

Review of the Arrangements for Progressing Prisoners from Closed to Open Conditions

August - November 2010

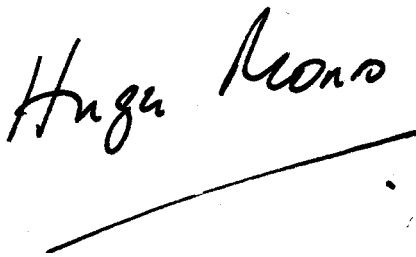
HM Inspectorate of Prisons



To the Cabinet Secretary for Justice

In December 2009 you asked if I would independently review and report on the operation of a number of new processes relating to the transfer of prisoners to the Open Estate.

I have pleasure in submitting my report to you.

A handwritten signature in black ink that reads "Hugh Monroe". The signature is written in a cursive style and is positioned above a solid black horizontal line.

Hugh Monroe CBE
HM Chief Inspector of Prisons
February 2011

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1. OVERVIEW

1.1 There is inevitably an element of risk when rehabilitating prisoners back into communities via the Open Estate. On the one hand if prisoners abscond from open conditions and subsequently commit crimes of violence, as has happened in the past, public safety becomes a very real issue. On the other hand if progression through closed prisons is overly restricted the opportunities to prepare and test prisoners for life back in the community can be closed off, thereby also affecting public safety. Getting this balance right is an important part of the SPS's responsibilities. An equally notable factor in prison progression is understanding the victim's perception of the crime as well as their safety. These factors were an important consideration throughout this review.

1.2 It is clear from close examination of the SPS's current prisoner progression and risk assessment processes that significant advances have been made in addressing many of the shortfalls identified in the Foye and Spencer Reports (see chapter 3) and in the Scottish Prison Service's own internal assurance reviews. The progress made over the past two years in particular has been considerable. This is clearly reflected in the reduction in the rate of absconding from the Open Estate which has reduced from 71 or 24% of the average population in 2004-2005, to six or 2.3% of the average population in 2010-2011 (see paragraph 5.4).

1.3 It is also clear however, that no matter how well-developed and sophisticated the SPS's risk assessment processes become, risk assessment itself is a fallible undertaking. There is no method which will eliminate risk or guarantee accuracy in predicting future behaviour. Therefore in the absence of a failsafe system, the SPS in tandem with community partners has sought to develop a range of tools and processes which should lead to risk management decisions which are thorough, reasonable and defensible.

1.4 Risk assessment, risk mitigation and prisoner case management processes are not new in the SPS and have been evolving over a number of years. Perhaps the most pivotal of these is that of Integrated Case Management (ICM) which was first

introduced in 2006 as a replacement for sentence management. ICM forms the basis of all prisoner case management processes and has made a significant contribution to focussing the Organisation's approach to identifying prisoners' risks and needs and planning interventions accordingly.

1.5 Over time, however, piecemeal changes to SPS policies and practice, as well as necessary change in response to external factors such as legislative requirements, has resulted in increasing disjointedness within the progression system. The ICM process which underpins the structure is now in need of review to ensure that it is fit for its critical role and capable of supporting the imminent introduction of LS/CMI – a risk assessment and planning tool which will be used by prison staff and community partners alike.

1.6 In essence, this review has confirmed that the constituent components which make up the 'progression system' (PSS apart) are of themselves appropriate, relevant and necessary. However, the interrelationship between them has become unclear and a review of the system as a whole needs to be undertaken to eradicate duplication and to re-engineer its various elements to ensure coherence and effectiveness.

1.7 The review addresses policies and processes as well as the *operation* of progression processes.

Policy and Strategy

1.8 At the time of our review, there was no published SPS community reintegration strategy for the guidance of Governors, Directors and relevant community organisations and nor was there a progression manual for practitioners which is capable of process-mapping the critical pathways in an offender's custodial journey and clarifying their interrelationship. As a result, we found different practices in the application of current guidance and variations in the quality of its operation.

1.9 We also found that the Prisoner Supervision System (PSS) which is used to determine the levels of security that need to be applied to individual prisoners, was

too focused on internal compliant behaviour and insufficiently sophisticated to deal adequately with public protection issues.

1.10 Further, in light of the very different context in which the Open Estate is now operating post Foye and Martin, the SPS Management Rule which sets out the minimum periods of time that a prisoner must serve before he is eligible for consideration to transfer to open conditions, would also benefit from review to establish its continued fitness for purpose.

1.11 Opportunities for sex offenders to progress through the system are more limited than for mainstream prisoners. Until April 2010 when four prisoners were transferred to the Open Estate there had been no movement for two years from Peterhead to the National Top Ends or to open conditions. A National Sex Offender Strategy is required to address the management of sex offenders with a view to providing more opportunities to progress to less secure conditions and improving the chances of successful reintegration back into the community.

1.12 A principle concern throughout this review has been about ‘ownership’ and ‘responsibility’. Although individual Governors are responsible for the *operation* of the policies developed by the Prisons Board, corporate pre implementation planning has not been sufficiently methodical to ensure a consistent approach in policy delivery. It is our view that:

- The SPS Board should take formal ownership of progression processes and they should review how best to improve the current system.
- The SPS Board should set out the formal training requirement and how it is to be achieved.
- The SPS Board should regularly review the operation of progression processes and monitor outcomes and quality of activity.

- The SPS Board should delegate day-to-day functioning of the processes, as well as oversight of training, to the Director of Prisons.

Processes

1.13 It is quite clear that risk assessment, risk mitigation, prisoner case management and identifying and planning suitable interventions for serious sexual and violent offenders are complex and challenging tasks. Similarly, there are significant demands and expectations placed on those staff who are charged with making decisions about such issues as temporary unescorted access to the community, Home Detention Curfew, suitability for Parole and pre-release preparation.

1.14 Our examination of the current processes which are intended to support these critical decisions suggest that they have become fragmented. As things stand, various groups often involving the same people, meet to discuss risk and prisoner management issues. This list of forums, which is not exhaustive, includes Integrated Case Management Case Conferences (ICM) - complemented as necessary by Risk Management Groups, Multidisciplinary Progression Management Group (MDPMG), Multi-Agency Public Protection Arrangements (MAPPAs), Parole and Home Detention Curfew (HDC).

1.15 Currently Case Management Boards are managed by the Open Estate within the first few weeks of admission there. We have reservations about this process as set out at paragraphs 5.35 to 5.38 and suggest this is reviewed with a view to lowering risk even further.

1.16 We are of the view that the provision of a revised and streamlined risk and progression system needs to be explored and should ideally become the responsibility of a dedicated core multidisciplinary team in each Establishment who have the skills, knowledge and experience to provide a comprehensive risk assessment and prisoner case management service. In our view, such focused provision would overcome many of the issues we have about quality and consistency of practice and would add further improvement to the present arrangements.

Documentation

1.17 There is standard SPS documentation in place now for all parts of the prisoner progression process and this has unquestionably helped improve data collection and recording. However, we found variations in both the quality and comprehensiveness of submissions – particularly in the Prisoner Progression Assessment (PPA).

1.18 Not all MDPMG groups had a means of verifying the accuracy and currency of information provided to them and not all ensured that their proceedings were fully documented and their action plans specific, measurable, achievable, realistic and time bound (SMART). In addition it was not always clear who was responsible for ensuring the delivery of the Group's agreed plans. Internal audits of these processes are going some way towards addressing these shortfalls.

1.19 Relevant forms were usually, but not always filed in PR2 and not invariably in the correct domain. Our discussions with staff revealed a degree of skills degradation in relation to the operation of PR2 and we recommend that steps are taken to introduce regular opportunities for relevant staff to upgrade their competence.

1.20 Should the current progression system be reviewed as recommended, then existing standard templates should also be re-examined.

Staff Training and Awareness

1.21 Staff involved in progression processes have considerable experience in dealing with the complexities of risk assessment and case management, but little or no training has been made available for all members of MDPMG groups in order to ensure their common understanding of defensible decision making, public protection issues and of the range and limitations of risk assessment tools. Similarly, we observed too wide a disparity in Chairmanship styles and approach to be confident that experience alone was sufficient to guarantee rigour and focus in leading MDPMG meetings.

1.22 We also found that only a very few of the MDPMG members to whom we spoke, had ever visited the Open Estate or the National Top Ends and admitted to having only a superficial knowledge of the regimes and opportunities on offer there.

1.23 Further away from core processes we found considerable differences among staff to whom we spoke, about their level of understanding of the operation of the 'progression system' and how it all fits together. Some did not feel confident about their ability to explain the system in detail to prisoners because they were not aware of a single point of reference to which to turn for guidance. ICM staff on the other hand were very knowledgeable and took a leading role in advising prisoners.

1.24 We are aware that the Open Estate has been making efforts to expand awareness among both staff and prisoners about their regime, opportunities and challenges. The very useful written information which they have produced though, has not always reached the attention of those who need to know. A helpful booklet about living in open conditions has been designed by prisoners in the Open Estate for the benefit of other prisoners who are nearing transfer and this has been widely praised.

1.25 We found that the absence of a fully functioning Personal Officer scheme detracted from the potential for improving communication with prisoners about the critical link between risk and progression. Properly equipped Personal Officers also have a significant part to play in contributing to the ICM process and in assisting prisoners to implement the action plans and interventions identified for them. We recommend the reinvigoration of the Personal Officer scheme to complement any changes to the progression system.

1.26 It is our view that the SPS Board should take responsibility for the training requirement for progression processes. A training plan should be produced and training outcomes should be regularly monitored.

Conclusion

1.27 In essence the progression system is functioning adequately and the improved reduction rates demonstrate that. This review concludes, however, that the processes should be simplified and streamlined and that managers and staff should receive regular training.

1.28 Finally, the SPS Board must 'own' this process and take formal responsibility for its effectiveness.

1.29 Because this Review addresses each of the 31 recommendations and 7 suggestions in three separate reports, there is an inevitable degree of repetition in relation to our analysis and comment on each.

Summary of Key Recommendations

Table 1

1. The SPS Board should take formal responsibility and ownership of the progression system.
2. The Board should review progression processes and training with a view to producing a simplified and improved system.
3. The Board should review how the gap between prisoners' high priority needs and their existing programme and intervention provision can be closed.
4. The Board should introduce a robust quality assurance process to address the outputs of MDPMGs.
5. The Board should reinvigorate the Personal Officer scheme and ensure that Personal Officers are trained and monitored.
6. Family involvement in the ICM process should be improved.
7. The Board should produce a National Sex Offender Strategy.
8. The Prisoner Supervision System should be reviewed.
9. The SPS should publish a community reintegration strategy for the guidance of Governors and Directors.
10. The SPS should publish a risk management and progression manual for the guidance of practitioners.

2. BACKGROUND TO THE OPEN ESTATE

Eligibility for Open Conditions and Unescorted Community Access

2.1 Not all convicted prisoners are eligible to be considered for unescorted access to the community or for transfer to open conditions. The first stage qualifying criteria as they currently stand are described in detail at paragraph 7.8.

