use and cleaned touch points and keys, etc, regularly throughout the day.

## **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 observed that on arrival at the CCU, custodies were handcuffed to members of transport staff who wore gloves and masks. Search officers were required to wear full PPE to search custodies.

Custodies were brought out of their cells one at a time, e.g. to use the toilet or go to court.

Custodies who were being taken from the CCU to appear in court were handcuffed to a member of staff, with the exception of one sheriff who asked for his custodies not to be handcuffed and therefore they were escorted by two members of staff. Staff wore gloves and masks to and from the court.

#### **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 were required to press a buzzer to alert CCU staff that they required entry and completed register on entering the CCU. Legal representatives were able to bypass the CCU directly into the interview rooms. Any contact they had with custodies was carried out through a glass partition in the interview rooms.

#### **4.4 Systems and procedures for monitoring the movement and activities of individuals inside the CCU are implemented effectively, and accurately recorded on the appropriate system.**

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

Staff knew to wear full PPE when dealing with any custody displaying or reporting COVID-19 symptoms.

## **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.**

### Quality Indicators inspected

At the time of the visit there was no requirement to contact ScotNurse. However, the CCU Manager advised inspectors that he had recently contacted them, and because there was nobody available locally they had to send someone from Greenock who arrived 15 minutes outside the agreed one hour. Inspectors asked CCU staff to monitor arrival times and recommended that if it becomes a regular issue they should report it to their senior management team.

## Summary of Recommendations

QUALITY INDICATOR	RECOMMENDATION	RELEVANT AGENCY
1.2	The GEOAmeY IT system “markers box” should be updated to accurately capture the outcome of the PER CSRA questions.	GEOAmeY
1.3	All cells should be single occupancy.	GEOAmeY/SCTS
2.1	A secure custody processing area should be created as a matter of urgency to ensure staff security and safety and the accurate recording of custody photographs and information.	SCTS
2.1	The two cell doors and the male toilet door that open inwards should be replaced with doors that open outwards.	SCTS
2.1	GEOAmeY COVID-19 advice posters should be repositioned so all custodies and staff entering the CCU can clearly see them.	GEOAmeY

**ACRONYMS**

<b>COVID-19</b>	Coronavirus Disease 2019
<b>CCU</b>	Court Custody Unit
<b>CSRA</b>	Cell Sharing Risk Assessment
<b>eRDM</b>	electronic Records Document Management
<b>HM</b>	Her Majesty's
<b>HMCIPS</b>	Her Majesty's Chief Inspector of Prisons for Scotland
<b>HMIPS</b>	Her Majesty's Inspectorate of Prisons for Scotland
<b>IT</b>	Information Technology
<b>NPM</b>	National Preventive Mechanism
<b>OPCAT</b>	Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
<b>PER</b>	Personal Escort Record
<b>PPE</b>	Personal Protective Equipment
<b>SCTS</b>	Scottish Courts and Tribunals Service
<b>SPS</b>	Scottish Prison Service



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