

INDEPENDENT PRISON MONITORING - COVID-19 PANDEMIC EMERGENCY

REMOTE MONITORING FRAMEWORK

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Inspecting and Monitoring –
<https://www.prisoninspectorscotland.gov.uk/>

DO NO HARM - STAY SAFE - TAKE PERSONAL RESPONSIBILITY

Introduction

HMIPS is committed to ensuring that the human rights of those deprived of their liberty are upheld in these extraordinarily challenging times. HMIPS is also committed to ensuring the human rights of staff, Independent Prison Monitors (IPMs) and partner agencies including the NHS and the Scottish Prison Service (SPS) are upheld.

To ensure prison monitoring continues in some form during COVID-19 pandemic and as part of the National Preventative Mechanism (NPM) outlined in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), HMIPS will move to a remote monitoring system for ensuring human rights are upheld.

The temporary transition is in line with:

- Scottish Government policy to reduce social contact, protect the most vulnerable, and to reduce the spread of the virus
- Scottish Government commitment to OPCAT
- The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) "Statement of Principles Relating to the Treatment of Persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic"
- Guidance from the World Health Organisation (WHO) – Europe – "Preparedness, prevention and control of COVID-19 in prisons and other places of detention"
- Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015
- HMIPS Standards for Inspection and Monitoring

This framework will be kept under continual review and as soon as it is safe and reasonable to do so visits will resume by the IPMs.

The remote monitoring framework will include both qualitative and quantitative detail and have four main components, namely:

1. Weekly data requested from SPS Head Office
2. Specific detail from each establishment
3. Development of projects to inform monitoring moving forward and maintain motivation amongst our volunteers
4. Reporting

The framework will be implemented in partnership with the IPMs.



Part One - Core Data

In an attempt to reduce the strain on establishments already under pressure from COVID-19 essential data will be requested from the SPS HQ on a weekly basis.

The data will cover each establishment separately and include:

- Establishment population
- No. of suspected cases of COVID-19
- % reduction in SPS staff
- % reduction in NHS staff
- Any restrictions (or new restrictions) placed on healthcare provision
- Regime restrictions

Collecting the core data has two main functions:

- Firstly, to provide HMIPS with pertinent information about what is happening in each establishment; and
- Secondly, to inform a risk assessment process identifying where HMIPS may need to concentrate resource for a period of time

This will be reviewed on a weekly basis and actions agreed with the HMIPS Team.

A copy of the “Core Information Request Form” can be found at Appendix 1. HMIPS information can be found at Appendix 2.



Part Two - Individual Establishments

HMIPS acknowledge that in order to protect everyone during the COVID-19 epidemic there will need to be changes to the daily routine and regime in Scotland's prisons. We also acknowledge the vital role SPS and NHS staff play in keeping those in their care safe. **These are challenging times**, and we have already seen evidence of staff in prisons working hard to ensure everyone's safety.

However, in line with the CPT, HMIPS are clear that "*protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty*".

The following remote monitoring framework actions are based on the CPT principles published in March 2020:

1. To take all possible action to protect the health and safety of all persons deprived of their liberty. Taking such action also contributes to preserving the health and safety of staff.

HMIPS will monitor the achievement of this by:

- Using core data outlined above to inform an assessment of risk. This will include numbers of people being isolated, and staff SPS/NHS staff percentage absenteeism due to suspected COVID-19
- Establishing at national and local level matters such as the availability of PPE, changes in availability of healthcare services and access in some form of alternative purposeful activity

This is in line with HMIPS Standards for Inspection and Monitoring – Standard 2, Standard 6, and Standard 9.

2. WHO guidelines on fighting the pandemic as well as national health and clinical guidelines consistent with international standards must be respected and implemented fully in all places of deprivation of liberty.

HMIPS will monitor the achievement of this by:

- Checking there are measures in place to ensure Healthcare continues to be managed under the principle of equivalence to community provision
- Checking that physical and mental health provision continues to be available to those who currently have an identifiable condition or are at risk of developing one
- Checking that those with addiction issues continue to get required medications and support
- Forming an opinion on the adequacy of measures in place to ensure that a gender-responsive approach in addressing the COVID-19 emergency in prisons
- Look for evidence of preventative measures being enacted, such as screening and isolation on admission

This is in line with Standard 9 of HMIPS Standards for Inspection and Monitoring.