2.2 There is no open prison provision for male Young Offenders under the age of 21 though suitable individuals may qualify for unescorted community access from within HM YOI Polmont. On reaching 21 years, male YOs become eligible for transfer to the Open Estate in the same way as adults. Similarly, there is no separate open prison for female offenders but these open conditions are available for female adults and YOs at a number of Independent Living Units (ILUs) situated outside the secure perimeter of Cornton Vale prison and women may qualify to progress there. Small units within Aberdeen and Inverness prisons enable eligible female offenders from those areas to qualify for gradual reintroduction to their communities.

2.3 There are three designated National Top Ends (NTEs) from which prisoners may qualify for unescorted access to the community. These are located in Cornton Vale, Shotts and Greenock prisons.

2.4 The review scrutinised the progression processes for dealing with young offenders and female offenders as well as those for long and short term adult offenders.

The Purpose of the Open Estate

2.5 The Open Estate has traditionally fulfilled two roles. Primarily it provides an opportunity for long-term prisoners to normalise, to take on the additional responsibilities associated with increasing freedoms in the community and to practice their desistance from offending. The ‘deprivations’ and adverse effects of imprisonment are well documented. Open Prison provides an opportunity for prisoners to learn, relearn and practice new skills in restrictive but supportive

conditions. It provides a suitable locus for the relevant authorities in partnership with the SPS, to assist offenders to build and develop the protective factors which promote desistance from crime. In doing this, the Open Estate also provides a test of the offender's response, motivation and adjustment to altered freedoms and responsibilities.

2.6 For suitable short-term prisoners it is considered that open conditions provide the opportunity to serve a proportion of their sentence in conditions with less restrictive security arrangements, giving access to improved personal development opportunities and the capacity to build and importantly to maintain family and community relationships. It helps to protect them in part from some of the more negative aspects of the process of imprisonment.

2.7 The Open Estate is currently available to a broad spectrum of sentence ranges. The view of SPS, of Government and of many other commentators is that allowing long-term prisoners controlled access to the community is a necessary contribution to assessing their suitability for parole or conditional release. Those prisoners who have committed serious offences invariably spend a long time in secure custody and are therefore the most in need and the most likely to benefit from the opportunities that open prisons offer. Accordingly, community access often figures as a specific requirement for individual prisoners in Parole Board recommendations.¹

2.8 Many prison jurisdictions have a system of open institutions and like Scotland, they also exist to provide a bridge for prisoners back into the community.

¹ Extract from Assurance Review of the SPS Open Estate 2008.

3. BACKGROUND TO THE REVIEW

Background

3.1 The Open Estate has been under intense scrutiny since prisoner Robert Foye absconded from Castle Huntly in August 2007. In the seven days it took to apprehend him, he raped a 16 year old schoolgirl. SPS conducted an internal review of the circumstances surrounding the transfer of Foye from HMP Perth in June 2007.

3.2 This report, published 18 March 2008, concluded that Foye had met the criteria for access to the Open Estate but that it was possible that he would abscond again, he had previously absconded from Castle Huntly in September 2005. The report also concluded that it was not possible to predict the nature of the crime that he ended up committing. Seven recommendations were made and the processes for progression to the Open Estate were tightened up.

3.3 A further internal “Assurance Review of the SPS Open Estate” was published in June 2008. This was commissioned by the Chief Executive of the SPS as an additional assurance following the submission of the Foye Report. It provided an update and highlighted areas for development in policy and practice. A number of areas for improvement were highlighted and 15 new processes identified.

3.4 The recommendations in the Foye Report and the Assurance Review were generally implemented. They dealt with processes aimed at tightening up decision making. However, prisoner Brian Martin was transferred to the Open Estate from Shotts on 27 April 2009 but absconded on 18 May 2009, like Foye he had a history of absconding, having absconded from Noranside in May 1987. The issues highlighted by this abscond again raised concerns about the decision-making processes involved in the transfer of a prisoner to open conditions.

3.5 The Cabinet Secretary for Justice asked Professor Alec Spencer to carry out a review of the decision to send Brian Martin to open conditions. Professor Spencer submitted his report “Balancing Risk and Need” on 22 June 2009.

3.6 Professor Spencer reviewed processes, decision making and information sharing between agencies relating to the transfer of prisoners to the Open Estate. He also looked at some of the wider issues and made comment on the use of open conditions. Professor Spencer made nine recommendations, one action point and six suggestions.

3.7 The Cabinet Secretary responded to Professor Spencer's report in January 2010. Seven recommendations were accepted, of which five have been implemented and two are currently under review for possible action in the longer term. As part of the Ministerial Foreword to the response, the Cabinet Secretary asked Her Majesty's Chief Inspector of Prisons independently to review and report on the operation of the new processes.

3.8 In tandem with the request to HMCIP to carry out an independent review, the SPS Audit and Assurance Unit announced a follow up audit of the Spencer recommendations on 5 February 2010.

Scope

3.9 For the purpose of this review, open conditions include the Open Estate, National Top Ends (NTEs) the Independent Living Units at Cornton Vale and any other situations in which prisoners or young offenders are granted unescorted access to the community (excepting HDC).

Aim

3.10 The aim of the review was to examine how a number of new processes and developments have been implemented to ensure that the risk of absconding is reduced. The review looked at:

- Multi-Agency Public Protection Arrangements (MAPPA)
- Integrated Case Management (ICM)
- Information sharing between all relevant agencies
- Risk assessment procedures, tools and processes

- Progression systems
- Operational arrangements
- Management controls
- Decision making

3.11 The recommendations followed up in this review are as follows.

3.12 Recommendations from the Foye Report published in March 2008:

10.1 A multi-disciplinary ‘progression meeting’ should take place prior to transfer, regardless of sentence length.

10.2 Suitable information, including home circumstances should be available prior to transfer.

10.3 Clear protocols should be in place to ensure the sharing of relevant information for risk assessment purposes.

10.4 Reports should be standardised and linked to PR2.

10.5 A Case Management Board at the Open Estate should take place as soon as possible after transfer.

10.6 Enhanced arrangements for dealing with adverse circumstances such as absconds should be developed.

10.7 Relevant SPS staff should have staff training input on ICM and risk assessment as a mandatory requirement.

3.13 Recommendations from the SPS Assurance Review published in June 2008.

12.4 Processes should take better account of the principles of effective risk assessment, management and defensible decision making.

12.5 The SPS should continue to work with the Scottish Government and other partners to clarify the critical tests in respect of risk, which tools will be used and how this test of risk will be expressed.

12.6 The SPS should ensure that processes separate the issue of internal compliant behaviour from public protection risks.

12.7 Staff awareness of risk assessment and defensible decision making issues should be improved.

12.8 Adequate assessment, access to interventions and suitable preparation prior to transfer from closed conditions is important to improve community integration outcomes.

12.9 Testing and progression should be staged to reduce the impact of institutionalisation, with different stages of the process focused on different issues such as internal behaviour or compliance, public protection and management in the community.

12.10 The criteria at different stages of sentence for progression should be aligned and not in competition with each other.

12.11 Each prisoner should have a community management plan prepared prior to transfer. This should be reviewed on arrival at the Open Estate and as the prisoner progresses.

12.12 The individual wishes, needs and support requirements of offenders and their families should be considered during transfer and contact maintained towards release.

12.13 The suitability and sufficiency of supervision arrangements in the Open Estate and on home leave should be reviewed, paying particular attention to prisoners who

may be on additional restrictions or MAPPA arrangements on release. Specific focus should be given to the first 30-40 days post transfer when the possibility of abscond appears highest.

12.14 Standard management information reports should be developed to assist decision making and monitoring.

12.15 There should be standardised reporting to improve recording of decisions and audit trails.

12.16 Data quality within PR2 and ICM should be improved to support decision making.

12.17 Appropriate levels of senior management scrutiny should be applied to transfer decisions.

12.18 When breach occurs the response should be effective and consistent, and should allow for evaluation to improve the process.

3.14 Recommendations and Suggestions from Professor Alec Spencer's Report "Balancing Risk and Need" Published in June 2009.

Recommendations

12.1 "A 'Flag' is placed on the PR2 computer system (the SPS's prisoner record system) for 'Absconder/Escaper' and that whenever relevant information is identified or received or an event occurs, the 'Flag' is activated.

12.2 Before the final decision is made to transfer to open conditions the prisoner record file(s) should be reviewed.

12.3 Where the Governor or Deputy Governor does not chair the Multi-Disciplinary Progression Management Group (MDPMG), the agreement for transfer to open conditions becomes a recommendation which should go to the Governor or

Deputy Governor for approval and signing. This is not a decision that can be delegated further down. In relation to Recommendation (2) above it is also my view that the Governor or Deputy Governor when being asked to confirm a transfer to open conditions additionally reviews the case file to assure themselves that the prisoner is appropriate for transfer to open conditions and there is nothing known about him or her which would preclude their access to the community.

12.4 A Police Liaison Officer attends the MDPMG meeting and provides the Police intelligence input to decision making.

12.5 Input in person (by the police and/or the relevant criminal justice social worker) or by tabling of the External Enquiry Form and Home Background Report be made mandatory before a case considering transfer to open conditions can be discussed.

12.6 Research should be undertaken to determine the efficacy of open prison, its benefits and the most effective time for transfer of prisoners to open conditions.

12.7 Long-term prisoners are eligible to access open conditions too early in their sentence. Long-term prisoners should not be eligible to be transferred to open prison any earlier than one year before their Parole Qualification Date (PQD).

12.8 Open prison be restricted for use only by long-term prisoners.

12.9 SPS should produce a 'preparation for open prison' package which can be delivered to prisoners before their transfer.

Suggestions

(a) It is important that SPS's records are as comprehensive as possible and that they include the Trial Judge's Report where available.

- (b) SPS should simplify and standardise use of terminology, forms and meetings (and similarly) SPS should review the range of meetings to consider progress, risk and assessments and see if it can simplify the process.

- (c) Home Detention Curfew (HDC) is already available from closed prison, and consideration should be given to look at the policy and decide whether it should be extended to a broader range of short-term prisoners. Indeed, HDC already provides through electronic monitoring greater control over offenders than when on extended home leave. There could also be consideration of the requirement for work, training, or ‘community payback’ while on periods of HDC.

- (d) GPS tagging be considered for long-term prisoners in open conditions.

- (e) Multi-Agency Public Protection Arrangements (MAPPA) are commenced before relevant offenders are transferred to open conditions.

- (f) SPS should look at ways of encouraging a ‘culture of consultation’ and also use the Head of Residential meeting for developmental purposes.”

4. METHODOLOGY

4.1 HMIPS Inspectors and Associate Inspectors were supported in the review by colleagues from the Social Work Inspection Agency. SWIA colleagues lent their particular expertise to scrutiny of risk assessment processes; to examining the contribution of prison based social work staff (PBSW) to progression decision making and also to considering the provision of information and service from community based social workers (CBSW).

