

COVID-19 PANDEMIC EMERGENCY

LIAISON VISITS – PRISONS AND COURT CUSTODY UNITS



REPORT ON A LIAISON VISIT TO COURT CUSTODY UNIT AT LIVINGSTON SHERIFF COURT

Monday, 12 October 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, 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, 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

Wendy Sinclair-Gieben

HM Chief Inspector of Prisons for Scotland

8 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.

Inspectors did not observe custodies arriving during the visit. Staff informed 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 GEOAmey IT system 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. Custody’s were then 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, and all of the set questions agreed with GEOAmey in relation to COVID-19, before being placed in a cell.

A selection of PER forms were examined by Inspectors. They were all found to have been completed correctly and accurately by the GEOAmey staff, and recorded single cell allocation and that custodies were uncuffed due to COVID. Following on from the last full inspection, there was still an issue with Police Scotland not accurately recording their information on all PERs, including known risks and missing dates of birth, which Inspectors observed. 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. However, staff printed out their record from the IT system and stapled it to the back of the PER before it was either archived or sent with the custody to prison.

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 and during internal movements.

Recommendation 1: Police Scotland should ensure that all PERs are completed accurately.

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 that all custodies had been allocated a single cell since the pandemic started.

The CCU had a process in place between themselves, Police Scotland, SCTS and COPFS in respect of the management of custodies.

At around 07:20 each day the CCU Team Manager was in receipt of the custody names and numbers for the day and any risks associated with them; this allowed a decision to be made on which custodies could be brought to the CCU and how the cell allocation would be applied. The Team Manager shared this information with relevant solicitors and SCTS. COPFS received the list from Police Scotland earlier in the day. If there were more custodies than the CCU could accommodate, the CCU Manager discussed with SCTS Court Officers which papers could potentially be marked first. The purpose of this was to prioritise the custodies held in the police station, situated in the adjacent building, linked to the CCU. The CCU Manager let the relevant solicitors know when the papers arrive and the custody court aimed to start at 11:00 every day.

Inspectors were informed that there had been occasions when marked papers from COPFS had arrived very late, and it is understood that there may have been good reasons for this.

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 displayed in the staff rest area. Although custodies were reminded of the Scottish Government's guidelines, Inspectors agreed it would be helpful to also display the posters in the CCU arrival area to reinforce the guidance to custodies.

The CCU had seven cells. All were operational and found to be in very good order. There were six custodies present in the CCU at the time of the visit and all were allocated to single cells. There were four interview rooms located within the CCU. Again they were in good order.

There was one custody court running on the day of the visit.

The CCU had one male toilet and one shared toilet available for custodies to use and they were in good condition. There were posters displayed advising female custodies how to obtain sanitary products and there was a sanitary bin in the shared toilet for females to utilise if required.

At the last full inspection in June 2020, Inspectors recommended that all prisoner property and valuables should be held in a lock fast room or lockable cabinet to reduce the risk of property going missing. This had not been addressed. However, a GEOAmeY Manager was onsite during the visit and said he would arrange for keys for each of the lockers.

Video links were taking place from both prison and police custody to the CCU and were working well.

Recommendation 2: GEOAmeY to arrange for their COVID-19 advice posters to be displayed in the CCU arrival area, to help reinforce the current guidance.

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 wearing masks and most wore gloves at all times.

The staff rest area was a cell and too small to allow more than one member of staff to be present and physically distanced. Unfortunately there was no other space available for them to use. There were markers on the floor of the CCU to encourage physical distancing.

Inspectors were informed that both a male and female officer were identified to act as dedicated searchers each day. They 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 the toilets were in good working order. They had cleaning facilities with a soap dispenser, paper hand towels and sinks, and displayed information posters in relation to sanitary products and had a sanitary bin.

The CCU area appeared very clean. They shared a dedicated SCTS cleaner with Police Scotland who were located in the next corridor. The CCU area was cleaned every day, either at night or in the morning. CCU staff cleaned the cells between usage and also cleaned door handles throughout the day. They cleaned wands after use and their keys before they were returned to the cabinet at the end of each day. The CCU staff also cleaned the interview rooms.

Staff offered hand sanitiser to custodies on arrival at the CCU and then whenever they moved. They were also provided with a mask. Some staff wore gloves at all times and others were encouraged to use hand sanitiser regularly.

Inspectors were advised that the air filters within the CCU had not been cleaned for some time and that they were unable to do it as it set off an alarm. This was raised with SCTS who advised Inspectors the following day that a job had been raised to address this.

Recommendation 3: SCTS should put a process in place for the cells to be cleaned between use.

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. When taking custodies to court, they were not handcuffed and were escorted by two members of staff wearing gloves and masks.

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

A mask was offered to custodies on their release. For those released who lived in West Lothian, a bus ticket or money was provided by the Social Work Department in the building for their onward journey. For those living out with West Lothian, 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 were not required to enter the CCU area. The interview rooms were located out with the CCU and there was a phone on the wall to allow them to notify CCU staff that they had arrived. Within the interview room there was a glass screen between them and the custody.

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

Inspectors were advised that mental health nurses were now located in the same building and were being utilised when required.

ScotNurse had not required to attend recently, but when they were contacted they arrived well within the one hour timescale.

Summary of Recommendations

QUALITY INDICATOR	RECOMMENDATION	RELEVANT AGENCY
1.2	Recommendation 1: Police Scotland should ensure that all PERS are completed accurately.	Police Scotland
2.1	Recommendation 2: GEOAmev to arrange for their COVID-19 advice posters to be displayed in the CCU arrival area, to help reinforce the current guidance.	GEOAmev
2.2	Recommendation 3: SCTS should put a process in place for the cells to be cleaned between use.	SCTS

ACRONYMS

CCU	Court Custody Unit
COPFS	Crown Office and Procurator Fiscal Service
COVID-19	Coronavirus Disease 2019
CSRA	Cell Sharing Risk Assessment
HMCIPS	Her Majesty's Chief Inspector of Prisons for Scotland
HMIPS	Her Majesty's 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
PER	Personal Escort Record
SCTS	Scottish Courts and Tribunals Service
SPS	Scottish Prison Service



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, 8 December 2020

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