3. Staff availability should be reinforced, and staff should receive all professional support, and health and safety protection, as well as training necessary in order to be able to continue to fulfil their tasks in places of deprivation of liberty.

HMIPS will monitor the achievement of this by:

- Using core data outlined above to inform an assessment of risk. This will include numbers of people being isolated and SPS/NHS staff absent numbers due to suspected COVID-19
- Assessing the impact of SPS agreed actions such as the redeployment of staff from Head Office to an operational setting
- Looking at detail of any training about COVID-19 and associated support for staff

This is in line with HMIPS Standards for Inspection and Monitoring – Standard 3, and Standard 8.

4. Any restrictive measure taken vis-à-vis persons deprived of their liberty to prevent the spread of COVID-19 should have a legal basis and be necessary, proportionate, respectful of human dignity, and restricted in time. Persons deprived of their liberty should receive comprehensive information, in a language they understand, about any such measures.

HMIPS will monitor the achievement of this by:

- Checking that the revised process for people being detained under Revised Rule 41 Process for those held in Isolation Due to COVID-19 are being adhered to
- Looking at the communication shared with prisoners about the changes and ensuring they are in a format/language people can understand
- Checking mitigations to limit the impact of any restrictions are in place, fair, and proportionate

This is in line with HMIPS Standards for Inspection and Monitoring - Standard 1, and Standard 4.

5. As close personal contact encourages the spread of the virus, concerted efforts should be made by all relevant authorities to resort to alternatives to deprivation of liberty. Such an approach is imperative, in particular, in situations of overcrowding.

HMIPS will monitor the achievement of this by:

- Monitoring the application and effectiveness of wider justice actions such as the reduction in the number of courts operating, and any legislation introduced to reduce overcrowding or encourage the use of alternatives to custody
- Monitoring that current options available such as the use of early release instruments, for example Home Detention Curfews, Parole and Bail are maximised
- Ensuring processes to progress people towards release are maintained as far as is possible

This is in line with HMIPS Standards for Inspection and Monitoring – Standard 5, and Standard 7.

6. With regard to the provision of healthcare, special attention will be required to the specific needs of detained persons with particular regard to vulnerable groups and/or at-risk groups, such as older persons and persons with pre-existing medical conditions.

HMIPS will monitor the achievement of this by

- Using the prison population as part of the risk assessment process. For example, HMP Glenochil has a high concentration of older people with complex needs
- Checking appropriate measures and supports are in place where required, for example contingency plans to ensure the continuation of social care provision
- Checking appropriate and ongoing processes are in place for people subject to Talk to Me procedures
- Checking processes are in place to support people with pre-existing health conditions

This is in line with HMIPS Standards for Inspection and Monitoring – Standard 3, and Standard 4.

7. Fundamental rights of detained persons during the pandemic must be fully respected. This includes in particular the right to maintain adequate personal hygiene, and the right of daily access to the open air. Any additional restrictions on contact with the outside world, including visits, should be compensated for by increased access to alternative means of communication.

HMIPS will monitor the achievement of this by:

- Obtaining detail of the continuation of daily regimes, including access to showers when no in-cell showers exist, and access to time outside
- Monitoring the length of time any restriction to matters such as time outside are in place for, to ensure proportionality, and that all means of resolution are being explored
- Monitoring the implementation and impact of agreed actions such as increased availability of virtual visits or the provision of access to mobile 'phones
- Looking at arrangements in place for communication with families

This is in line with HMIPS Standards for Inspection and Monitoring – Standard 3, Standard 4, and Standard 6.

8. In cases of isolation or placement in quarantine of a detained person who is infected, or is suspected of being infected, by the COVID-19 virus the person concerned should be provided with meaningful human contact every day.

HMIPS will monitor the achievement of this by:

- Looking at processes in place to ensure in-cell activity is available to those suspected of having COVID-19 and are well enough to participate
- Ensuring a television is available to those who are isolated
- Ensuring there is a daily check on wellbeing in a way that maintains the health and safety of all parties
- Monitoring that people have access to meaningful human contact, for example by audio visual or telephone communication
- Monitoring the time people are held in isolation

This is in line with HMIPS Standards for Inspection and Monitoring – Standard 3, Standard 4, and Standard 6.