4.2 A joint Inspectorate briefing day was organised by the Scottish Prison Service College at the review team's request in order to ensure a common understanding of progression processes by both groups of Inspectors. Background reading in advance of the fieldwork included all relevant external reports and a wide range of internal SPS policy and practice documents relating to risk assessment, prisoner case management and progression processes. Detailed templates and guidance were produced by HMIPS for the use of the Inspectors in each of two review teams which were set up to undertake the necessary fieldwork. The templates helped to establish consistency of approach in evidence gathering and recording.

4.3 The fieldwork phase of the review began in August 2010 in order to allow time for the changes announced in Governors and Managers Action Notice 4A/10 dated January 2010 to be implemented. This Notice consolidated existing policy and practice in relation to risk assessment and progression management. The fieldwork was completed in November 2010. It had involved direct observation of Integrated Case Management (ICM) and Multi-disciplinary Progression Management Group (MDPMG) meetings and also of Risk Management Group (RMG) meetings in prisons where the latter were held.

4.4 Inspectors also reviewed the minutes of current and past ICM, MDPMG and RMG meetings as well as risk assessment and case management paperwork and electronic (PR2) records. Individual semi-structured interviews took place with Governors, Directors and their Deputies and with other key prison-based managers and staff. Interviews also took place on an individual and group basis with prisoners in every establishment. The Inspectorate also invited the views of key external

stakeholders including ADSW, ACPOS, the Parole Board, CJAs, COSLA and NHS (Scotland).

4.5 Account was taken of the ‘authorising environment’ as follows:

- Prison Rules and Directions (the Prisons and Young Offenders Institutions (Scotland) Rules 2006).
- SPS Governors and Managers Action Notices and internal guidance on progression procedures.
- The Integrated Case Management practice guidance manual.
- Multi-Agency Public Protection Arrangements (MAPPA).
- Home Leave Integrated Practice guidance.
- Prisoner Supervision System policy and guidance.
- The SPS Management Rule.

5. PROGRESS ON THE RECOMMENDATIONS MADE IN THE FOYE REPORT

Recommendation 10.1

“A multi-disciplinary ‘progression meeting’ should take place prior to transfer, regardless of sentence length. This would ensure that all relevant file materials (including intelligence, addictions, risk assessment, mental health, social work, parole and ICM) are brought together and discussed in the context of access to less secure conditions and focused on risk management.”

5.1 The recommendations in the Foye and Spencer Reports precipitated an SPS internal review of existing policy and practice which resulted in the production of ‘Governors and Managers Action Notice 4A/10 (addendum)’ entitled “Decision making responsibilities and preparation for prisoner progression”. This Notice amended and consolidated previous policy and guidance and reminded recipients of procedures in respect of risk assessment and management of the progression of prisoners to open conditions and/or to unsupervised community access via National Top End facilities (NTEs).

5.2 The Notice also included a new standardised format for recording and evidencing decisions of the Multidisciplinary Progression Management Group (MDPMG). The latter had previously been established in April 2008 to act as the final decision making forum for all progression cases and represented a significant improvement on previous practice.

5.3 Inspectors found that without exception, MDPMG meetings were taking place in all Establishments under the terms of the new imperatives, to discuss prisoners who prima facie, met the prescribed criteria for progression. However, we found variations in the availability and quality of reports and documentation, and in the structure and conduct of meetings.

5.4 The overall conduct of MDPMG meetings themselves ranged from an inclusive, methodical and analytical approach to a more organic and discursive style.

Some groups utilised PR2 records projected on-screen so that all members could see relevant information simultaneously and could also interrogate data in real time. These groups also tended to populate the greater part of the PPA form as they went along. This enabled the rationale for their decisions and action plans to be recorded and shared with others outside the group very quickly and efficiently. Other groups relied only on the written material available to them at the meeting supplemented by oral contributions from members.

5.5 In terms of recording decisions, all MDPMG groups utilised the PPA form but some also added minutes as a fuller account of proceedings. In some cases a minute taker was available, in others a member of the group populated the PPA as the meeting went along (this was a more or less efficient process depending on the individual's keyboard skills). It was not invariably the case though that each Group's decisions were *comprehensively* recorded and nor were action plans always specific, measurable, achievable, realistic and time bound ('SMART').

5.6 Whilst stylistic differences in themselves are not of great importance, it was clear that those groups who adopted a systematic approach in which all members participated fully, were much more likely to analyse the pertinent issues in depth and therefore reach a robust and defensible decision. They also tended to be better prepared in advance of meetings and were observed to be more likely to defer decisions if they were not content with the quality of reports and information provided to them. In some Establishments, small groups of MDPMG members met in advance of the main meeting to discuss more difficult or complex cases, which we consider to be good practice.

5.7 In relation to general pre meeting preparation, MDPMG members theoretically have access to the information which is prescribed in the GMA guidance Notice of 2010 as essential to the process of making decisions on prisoner progression. This is both paper-based and held on PR2. However, we found that relevant paper-based information tended to be held by different departments in different locations across the prison, thereby making access to it awkward and time consuming. As a consequence, we observed meetings in which paper based information had not been

seen by some MDPMG members until the meeting itself, which tended to inhibit detailed discussion.

5.8 We were advised that MDPMG members, for very practical reasons, could not be provided with individual copies of all relevant documentation in advance of meetings because of the sheer volume of paperwork involved and the time and cost of producing the material. This is a problem which requires to be addressed. There should be clarity about what participants are obliged to put on PR2 in advance of these meetings, rather than this being left to the discretion of the relevant contributors. This should reduce the amount of highly sensitive or very recent material which cannot be distributed in advance.

5.9 Separately, we recommend that a consistent approach is found to verifying the accuracy, currency and completeness of all the information provided to MDPMGs. This arose as an issue because it was clear on observation that the data held by different departments could vary quite considerably and reports and assessments were sometimes out of date or absent altogether.

5.10 As described in more detail later in the review, some MDPMG members found difficulty in navigating electronically-held PR2 records and were not confident that they knew how to find all of the relevant reports. Our audit of PR2 also revealed that not all reports had been 'filed' in the correct domains and in other cases, had not been filed at all.

5.11 In relation to MDPMG membership, we found that by and large, healthcare staff only attended meetings where there was a known history of mental health issues. Only a few groups gave consideration to physical health conditions (other than disability) which might impact in some way on either the decision to transfer, or on the prisoner's ability to manage his health issues on transfer. We judged that healthcare staff had potentially as much to gain as to give by attending MDPMG meetings and should therefore be standing members. It is also our view that the Prisoner Progression Assessment (PPA) should have an additional section which requires healthcare staff confirmation that the prisoner is both mentally and physically fit for transfer.

5.12 Finally, we had reservations about the fundamentally different approaches adopted to decision making among MDPMG Chairs. Some began from the basis that if all the prescribed qualifying criteria were met, then there should be a presumption in favour of prisoner access to open conditions. Most, however, regarded the fact of a prisoner meeting the qualifying criteria, as simply an essential prerequisite for *consideration* of suitability for access. There are clearly implications for MDPMG outcomes depending on the underpinning premise adopted by each Chair. Guidance is needed to ensure consistency of approach.

5.13 In essence, we found MDPMG procedures to have been clearly laid out in GMA Notice 4A/10 – but there was a good deal of variation in the consistency and standard of their *operation*.

Key Action Points:

Table 2

- *PPA plans and recommendations should be SMART*
- *MDPMG documentation should be easily accessible prior to meetings*
- *All information provided to the MDPMG should be verified for accuracy, currency and completeness*
- *Healthcare staff should be standing members of the MDPMG*
- *The PPA should confirm physical fitness to transfer*
- *Clear guidance should be produced on the Chairing and conduct of MDPMG meetings*
- *Consideration should be given to re-engineering the progression system in order further to strengthen existing arrangements*

Recommendation 10.2

“Suitable information, including home circumstances, should be available prior to transfer from closed establishments and should be considered during the progression meeting.”

5.14 At every MDPMG meeting attended by Inspectors, there was an expectation that a home circumstances report would be available (HLHBR). There were instances

where the home circumstances report was late or the findings were too uncertain to contribute to a final decision. Sometimes this was because accommodation problems remained unresolved. We observed cases where these problems and the fact that they were a bar to progressing transfer to open conditions, had been known about since the last ICM before the progression meeting. The reports also covered family and social supports and there were instances of good practice in flagging up the unsuitability or risks associated with the supports put forward by the prisoner.

5.15 Reports were based mainly on recent social worker contact with family members and a visit to the intended release accommodation. Reports in relation to long-term prisoners were variable in quality, but tended to be of more consistent good quality when the recently-introduced standardised report template was used. The template served to organise the report content more clearly and ensure that all relevant areas were covered. Staff in the Open Estate estimated that the new template was being used in some 70% of cases.

5.16 Where reports were received and shared with prison based social work staff (PBSW) staff before the MDPMG meeting, good practice was seen with PBSW colleagues able to check and address any information omissions or inconsistencies. They were also a useful means of reinforcing consideration of risk factors which required concerted pre- and post-release management.

5.17 We consider that it was potentially prejudicial to proceed with a MDPMG meeting but to defer a final decision because there was no home background report. A cut-off point should be introduced for the receipt of all essential documentation, including PR2 up-dates and home background reports. If reports are missing at this point the meeting should be postponed. A record should be kept of which missing report resulted in postponement and the responsible party notified accordingly. This supports accountability and has the potential to improve pre-meeting preparation. We noted earlier that this was a key component of good and defensible decision-making.

5.18 We were concerned that it was unusual for community based social work staff (CBSW) to include plans for contact with the prisoner to establish supervisory engagement and monitor the prisoner's time in the community during home leaves or

time in open conditions. We heard that pressures on staff time meant that CBSW staff often limited the commencement of such engagement to the point of full release. This appeared to diminish the effectiveness of home leave periods in preparation for release and did not take account of best practice guidance².

5.19 Another area of concern was the problem of obtaining appropriate HLHBRs for cross border transfers or those prisoners planning to relocate outside Scotland on release. The different standards of risk assessment applied in other parts of the UK often rendered reports, where they were available at all, unhelpful. This caused problems for MDPMGs in judging the suitability of home addresses for this group of prisoners.

5.20 Without exception, those MDPMG meetings that we observed were attended by prison based social workers whose information and professional input was almost always of a good standard and contributed significantly to discussion on home background issues. The role of prison-based social work (PBSW) in the progression process appeared to be uniformly defined and well understood by social work staff and service partners at all prisons visited. The main role was collecting and collating risk-related information and presenting an up-date on involvement and risk evaluation at the progression meetings. Social workers also contributed to the development of plans to manage prisoners' risks and identified the supervision and supports which a prisoner would need when returning to the community.

5.21 PBSW risk assessments were, in the majority of long-term prisoner cases, of good quality. Risk assessments showed good use of currently available assessment tools. However, risk assessments were not always updated by PBSW staff prior to the progression group meeting and in some instances the most recent risk assessment was a year or more old. At this critical juncture in a prisoner's sentence we consider it essential that current and comprehensive risk assessment is at the centre of the decision-making process.

² See Justice Directorate Circular No JD 3/2010: Integrated Practice Guidance for staff involved in the Home Leave Process

Key Action Points:

Table 3

- *CBSW staff should meet with prisoners during their home leave periods*
- *All HLHBRs should be submitted on the new template*
- *Risk assessments should be kept up to date by PBSW staff*

Recommendation 10.3

“Clear protocols to ensure sharing of relevant intelligence information for risk assessment purposes are required”.

5.22 In all cases, local security and intelligence information along with that gleaned from the Police External Enquiry Form (EEF) was presented in redacted form to the MDPMG. However, concerns remain among some MDPMG members about the perceived unwillingness of prison security staff to share reasonably detailed intelligence information which they consider so important to informing good risk assessment. This concern was expressed most frequently by social work staff – but not uniquely so.

5.23 An examination of a sample of EEF forms showed that information provided by the Police was frequently limited to an indication of whether there were any outstanding charges known. Others also contained brief comments about substance misuse or violence which in all cases examined, was already known to the prison. In many cases, the EEF forms simply recorded “nothing known”.

5.24 Further exploration by Inspectors found that EEFs are not researched to a common standard across Police Forces which means that offenders are not invariably checked against information held in all local police databases. Nor is every offender checked against the Violent, Sex Offender Register (ViSOR). This is a programme developed by the Police Information Technology Organisation (PITO) which holds information from across the UK on registered and non-registered sex offenders,

violent offenders and potentially dangerous persons. The database is accessible by all Police Forces.

5.25 We found that because each Force area maintains its own databases relating to local crime it was not possible for prisons to contact one Force Intelligence Bureau and be sure of being provided with all the information known about an offender in other Force areas. We consider detailed searches to be essential in every case when a prisoner is being assessed for transfer to open conditions or to unsupervised community access.

5.26 Prisons have to make separate application to the Scottish Criminal Records Office (SCRO) for a criminal history check on each offender. Depending on workloads and priorities, information from SCRO and from the police in relation to EEFs, can take several weeks to be returned.

5.27 Those prisons with a Police Intelligence/Liaison Officer (PIO) in place had a particular advantage over others in that the PIO could quickly and directly access the information required for completion of the EEF and this had the added benefit of significantly reducing the information turnaround time. We are aware that arrangements are in place south of the border to allow specially screened prison security staff direct access to certain police databases in order to facilitate critical information sharing. Similar arrangements for staff in Scottish prisons would go a considerable way toward supporting robust risk assessment processes here and contributing to public safety.

5.28 In the interim, we suggest that prior to every MDPMG meeting, the names of every prisoner to be considered, should be submitted to the SPS's National Intelligence Bureau to rule out any known links with serious and organised crime. The NIB should adopt a proactive role in assisting MDPMGs with their risk assessment decisions.

5.29 Whilst we understand the sensitivity which attaches to intelligence and security information – particularly in relation to matters of serious and organised crime - this is a clear public protection issue and ways need to be found to overcome

the cultural, legislative and organisational barriers which inhibit effective sharing of data for risk assessment purposes.

Key Action Points:

Table 4

<ul style="list-style-type: none">➤ <i>Clear processes should be in place to ensure the sharing of sensitive information</i>➤ <i>All External Enquiry Forms should be researched to a common standard by every Police Force</i>➤ <i>Consideration should be given to permitting suitably screened prison staff access to relevant police data bases</i>➤ <i>The SPS National Intelligence Bureau should screen all prisoners being considered for access to open conditions</i>
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Recommendation 10.4

“The introduction of standardised report formats attached to the electronic prisoner records 2 system (PR2) to improve report linkage and recording of the rationale behind decisions taken.”

5.30 The SPS has made considerable headway in standardising report formats across the board.

5.31 However, because of a degree of skills degradation among some groups of staff, not everyone is able to navigate PR2 sufficiently competently to be able to input and extract prisoner information. We asked the question of many staff about how to add a report to PR2 and how to interrogate the system for data. We found a broad spectrum of responses from only being able to check a prisoner’s basic information, to staff such as ICM case workers who had a very comprehensive understanding of PR2 and its functions.

5.32 Many staff admitted to us that they had never progressed beyond a basic operator level and felt in need of updating their skills and knowledge in regard to all

of the changes and additions that had been made to PR2 over a number of years. This seemingly fairly widespread PR2 skills erosion means that the system may not be as accessible and therefore as useful as it could be to all staff who have an obligation to make use of the information it contains.

5.33 Secondly, we found that linking and cross-referencing reports on PR2 is not consistent. Some Establishments routinely file and attach relevant reports to PR2 while others are less assiduous. Of particular note from our PR2 audit was the number of times we found that PSS documentation, adverse circumstances reports and critical incident reviews were absent.

5.34 Risk assessment documentation (RA 1-3) was attached more often than not to the assessments domain of the Community Integration Plan section, but RA 4s were not attached due to the sensitive information held in them. We found that PPAs were routinely filed on PR2 after the MDPMG meeting but there is clearly some confusion among staff as to which is their parent domain. Sometimes they can be found with risk assessments on PR2 and sometimes in case conference domains. ICM case conference records were filed on PR2 in 100% of cases audited. Community Integration Plans were usually filed on PR2. A more reliable assurance process is needed.

5.35 Overall, Inspectors felt that the SPS's IT system needs development to maximise the potential for information sharing with community partners and also to allow better interrogation of management information. The SPS is data rich but limitations in the present IT system mean that aggregated risk and needs data for example, cannot easily be mined.

5.36 Quantitative data is unsurprisingly more readily accessible than qualitative data such as that related to say, the value and impact of the Open Estate experience on individual prisoners. The latter may become clearer though as a result of the research which has been commissioned by the SPS and undertaken by Professor Mike Nellis.

Key Action Points:

Table 5

- *Staff should be PR2 competent to the level required for their roles*
- *All relevant documentation must be filed on PR2 and a reliable assurance process installed*
- *The SPS IT system needs to be developed to facilitate better data interrogation and information sharing with community partners*

Recommendation 10.5

“The Case Management Board (CMB) at the Open Estate should take place as soon as possible after transfer. The Board should have standardised minutes logged on the electronic Prisoner Records 2 system. Its responsibilities should be to:

- *Primary assure the risk assessment information provided by closed establishments, and*
- *Develop a comprehensive community risk management plan, including potential trigger behaviours in respect of escalating risk and how supports will be applied to address these. All community licence access arrangements, including placements and appointments, as well as home leaves would be authorised by the Case Management Board.”*

The Case Management Board (CMB) Process

5.37 The CMB comprises the Governor or his Deputy in the Chair with managers from ICM, Operations, Lifer Liaison, Social Work and Residential and an administration minute taker. There is no psychologist based at the Open Estate but the senior psychologist at HMP Perth can offer support if necessary. Membership of the CMB has evolved into its present form as a result of experience gained in prisoner case management since the Board’s inception some two years ago. The Board can co-opt staff and call for additional reports as necessary depending on the case at hand.

5.38 The CMB decides what type of community access is suitable (if any) for each prisoner and what risk mitigation measures require to be put in place. The latter may result in prisoners being placed on a programme of staged home leaves or being tested on a community placement before entering the home leave scheme. The CMB is cautious in relation to community access decisions and will not proceed without ensuring that all the necessary information is available to them. This may mean referring back to the sending prison for more data or for clarification of MDPMG decisions. Separately, the CMB also reviews established cases where there has been a change in the prisoner's circumstances which could impact on his level of risk or where there has been an actual adverse circumstance recorded against him.

5.39 The Open Estate organises CMBs within the first few weeks of the admission of each new prisoner. The point at which the CMB is held is usually dictated by the time it takes for reports and hard copies of files to be sent from the sending prison. The primary responsibility for identifying suitable prisoners to transfer to the Open Estate lies with the closed prisons. Once selected through the MDPMG and supporting processes, prisoners are listed for transfer. The Open Estate then undertakes an assurance review to ensure that all the essential paperwork is in place and that the qualifying criteria have been met. Once this check is completed, a date is set for the prisoner's transfer. Only on rare occasions does the Open Estate challenge closed prison *decisions* at the assurance review stage.

5.40 The purpose of the CMB is not to review the appropriateness of the closed prison's decision on the suitability of individual prisoners for open conditions, but to take account of the information provided to them in planning the prisoner's pre-release preparation and community reintegration.

5.41 Any concerns raised at the CMB stage about a prisoner's risk, general suitability to be in the Open Estate or about that Establishment's capacity and resources to address his identified needs, have to be addressed in the knowledge that the prisoner is already in situ. Although he may not yet (if at all) have access to community work, a College placement or to home leave, he is still in open conditions. *We have reservations about the robustness of this process.*

5.42 In essence, we observed examples of insufficient rigour at the MDPMG stage in considering the potential risks presented by prisoners. For short-term prisoners and non-statutory cases, there is frequently insufficient information available on which to make a sound decision about unsupervised access to the community. In addition, the quality and comprehensiveness of some Prisoner Progression Assessments and other relevant paperwork varied a good deal with some of the latter in our view, containing insufficient information for the purpose of good decision-making.

5.43 A further challenge to the CMB was the fact that not all MDPMGs in closed prisons were seen by Inspectors to be differentiating in their decision making between assessing prisoners to go to open conditions as well as assessing them for subsequent community access. An examination of PPA forms showed that the comprehensiveness of the sections providing information to the OE on managing prisoner access to the community, on possible license conditions and on giving supporting reasons for progression, was frequently limited and rarely SMART.

5.44 Notwithstanding the issues described above, Inspectors found that the CMB was operating a fundamentally sound process capable of delivering good risk management decisions but in a number of cases hampered by the brevity of information being provided by closed establishments. Overall, in relation to the development of risk management plans, placements, licences and home leave arrangements, the CMB undertakes its role as assiduously as possible. The Board is clear that the community risk management plan is a working document and subject to revision in light of changing circumstances. The following abscond data for the last 7 years demonstrates just how much progress has been made in addressing risk and abscond issues.

Average Daily Population Figures³ (per financial year)

Table 6

	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
Castle Huntly	155	205	270	283	-	-	-
Noranside	135	137	157	165	-	-	-
O E total	290	342	427	472	343	261	254
Absconders	71	63	79	68	16	10	6
Absconders as a % of the average population	24.4%	18.5%	18.5%	14.4%	4.6%	3.8%	2.3%*

*up to 31st December 2010

5.45 With regard to community access planning in the NTEs and in other prisons from which prisoners may have unescorted access to the community, we found no direct equivalent to the CMB. Each prison decides and manages access to the community primarily through MDPMGs, ICM and individual case management. We believe that the Open Estate's Case Management Board is a good model and should be replicated in other relevant Establishments.

Key Action Points:

Table 7

<ul style="list-style-type: none"> ➤ <i>The assurance checks undertaken at the OE should include the option to refer cases back the sending MDPMG for reconsideration</i> ➤ <i>A form of ICM should be applied to the process of considering STPs for open conditions</i> ➤ <i>PPA forms should clearly reflect the MDPMG's recommendations in relation to community access and reintegration planning</i> ➤ <i>Closed prisons which allow community access should adopt the CMB model for risk and planning purposes</i>

³ Statistics provided by the SPS.