9. Fundamental safeguards against the ill-treatment of persons in the custody of law enforcement officials (access to a lawyer, access to a doctor, notification of custody) must be fully respected in all circumstances and at all times. Precautionary measures (such as requiring persons with symptoms to wear protective masks) may be appropriate in some circumstances.

HMIPS will monitor the achievement of this by:

- Checking arrangements in place to ensure access to fundamental agencies, for example lawyers
- Checking arrangements in place to ensure effective communication about matters relating to custody, such as date of liberation
- Checking effective communications are in place about any changes to the regime, or usual functioning of the prison for all relevant parties including prisoner, their families, and other relevant agencies
- Looking at arrangements that are in place with partner agencies in the community to ensure safety, clarity, and fair treatment
- Ensuring adequate measures are in place to prevent stigmatisation or marginalisation of individuals or groups who are considered to be potential carriers of viruses

This is in line with HMIPS Standards for Inspection and Monitoring – Standard 1, Standard 4, and Standard 7.

10. Monitoring by independent bodies, including the NPM, and the CPT, remains an essential safeguard against ill-treatment. States should continue to guarantee access for monitoring bodies to all places of detention, including places where persons are kept in quarantine. All monitoring bodies should, however, take every precaution to observe the ‘do no harm’ principle, in particular when dealing with older persons and persons with pre-existing medical conditions.

HMIPS will monitor the achievement of this by:

- Making arrangements to speak to prisoners, for example prison listeners or peer supporters
- Making arrangements for meetings with prison establishment Governors should HMIPS deem there is a particularly high risk. Taking account of health and safety this will include access to the prison to look at conditions
- Escalating serious concerns to senior officials within SPS and the Scottish Government if necessary

This is in line with HMIPS Standards for Inspection and Monitoring – Standard 3, Standard 4, and Standard 5.



Part Three - Projects

HMIPS values and appreciates the contribution made to ensuring fair treatment of the development of the system. To this end there are a number of projects we would like to work on in partnership with IPMs. This project list is not exhaustive and will be regularly updated as tasks are completed:

1. Equality Impact Assessment for the recruitment process
2. Revising the annual review process
3. Review of core training
4. A model for IPM Peer Support
5. Guidance/procedures for monitoring in two establishments
6. Model/pilot for shifting monitoring focus from requests to wider observed practise
7. IPM representation on the IPM Advisory Group

As the work can be done virtually, IPMs from across the country will be invited to be part of small working groups facilitated by PMCs. Once agreed, time lined action plans will be produced.

Part Four – Reporting

Findings from the remote monitoring framework will be reported in four ways:

1. Weekly to the HMCIPS and IPMs – with issues escalated to local prison Governor or agreed SPS contact and, if appropriate, to Interim Chief Executive of SPS
2. Fortnightly to the Scottish Government Director of Justice
3. Monthly to the Cabinet Secretary for Justice
4. Monthly updates for the prison population

This is to ensure all relevant parties are kept informed, and to ensure the escalation of any issues as required.

HMIPS
April 2020



**Core Information Requested from SPS Headquarters
(By Establishment)**

Requested Detail	Response
Prison population	
No. of suspected cases of COVID-19	
Percentage reduction in staff numbers SPS	
Allocated risk rating based on intelligence/current situation	
Percentage reduction in staff numbers healthcare	
Availability of PPE for staff	
New restrictions/changes to healthcare provision	
Regime restrictions (type, location and length of time)	
Restrictions on/changes to access to time outside or a shower	
Changes to/restrictions on visits	
Changes to process for progression or release	
Action taken to mitigate impact of any changes to Regime	
Healthcare	
Time Outside	
Access to Shower	
Visits	
Progression	

Relevant Core Information from HMIPS

Requested Detail	Source
Monitoring Visits in the last four weeks	Weekly updates from PMCs
Months since last inspection	Core HMIPS data
Other Visits from HMIPS in 2020	Core HMIPS data – might include: <ul style="list-style-type: none"> • To discuss inspection action plans • Focus Groups for inspection preparation • Visits to discuss bespoke projects, for example the review of “Who Cares? The lived experience of older prisoners in Scotland’s prisons”
No. of significant incidents in the last four weeks	Available from weekly updates sent to HMIPS from SPS
HMIPS staffing capacity	Available from Stephen Sandham/Wendy Sinclair-Gieben/Kerry Love