Recommendation 10.6

“Enhanced arrangements for dealing with adverse circumstances such as absconds should be developed”.

5.46 An ‘Adverse Circumstances Report’ (ACR) template has been produced to ensure consistency of reporting when there is any change in a prisoner’s circumstances or behaviour which may impact negatively on his level of risk and therefore on his future management and suitability for community access. There is clear evidence that local procedures for monitoring and responding to deteriorating behaviour are now much more robust and public protection issues are at the forefront of prisoner management in the OE and elsewhere.

5.47 The CMB utilises ACRs to inform their management of offenders in the Open Estate and if they consider that an individual’s behaviour and attitude is deteriorating or there are other indicators suggesting increased risk, then they will take remedial action including the option of returning the individual to closed conditions.

5.48 When this happens, a form PSS3 must be completed, but an audit of PR2 records found that in some cases, PSS3 forms had not been filed on PR2 and nor had some adverse circumstances reports been attached to the community integration plan under ICM on PR2 as intended. There may be a number of reasons for this non-compliance for example that some staff are not aware of the requisite procedures and also that some may have insufficient technical understanding of PR2 to know how to attach or input reports under the various domains. More robust assurance procedures need to be introduced to address ‘filing’ problems.

Key Action Point:

Table 8

➤ *PSS3 forms should always be filed in PR2*

Recommendation 10.7

“Relevant SPS staff should have training input on ICM and risk assessment as a mandatory requirement this training input should specifically emphasise the importance of adequate record keeping for case management purposes.”

5.49 ICM and risk assessment training are not currently part of the SPS’s core training imperatives. Most ICM-dedicated staff to whom we spoke had received basic, awareness and/or refresher training but others had learned on the job from more experienced colleagues. Some had more recently undertaken training for the role of ICM Chair.

5.50 Apart from social work and psychology staff, we found no other members of MDPMGs, including the Chairs, who had received any formal training in understanding the range, application and limitations of risk assessment tools. We also found that key MDPMG members and particularly the less experienced Chairs, had not had a common training/awareness module which covered defensible decision making and public protection issues. Although a Risk Management Authority training CD was available in all establishments, not many staff were aware of its existence.

5.51 That said, almost without exception MDPMG members were very experienced in their field and had a sound knowledge and understanding of offender management in the round. Training alone does not, of course, ensure competence in decision making or in the application of good judgement. However, neither can the best decisions be made without an appropriate blend of the two.

5.52 Relevant awareness and training input had not accompanied the introduction of the new progression arrangements in January 2010. There were no arrangements put in place in advance of the implementation date to ensure that all MDPMG members were clear about the new processes and how they should operate.

5.53 We also found that with few exceptions, the majority of MDPMG members had never visited the Open Estate or the National Top Ends and in addition, admitted to having only superficial knowledge about the regime and opportunities there.

5.54 Inspectors saw examples in a number of Establishments of staff who were relatively new to the MDPMG process and not well-prepared for the role. It was also clear from our observations that there was disparity among members in relation to understanding and interpreting risk assessment tools.

5.55 Without having established and ensured an appropriate level of knowledge and understanding among *all* relevant staff and also assured a common approach to the operation of progression policy and processes, variations in practices have evolved across prisons.

Key Action Points:

Table 9

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| <ul style="list-style-type: none">➤ <i>All staff making decisions about risk assessment and progression should receive training for their role.</i>➤ <i>MDPMG members should be fully conversant with the regimes and opportunities available in the OE and NTEs. Ideally they should visit these Establishments.</i> |
|--|

6. PROGRESS ON THE RECOMMENDATIONS MADE IN THE SPS INTERNAL ASSURANCE REVIEW OF THE OPEN ESTATE

12.4. “Processes should take better account of the principles of effective risk assessment management and defensible decision-making. These include a focus on information sharing and comprehensive file review as well as multi-disciplinary working.”

6.1 There is no doubt that the SPS has significantly refocused progression processes since the abscond of Robert Foye in August 2007 though the changes have been evolutionary. Guidance is now in place which sets out the criteria that a prisoner must meet in order to qualify for consideration to progress and also the means by which decisions are made. Multi-disciplinary and multi-agency collaboration is at the core of offender case management and the revised guidance places particular emphasis on this. There are, however, improvements required in the *operation* of the processes as described above.

6.2 The need to ensure that staff involved in making decisions about risk and progression are properly trained, is particularly important in relation to this recommendation. We consider that as a minimum, appropriate staff require to be trained in defensible decision making, in public protection issues and in the range and limitations of assessment tools.

6.3 Inspectors found that information sharing still suffers from obstacles connected with perceived confidentiality, data protection and security considerations. Examples of this were most often attributed to the healthcare and intelligence departments. The latter extended to the limited detail supplied in some EEF forms.

Key Action Points:

Table 10

<ul style="list-style-type: none">➤ <i>MDPMG members should receive training specific to their role</i>➤ <i>They should also be trained in defensible decision making, public protection issues and the range and limitations of risk assessment tools</i>➤ <i>A protocol should be in place to ensure that all relevant information is shared between partners</i>

12.5 “The SPS will continue to work with Scottish Government and other partners to clarify the critical tests in respect of risk; which tools will be used and how this test of risk will be expressed.”

6.4 At the time of our review a number of different risk assessment tools were being utilised across the various agencies – principally LSIR, RM 2000, SA 07 and RA 1-4. However, the need for a shared understanding and language about risk management and its application to offender management, has driven the move toward introducing a common assessment tool.

6.5 Level of Service/Case Management Inventory (LS/CMI) is the standard instrument identified by the offender management community as it not only assesses the risk of reoffending and of harm, but also contains a risk management planning component. The initial intention is to introduce LS/CMI for all long-term prisoners subject to enhanced ICM arrangements (i.e. those serving more than four years) and for sex offenders serving more than six months). It would replace the current risk and need component of ICM.

6.6 With the exception of social workers, psychologists and managers who had been briefed about the proposal to introduce LS/CMI, prison staff knew little or nothing about it. We understand that implementation of LS/CMI has recently begun to be rolled out. In our view, ICM requires to be reviewed both to establish its continuing fitness for purpose in light of the significant changes in the policy, risk and legislative environment in which it now operates but also to ensure that it is able to support the introduction of LS/CMI. PR2 will also require some adjustment. It is important for the successful introduction of LS/CMI that pre-implementation planning is of a high order.

Key Action Points:

Table 11

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| <ul style="list-style-type: none">➤ <i>ICM and PR2 should be examined to ensure that they are capable of supporting the introduction of LS/CMI</i>➤ <i>LS/CMI should not be introduced in advance of adequate levels of understanding and training for those staff who will be required to work with the tool</i>➤ <i>A communication plan should be developed to advise all staff and prisoners of the operation of the progression system.</i> |
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12.6 “SPS need to ensure that processes separate the issue of internal compliant behaviour from public protection risks.”

6.7 The Prisoner Supervision System was introduced in April 2002 and in August of that year in light of experience, a number of revisions were made to the various forms used to assess prisoners’ supervision levels. The function of PSS was described as being to maintain secure custody and good order and to ensure that prisoners received the lowest appropriate level of supervision within establishments according to their behaviour and response in custody.

6.8 The guidance which accompanied the revised PSS forms remains extant and states that although it is recognised that PSS decisions can impact on a prisoner’s progress, the PSS system is not the mechanism by which SPS manages the progress of prisoners through their sentence. The guidance goes on to say that staff reviewing a prisoner’s requirement for supervision should not, therefore, take account of the consequences of their decision for the management and progress of the individual’s sentence.

6.9 The PSS system is historically based on assessing the level of supervision required for security reasons *within* prison. We found a lack of clarity among staff in relation to the difference between level of supervision in the prison, level of risk of reoffending and level of risk of harm. These terms were being used interchangeably by some staff and therefore inappropriately in discussions about risk and community access. We observed discussions in which compliant behaviour was judged to be one of the strongest indicators of suitability for open conditions.

6.10 It is important that the present PSS system is reviewed as soon as possible in order clearly to separate internal compliant behaviour within prison from the level of potential risk presented by an offender once released back into the community. As things stand, a prisoner must have obtained a low supervision level in order to meet one of the essential criteria for consideration to progress, but it is our view is that the current Prisoner Supervision System is not sufficiently geared to take account of public protection issues as against that of compliant behaviour in secure custody.

12.7 “Staff awareness of risk assessment and defensible decision making issues should be improved.”

6.11 We found that a comprehensive understanding of risk assessment tools, their purpose and limitations, was largely confined to social work and psychology staff and to many but not all of the staff and managers most closely involved in the ICM, RMG and MDPMG processes. Further away from these core processes, staff were less confident and knowledgeable even in relation to the details of the progression system as a whole.

6.12 As previously noted, whilst training and awareness sessions alone are clearly not sufficient to ensure that decision makers and those contributing to risk decisions are competent, it is nevertheless critical to ensure that the professional experience of all key staff is complemented by relevant training; that they are working to a common standard and have the same level of understanding and clarity about risk assessment, risk management and progression processes. During the currency of our review, there was no training available for MDPMG members about the SPS’s interpretation of defensible decision making and public protection in the context of their role. Nor was there any training available for MDPMG members on the range and limitations of the various risk assessment tools being used.

6.13 Separately, but in order to ensure the best possible consistency in decision making, those senior members of staff who have responsibility for Chairing progression meetings should have the opportunity where appropriate, to undertake standard preparation for the role.

Key Action Point:

Table 12

<p>➤ <i>Guidance and where appropriate, training, should be provided to MDPMG Chairs to ensure rigour and consistency</i></p>

12.8 “Adequate assessment, access to interventions and suitable preparation prior to transfer from closed conditions is important to improve community integration outcomes”.

6.14 At the time of our review, there was no published community reintegration strategy document or progression manual available for the guidance of Governors. Unsurprisingly therefore, we found different approaches across prisons in relation to pre-transfer preparation, which is important for prisoners moving from closed establishments to National Top Ends (NTEs), ILUs or to the Open Estate.

6.15 Pre-transfer preparation is not subject to time and resource constraints and could therefore be targeted to individual needs. It should include careful preparation for the increased personal responsibilities which attach to greater freedoms and for the cultural, environmental and personal challenges which will be faced particularly by those who are nearing the end of long sentences.

6.16 We found pre-transfer preparation to be at best piecemeal across Establishments which means that many prisoners transferring to open conditions are not well-prepared for the transition. This may account for some of the difficulties experienced by prisoners in settling down and coping with the pressures in less restrictive conditions. It may also have a connection to the numbers of absconds which have historically taken place within the first two months of transfer. We believe that successfully undertaking a pre-transfer programme should be compulsory for all prisoners before transferring to the Open Estate or to ILUs.

6.17 As to prisoners being able to access interventions such as offending behaviour programmes, drug and alcohol support, employability and so on, much depends on the level and range of provision available in each prison. Prisoners tend to be prioritised on the basis of comparative levels of risk and need and on proximity to critical dates. This means that by and large, but not exclusively, long-term prisoners (LTPs) take priority over short term prisoners (STPs).

6.18 We found in consequence that Governors faced significant challenges in balancing access to regime opportunities for all prisoner groups and that very difficult

decisions had to be made about resource allocation. The result was at times an inevitable delay in prisoners being able to access interventions to meet their high priority needs and this could also delay progression which tended to cause frustration for both prisoners and staff if, for example, successful programme completion was the only obstacle to moving forward.

6.19 We found the ability of closed prisons properly to assess the suitability of *short-term* prisoners and of non-statutory cases for open conditions and when appropriate to prepare them for transfer, to be hampered by the lack of information arriving with them on admission in relation to their background and risks. Some data is available if the prisoner has previously been in custody and even more so, if he or she has been in custody a number of times. Otherwise, the information on which the MDPMG makes decisions about community access can be very limited. If STPs are to continue to be considered for open conditions, then appropriate risk assessment tools and a form of ICM case conferencing should also apply to them.

6.20 Closed prison staff need to be well informed about the routines and regimes in NTEs and in the Open Estate so that they can advise and prepare prisoners comprehensively for their transfer. Key closed prison staff should also be sufficiently well-informed to be effective in assisting prisoners to make a successful transition from closed prison to open and then on into the community.

Key Action Points:

Table 13

- *A comprehensive pre-transfer programme should be obligatory for prisoners moving from closed to open conditions*
- *A clear national strategy should be introduced to ensure priority access to offending behaviour interventions for the highest risk prisoners.*
- *A form of ICM should apply to short-term prisoners being considered for the Open Estate*
- *Closed prison staff need to be better informed about National Top Ends and the Open Estate*

12.9 “Testing and progression should be staged to reduce the impact of institutionalisation, with different stages of the process focused on different issues such as internal behaviour or compliance, public protection and management in the community.”

6.21 This recommendation reflects current SPS policy. Prisoners are not an homogeneous group and there are quite significant differences in their spectrum of needs. This is particularly true for example of women, young offenders and sex offenders and the ICM process figures prominently in decisions to do with staging interventions and in tailoring individual action plans to help move prisoners towards eventual release.

6.22 Testing, progression and management in the community then require to reflect offenders’ differing needs and good practice arises from collaborative work between the prison and the community both of whom share responsibility for reintegration planning. This can be very difficult however, for those national establishments whose prisoners are drawn from postcode areas all over Scotland and elsewhere.

6.23 In the Open Estate in particular we found that because of differing policies and priorities among Local Authorities, requests for social work engagement with prisoners during home leave (especially those who would be subject to post-release supervision), were not always met with a positive response. This inevitably diminishes the potential effectiveness of home leaves as part of the offender’s preparation for release and does not take account of best practice guidance⁴.

6.24 Otherwise, observation of the Open Estate CMB evidenced a clear understanding of the importance of the need carefully to stage community reintegration. There were also systems in place in all other prisons which provide community access, to stage an individual’s reintroduction and to monitor behaviour and response throughout.

⁴ See Justice Directorate Circular No JD 3/2010: Integrated Practice Guidance for staff involved in the Home Leave.

Key Action Point:

Table 14

- *Community based social work staff should engage with relevant prisoners during their home leave periods in order to establish the supervisory relationship and assist with the transition between prison and community.*

12.10 *“Because of system changes the current criteria at different stages of sentence for progression are not always well-aligned and some parts of the system may compete with each other.”*

6.25 Over time, alterations have been made to many internal SPS administrative processes as the result of legislative changes and also the introduction of revised systems intended to improve prisoner assessment, management and reporting. The external environment has changed considerably too with the introduction for example, of MAPPA, HDC and CJAs. The main consequence of redesigning processes on a piecemeal basis to meet both internal and environmental changes has however, resulted in some dislocation and duplication of activity.

6.26 Ideally, a review is required of all of linked progression components to establish coherence; clearly to define purpose of each process; to align activities around critical dates for prisoners and to utilise staff resources in a more focused and efficient way. A ‘risk management and progression manual’ should be produced for the guidance of Governors, Directors and their staff to avoid confusion and to establish a common understanding and delivery of critical processes. It would be helpful to them and to prisoners if a clear flow diagram or process map could be produced to show how each of the prisoner progression elements are linked together, prioritised and how they should be managed.

Key Action Point:

Table 15

- *Separate guidance should be provided for prisoners about the progression system, perhaps including a process map*

12.11 “Each prisoner should have a community management plan prepared prior to transfer. This will be reviewed on arrival at the Open Estate and as the prisoner progresses.”

6.27 Governors and Managers Action Notice 4A/10 (addendum) describes the actions required of closed prisons in providing relevant information to the Open Estate in relation to managing the prisoner and his access to the community. In essence, the MDPMG will complete a Prisoner Progression Assessment which includes the requirement for providing advice on risk factors, areas of concern or issues to be addressed; how these might be managed; what license conditions could support a prisoner’s management in the community; what early warning signs would indicate a change in risk; what factors support the prisoner for progression and how these might be enhanced.

6.28 This is a good process but we found that in many cases the information provided in the PPA by closed prisons was insufficiently comprehensive, analytical, thorough and informative. Recommendations contained in the PPAs were only on exceptional occasions found to be ‘SMART’.

6.29 Lack of knowledge among some MDPMGs about the capacity of the OE to deliver their recommendations or meet their suggested license conditions was another issue which was clearly unhelpful to the OE CMB. Having observed the operation of the CMB, discussed areas of concern with its members and examined many PPA forms, it is clear that there needs to be much more consistency in the quality of PPAs provided to the CMB in order that their decisions on prisoner management and on community reintegration planning can be as robust as possible. The CMB reviews and adjusts plans according to changing circumstances.

6.30 On a separate note, we found little or no reference in PPAs to domestic abuse, hidden harm issues or to child care concerns relating to substance misusing parents. Nor was there much if any discussion about this issue at the MDPMGs we observed. That said, unless prisoners admit to domestic abuse or information is known to partner agencies and shared with the prison, then the chance of finding out about an abuser is not good. Domestic abuse is not invariably recorded as such on the face of a

prisoner's warrant. The offence may be described as assault or Breach of the Peace which gives no clues as to the context. It is highly desirable for obvious reasons, that NTEs and the Open Estate in particular should be aware of domestic abusers as this information is critical - particularly in making home leave decisions.

Key Action Points:

Table 16

- *PPA forms should be completed to include maximum detail and comprehensive recommendations to assist the CMB to prepare robust community management plans*
- *More consideration should be given to issues of domestic abuse and hidden harm in MDPMG meetings and subsequently on PPA forms*
- *Information should routinely be provided to prisons by the Courts if an offence is one of domestic abuse*

12.12 “The individual wishes, needs and support requirements of offenders and their families (including where appropriate their children) should be considered during transfer and contact maintained toward release.”

6.31 It is an aim of the SPS to involve families in a positive and productive way with prisoners both during their sentence and in the planning for their return to the community, as families can often be critical to an offender's success or failure on release. Some prisons have a family induction programme and all others as a minimum, are required to try to engage families at an early stage in the Integrated Case Management process. We found in many prisons that efforts were being made to engage families but often with limited success. This is work in progress.

6.32 Where families do attend case meetings along with the prisoner though, the effect on both them and the prisoner can be profound. We observed a number of meetings in which family members attended and without exception, they had a positive impact on the participants. At the very least, families left better informed about the prisoner's management and were clear about their potential role in his or her eventual return to the community. The meetings also served to temper the prisoner's

expectations about the level of support they might reasonably expect from their family and importantly, what obligations they had in return.

6.33 In MDPMG meetings, discussions about families tended to focus on the extent to which they had the capacity to support the prisoner on release and to influence him or her in respect of their criminal behaviour; what their response was likely to be to the offender's return to the community and to their home, and what impact the prisoner would have on family dynamics – especially for those who were completing very long sentences.

6.34 Initiatives are now being piloted by the Open Estate to establish better links with families both before and after a prisoner goes on home leave and before he is eventually released into the community. The aim is to keep families more involved in pre-release planning and to optimise the chances of successful reintegration.

12.13 “Consideration is being given to reviewing the suitability and sufficiency of supervision arrangements in the Open Estate and on home leave. Particular attention needs to be paid to those prisoners that may be on additional restrictions or public protection arrangements on release. Specific focus needs to be given to the first 30-40 days post transfer where the possibility of abscond appears highest.”

6.35 The Assurance Review of the Open Estate in 2008 made a number of pragmatic suggestions in relation to the above recommendation and of the eight described, three have so far been implemented in full or in part. We consider that the suggestions may be worthy of review. For ease of reference, they are as follows:

- Mobile phones [to be made temporarily] available to offenders so that they can readily be contacted [by the prison] when on unescorted leave from the prison. *(Should this idea be pursued, we would expect these phones to have very limited functionality).*
- Selective tagging for prisoners on home leave or consideration of GPS tracking [for some or all prisoners with community access]. *(Whilst we understand*

that there is a cost involved in tracking, a cost/benefit analysis should be undertaken to determine the extent to which tagging would mitigate risk).

- Use of ‘circles of support’ for sex offenders. *(We were advised that this provision is not currently available because of funding issues).*
- The earlier use of statutory supervision contact as part of home leave management *(this now happens at the OE but some Local Authority Criminal Justice Social Work departments say they are not sufficiently well resourced to see prisoners during their home leave).*
- Phone calls to family members post home leave to check on arrangements *(this is now done for prisoners who do not have CBSW support in place during their home leaves and also for prisoners whose community management plan includes this additional input. The OE reports that the system works well. We suggest that such calls should take place prior to home leaves too.)*
- Mentoring support opportunities such as ‘Routes Out of Prison’ being focused on the Open Estate. *(Again, we were advised that this provision is not available because of lack of funding).*
- Criminal Justice Social Workers being advised of home leave in advance of it being taken *(this is now done routinely).*
- Additional support requirements for young adults. *(We would also add women offenders, sex offenders and those with mental or physical health difficulties and histories of substance misuse).*

6.36 The Open Estate has introduced a system of phased home leaves and this appears to be working well. It is important though that community partners invariably engage with the offender during his or her period of transition back into the community rather than waiting until he is finally released and statutory supervision kicks in.

6.37 There was concern among OE staff that MAPPA plans are not initiated until *after* an offender is actually released from the OE. It is our view that those prisoners who are subject to MAPPA and are judged to be suitable for the OE, have their agreed plans initiated while they are they are still in custody. This would allow all the necessary critical contacts to be made with the prisoner while he is still in a restrictive but supported environment.

Key Action Points:

Table 17

<ul style="list-style-type: none">➤ <i>The recommendations made in the SPS Assurance Review of 2008 should be revisited</i>➤ <i>MAPPA plans should be initiated prior to the prisoner's first Home Leave rather than after release</i>

12.14 *“Standard management information reports should be developed to assist decision making and monitoring.”*

12.15 *“Standardised reporting is required to improve recording of decisions and audit trails.”*

12.16 *“Data quality within PR2 and Integrated Case Management requires improvement to support decision making.”*

6.38 The systems are clearly now in place to generate all of the reports necessary on which to make decisions about a prisoner's management and progression and therefore some of the recommendations above have been overtaken by events. However, examination of relevant documents in the course of our review showed that whilst many reports were of a good standard and fit for purpose, some were not. We also found that the reasons for decisions were not recorded in sufficient detail.

6.39 The quality and consistency of reporting varied throughout the process and paper and electronic (PR2) records did not invariably match. For example we found that:

- PSS paperwork is rarely scanned and entered on PR2 yet it is always completed in readiness for the PPA.
- Adverse circumstances reports are not always entered on PR2 and it is difficult to source hard copies in some Establishments.
- Trial judges' reports are not always present in an establishment and hence not available to assist the MDPMG in making decisions.
- There is inconsistency in filing hard copies of many reports. Some prisons store some reports in warrant files, others use ICM folders and others have individual files in different areas of the prison.
- The correct PR2 domains to use when storing data is clearly confusing for numbers of staff. This results in documents being 'misfiled' which causes problems in finding and auditing them.

6.40 We believe that a combination of better staff training and a robust system of quality assurance should significantly improve standards. We also consider that basic reporting on prisoners has been weakened by the absence of a fully functioning Personal Officer scheme in all establishments. This is an issue which we have already raised on a number of occasions in prison inspection reports. Early attention to this deficit would reap considerable rewards.

6.41 We understand that Parole Board paperwork is currently under review with the aim of focusing more on issues of risk management and ensuring better synergy with ICM and related processes.

Key Action Points:

Table 18

<ul style="list-style-type: none"> ➤ <i>The reasons for MDPMG and ECMDP decisions should be comprehensively recorded</i> ➤ <i>Improvements require to be made in the quality and consistency of staff reporting standards</i> ➤ <i>Filing of paper based and electronic records should be improved to ensure consistency across all prisons</i> ➤ <i>The Personal Officer scheme should be reinvigorated</i>
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12.17 “Appropriate levels of senior management scrutiny should be applied to transfer decisions.”

6.42 We found that without exception, all closed prisons were following the revised national policy and procedures laid down in Governors and Managers Action Notice 4A/10 of January 2010 which instructed that MDPMGs should be chaired exclusively by either the Governor or the Deputy Governor.

6.43 However, because there had been no accompanying training with the new arrangements, we observed a variety of approaches to the scrutiny of cases at MDPMG meetings. The majority of approaches were methodical and analytical and took considerable pains to examine all of the information available to them and to challenge its quality and comprehensiveness as necessary. Some others though were less thorough and painstaking which in our view, resulted in less considered and robust decisions.

6.44 We had reservations about the degree of preparation undertaken by some MDPMG members in advance of meetings. In theory, each member should have access to “all available paper-based SPS, partner generated and community generated intelligence and information about risks and needs”⁵. However, discussion with individual MDPMG members revealed that not everyone invariably had time to access all of the written material prior to meetings as it was often held by different people in different departments and it could be very detailed. This was also true of data held on PR2. In some cases, staff found navigation of PR2 challenging and were therefore uncertain as to whether they had managed to access all the available information.

6.45 The upshot of this was that some MDPMG members clearly relied on other colleagues to summarise pertinent information at the meetings, which gave little time for them to reflect on it. Further, not all prisons had a robust process for verifying the accuracy and currency of the information provided to the MDPMG. We found that without exception, all MDPMGs relied on one individual to present the prisoner’s details to the group and a great deal of responsibility was therefore placed on this

⁵ Governors & Managers Action Notice 4A/10 – Decision making responsibilities and preparation for prisoner progression.

individual to ensure that all relevant factors had been taken into account and nothing of importance missed. The presenting person varied across establishments from basic grade officer to Unit Manager. Some of these staff members had received training and/or were experienced in presenting cases. None had received any training specific to the role of presenting cases to MDPMGs.

6.46 As to the concern about all MDPMG members having easy access to paper-based information prior to the meeting, we were advised that providing individual copies to everyone would be highly resource intensive and very expensive given the volume of cases considered and the quantity of records involved. Because of the importance of thorough advance preparation though, we suggest that a solution be found to this problem.

6.47 The system in place for scrutinising progression for those prisoners who have previously absconded or escaped is very robust. In such circumstances, the Chair of the MDPMG must ensure that the case is forwarded to the Executive Committee for the Management of Difficult Prisoners (ECMDP). In doing so, the Chair is required to outline the reasons why the presumption against transfer to open conditions should not apply in that case. This system works well, but as with other examples, the reasons for the ECMDP Group’s decisions require to be much more fully recorded.

Key Action Points:

Table 19

<ul style="list-style-type: none">➤ <i>The conduct of MDPMG meetings should be uniformly methodical, rigorous and analytical</i>➤ <i>All MDPMG members should prepare comprehensively before meetings</i>➤ <i>A means should be found to provide MDPMG members with easy access to all casework documentation in advance of meetings</i>
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12.18 “When a breach occurs, the response should be effective and consistent and should allow for evaluation to improve the process”.

6.48 The Open Estate and NTEs have a system in place which identifies and records any adverse circumstances which potentially change the risk(s) that a prisoner

might present. The relevant report template allows for consideration of the event/incident; the impact on the level of risks being managed; what steps need to be taken in the future to manage the risks presented and whether it is appropriate for the prisoner to remain in top end or open conditions. When completed, the adverse circumstances report (ACR) should be attached to the Community Integration Plan under the heading ICM on PR2 - but of those we checked, not all ACRs had been attached as required.

6.49 The SPS also operates a Critical Incident Review (CIR) process which allows for the analysis and recording of outcomes following any critical incident involving a prisoner with unsupervised access to the community. Although we found that the process is operated appropriately at local level and the CIRs submitted to Prisons HQ, we found no evidence to show that the outcomes were subsequently systematically shared with all prisons to ensure organisational learning. Nor was there a means of sharing learning with community partners. This denies the opportunity for addressing systemic failures and supporting continuous improvement.

6.50 As to the process for reconsidering prisoners who had been previously been downgraded from NTEs and the Open Estate, we found a good deal of rigour in all MDPMGs in assessing suitability for potential return. Establishments are quite rightly cautious in their approach to such cases. We found clear evidence in ICM, RMG and MDPMG meetings to confirm that adverse developments are being scrutinised very carefully and plans put in hand where practical, to assist prisoners to address the reasons for their downgrade. This often includes a further requirement for offending behaviour work.

Key Action Points:

Table 20

<ul style="list-style-type: none">➤ <i>ACRs should routinely be filed on PR2</i>➤ <i>SPS HQ should ensure that any organisational learning resulting from critical incidents, is cascaded throughout the Service and with community partners where appropriate</i>

7. PROGRESS ON THE RECOMMENDATIONS AND SUGGESTIONS MADE IN THE SPENCER REPORT

12.1 *“A ‘flag’ is placed on the PR2 computer system (the SPS’s prisoner record system) for ‘Absconder/Escaper’ and that whenever relevant information is identified or received or an event occurs, the Flag is activated.”*

7.1 Our PR2 audit of absconders, (there have been no escapers), revealed that a warning flag was in place in all cases in which the relevant data was present.

12.2 *“Before the final decision is made to transfer to open conditions, the prison record file(s) should be reviewed.”*

7.2 The MDPMG meeting is now the forum in which it is intended that prisoners’ records are scrutinised for all material relevant to issues of risk and suitability for transfer to NTEs or open conditions.

7.3 Inspectors were, however, concerned to find that not all of the relevant paperwork was invariably present at MDPMG meetings. The reasons for this varied and included for example, that the individual presenting the case to the meeting provided a synopsis of the prisoners’ details and did not therefore take all the relevant records with him or her. In other cases, some reports were not available to the prison e.g. the Trial Judge report. Some MDPMG members took no paperwork at all with them to meetings. We found that social work and psychology staff attended meetings with a full set of records relevant to their remit and came prepared with a synopsis of key factors which informed their assessment.

Key Action Points:

Table 21

- *MDPMG Chairs should ensure that all relevant documentation is available for reference at meetings*
- *Trial Judge reports, where they are available, should always be discussed in MDPMG meetings*

12.3 *“Where the Governor or Deputy Governor does not Chair the MDPMG, the agreement for transfer to open conditions becomes a recommendation which should go to the Governor or Deputy Governor for approval and signing. This is not a decision that can be delegated further down. In relation to the recommendation above, it is also my view that the Governor or Deputy Governor when being asked to confirm a transfer to open conditions, additionally reviews the case file to assure themselves that the prisoner is appropriate for transfer to open conditions and there is nothing known about him or her which would preclude their access to the community.”*

7.4 During our review, we found that it was invariably the case that either the Governor, or more often the Deputy Governor who Chaired the MDPMG and CMB meetings. In doing so, they have full access to all paper-based and electronically-stored information on each prisoner under consideration. Under present arrangements, it is their responsibility to undertake a full file review.

12.4 *“A Police Liaison Officer attends the MDPMG meeting and provides the police intelligence input to decision making.”*

7.5 We attended an MDPMG (or CMB) meeting in every prison but on no occasion was a Police Liaison Officer present. We were advised that such attendance is extremely rare and was a function of police resourcing constraints and their necessary prioritisation. Instead, the prison’s security and intelligence representative on the group shared the gist of the information gleaned from the External Enquiry Form (EEF) completed by the police. As described earlier (paragraph 5.22) however, we have reservations about the comprehensiveness of the database searches which inform the completed EEF.

Key Action Point:

Table 22

<p>➤ Ideally, every prison or cluster of prisons, should have a dedicated Police Liaison/Intelligence Officer</p>

12.5. “Input in person (by the police and/or the relevant criminal justice social worker) or by tabling of the EEF and the Home Background report, be made mandatory before a case considering transfer to open conditions can be discussed.”

7.6 This is now a mandatory part of the MDPMG process but was not invariably the case in both our observation of MDPMG meetings and in examination of past minutes. As noted earlier, input in person was the exception rather than the rule.

12.6 “Research should be undertaken to determine the efficacy of open prison, its benefits and the most effective time for transfer of prisoners to open conditions.”

7.7 The Scottish Government has contracted with SCCJR under the leadership of Mike Nellis, Professor of Criminal and Community Justice, University of Strathclyde, to evaluate the effectiveness of Home Detention Curfew (HDC) and the Open Estate – two means of graduated release from prisons. The project began in February 2010 and was scheduled to be completed at the end of September 2010. The evaluation involves statistical analysis of the trends of use and breach of HDC and open prisons, an assessment of the costs and benefits of the schemes and qualitative exploration into the perspectives of those who administer, experience and are affected by their use.

12.7 “Long term prisoners are eligible to access open conditions too early in their sentence. Long term prisoners should not be eligible to be transferred to open prison any earlier than one year before their Parole Qualifying Date (PQD).”

7.8 The SPS Management Rule describes one of the basic criteria for low supervision prisoners to qualify for consideration to access to open conditions. It is based primarily on length of sentence and is explained as follows:

(a) Life sentence prisoners with a low supervision level – four year pre release programme.

Table 23

EXPIRY OF “PUNISHMENTS PART” OF SENTENCE	ELIGIBILITY FOR NATIONAL TOP END (NTE) SPECIAL ESCORTED LEAVE INTO THE COMMUNITY	ELIGIBILITY FOR ‘TOP END’ 2 ND YEAR WORK PLACEMENTS	ELIGIBILITY FOR TRANSFER TO THE OPEN ESTATE	TIME SERVED IN PRE-RELEASE		
				NTE	OPEN	TOTAL
8 years	4 years	5 years	6 years	24	24	48
10 years	6 years	7 years	8 years	24	24	48
12 years	8 years	9 years	10 years	24	24	48
15 years	11 years	12 years	13 years	24	24	48
20 years	16 years	17 years	18 years	24	24	48
25 years	21 years	22 years	23 years	24	24	48

7.9 All Life sentence prisoners must first transfer to a National Top End before they can progress to the Open Estate.

b) Long Term Prisoners (LTPs)

7.10 Determinate sentence prisoners are eligible for consideration for transfer to open conditions from up to 2 years prior to their Parole Qualifying Date (PQD) provided that:

- They are low supervision.
- Integrated Case Management processes confirm that they have no identified high offence-related needs which cannot be met in the Open Estate and
- They have served a minimum period of six months in closed conditions to allow sufficient time for proper assessment to be carried out. In exceptional circumstances this condition may be waived at the discretion of the Governor in Charge and with the agreement of the Open Estate GIC.

7.11 LTPs will normally transfer direct from closed prisons to the Open Estate. Alternatively, LTPs will transfer to the Open Estate from a National Top End if they

have been placed there as a result of a specific decision based on ICM assessment or on the request of the establishment Risk Management Group.

7.12 The application of the Rule to determinate sentence prisoners with qualifying times is shown below. They may have up to two years in open conditions if granted parole.

Table 24

LENGTH OF SENTENCE	ELIGIBILITY FOR OPEN	PQD	MAXIMUM TIME SERVED IN OPEN (MONTHS) TO PQD
4 years	6 months	2 years	18
5 years	8 months	2½ years	22
6 years	12 months	3 years	24
7 years	18 months	3½ years	24
8 years	2 years	4 years	24
9 years	2½ years	4½ years	24
10 years	3 years	5 years	24
12 years	4 years	6 years	24
15 years	5½ years	7½ years	24
20 years	8 years	10 years	24
25 years	10½ years	12½ years	24

(c) Short term prisoners (STPs)

7.13 There is no minimum qualifying period before short term prisoners with a low supervision level may be considered for transfer to the Open Estate. However, to ensure that the levels of risk are being managed appropriately and the needs of the prisoner are best being met, the following conditions apply:

- The prisoner should not be subject to outstanding warrants. Confirmation should be sought from the Police and Procurator Fiscal.

- He should have no identified high offence related needs which cannot be met in the Open Estate.
- Consideration should be given to HDC qualifying dates and whether the HDC process has begun. Transfer should not take place if this would have the effect of debarring the prisoner from HDC or reducing the period of time spent on HDC.
- In circumstances where the HDC assessment is carried out within the Open Estate and results in the HDC application being rejected, the Governor of the Open Estate should ensure that the prisoner's continued suitability for open conditions is reviewed without delay.
- Where a prisoner is statutorily excluded from HDC, consideration should be given as to whether this prisoner should be transferred to open conditions, and in particular whether he should have access to home leaves. *(It is possible within the rules for a short term prisoner to fail to meet the criteria for HDC but nevertheless to meet the criteria for the Open Estate).*

7.14 All of the above criteria and guidance apply also to Young Offenders in circumstances where they are being considered for transfer to the Open Estate on reaching the age of 21 years and women offenders being considered for transfer to Independent Living Units (ILUs) at Cornton Vale or pre release at Aberdeen and Inverness.

7.15 In our view, progression to the NTEs and to the Open Estate should depend fundamentally on the level of risk presented by the prisoner. Our discussion with both staff and prisoners revealed a degree of confusion about the application of the management rule with prisoners in particular convinced that on reaching the relevant date in their sentence, they were *entitled* to progress. The current PSS system which underpins the determination of prisoner supervision levels is largely based on compliant behaviour in prison and is insufficiently geared to address issues of risk and public protection. We recommend that both the PSS system and the appropriateness of the existing Management Rule are reviewed.

7.16 As to the length of time which a prisoner should spend in open conditions prior to release, this ought to be determined through ICM and CMB case management processes in which account can be taken of the prisoner’s progress, risks and needs and an optimum time for release decided. An arbitrary 12 or 24 months criterion is arguably a blunt instrument.

Key Points:

Table 25

- *Progression to open conditions should depend primarily on the level risk presented by the prisoner*
- *The SPS Management Rule should be reviewed in light of the changing context in which the Open Estate operates*

12.8 “Open prison should be restricted for use only by long termers.”

7.17 This is a policy matter for the SPS. During our review we found that some prisons did not consider any short term prisoners for the Open Estate. The reason for this was given as a lack of resources to cope with the number of prisoners who would fall into the scope for assessment and a desire to focus on longer term prisoners who were most likely to benefit from the opportunity. Those prisons that did consider STPs and non-statutory cases were significantly hampered in their decision making by the dearth of information available to them.

7.18 Governors and Managers Action Notice 4A/10 states that “The lack of information about non-statutory cases makes preparation for progression for those prisoners more challenging.” We observed this challenge in practice and were concerned that information shortfalls had the potential to result in weak decisions.

Key Action Point:

Table 26

- *Notwithstanding resource constraints, all short term prisoners who are eligible under current rules should be considered for potential transfer to the Open Estate*

Spencer Report Suggestions

(a) *“It is important that SPS’s records are as comprehensive as possible and that they include the Trial Judge’s report where available.”*

7.19 We found that in relation to LTPs there was generally a good range of information contained in both paper-based and electronic records and Trial Judges’ reports were available in the vast majority of cases. The comprehensiveness of records is very much less for STPs and for those who have not previously been in custody at all or only for short periods, information can be very scant indeed.

Key Finding:

Table 27

➤ *A prescribed minimum level of information should be available about an STP before he can be considered for transfer to the OE*

(b) *“SPS should simplify and standardise use of terminology, forms and meetings (and similarly) SPS should review the range of meetings to consider progress, risk and assessments and see if it can simplify the process.”*

7.20 During the course of our review it became clear that there is a need for a general review of the prisoner progression system. Over time, changes in legislation, new expectations among community partners and piecemeal improvements in the SPS’s own risk assessment and prisoner management systems has resulted in a degree of fragmentation.

7.21 As a starting point, there is a need to produce a process map for all linked parts of the progression system in order to ensure the alignment of each element and a clear understanding among all practitioners and prisoners as to exactly how the process operates. We found a lack of clarity among both staff and prisoners because of the complexity of the interrelationships between length of sentence, degree of risk,

level of need, critical dates, various different qualifying criteria and for example, the role of ICM in relation to that of RMG, MDPMG, parole and so on. There was clearly also confusion among staff about how the First Grant of Temporary Release (FGTR) for life sentence prisoners fits in with the process. We consider that progression processes need to be re-engineered in order further to strengthen their effectiveness.

7.22 We suggest that as a minimum, the process map should include reference to the following elements and to how and where they fit together:

- Home Detention Curfew (HDC)
- Special Escorted Leaves (SELs)
- Unescorted community access
- First Grant of Temporary Release (FGTR)
- Parole and Parole Tribunals
- Orders of Lifelong Restriction (OLRs)
- Multi Agency Public Protection Arrangements (MAPPA)
- Access to National Top Ends (NTEs)
- Access to the Open Estate

Key Action Point:

Table 28

➤ *A process map should be produced to demonstrate the interrelationship between the component parts of the progression system and the criteria and priorities attaching to them.*

(c) ***“Home Detention Curfew (HDC) is already available from closed prison and consideration should be given to look at the policy and decide whether it should be extended to a broader range of short term prisoners. Indeed, HDC already provides through electronic monitoring, greater control over offenders than when on extended home leave. There could also be consideration of the requirement for work, training or ‘community payback’ while on periods of HDC.”***

7.23 This is matter for the SPS and Scottish Government.

12. “GPS tagging be considered for long term prisoners in Open conditions.”

7.24 This is a matter for the Scottish Government. The issue may be informed by the outcome of Professor Nellis’s research.

13. “Multi Agency Public Protection Arrangements (MAPPA) are commenced before relevant offenders are transferred to open conditions.”

7.25 From a risk mitigation, public protection and prisoner management perspective, this suggestion clearly deserves serious consideration.

14. “SPS should look at ways of encouraging a ‘culture of consultation’ and also use the Head of Residential meeting for development purposes.”

7.26 This is matter for the SPS.

8. SUMMARY OF KEY AREAS OF GOOD PRACTICE

8.1 The very significant reduction in the number of absconds from the Open Estate from 71 to 6 in the last 5 years.

8.2 Pre Multi Disciplinary Progression Management Group meetings in some prisons.

8.3 The development of standard report templates for use in progression decisions.

8.4 The addition of an 'absconder/escaper' warning flag on PR2.

8.5 The utilisation of live PR2 data during MDPMG meetings.

8.6 MDPMG and related procedures are clearly laid out in GMA Notice 4A/10.

8.7 Prison Based Social Work staff checking HLHBRs before MDPMG meetings.

8.8 The role of PBSW in the progression process is uniformly defined and well understood by social work staff.

8.9 PBSW risk assessments are of good quality.

8.10 The introduction of staged Home Leaves from the Open Estate.

8.11 Adverse developments are consistently and robustly handled.

8.12 The Case Management Board operates sound prisoner case management processes in relation to community access.

8.13 The prisoner Progression Assessment template is a very useful tool.

8.14 Considerable efforts are being made by prisons to engage families in a positive and productive way.

8.15 Open Estate telephone contact with families during prisoners' Home Leave.

8.16 The system in place for scrutinising potential progression for prisoners who have previously absconded is very robust.

9. SUMMARY OF KEY RECOMMENDATIONS

9.1 The SPS Board should take formal responsibility and ownership of the progression system.

9.2 The Board should review progression processes and training with a view to producing a simplified and improved system. The review should also explore how the gap between prisoners' high priority needs and existing programme and intervention provision can be closed.

9.3 The board should review how the gap between prisoners' high priority needs and their existing programme and intervention provision can be closed.

9.4 The Board should introduce a robust quality assurance process to address the outputs of MDPMGs.

9.5 The Board should reinvigorate the Personal Officer scheme and ensure that Personal Officers are trained and monitored.

9.6 Family involvement in the ICM process should be improved.

9.7 The Board should produce a National Sex Offender Strategy.

9.8 The Prisoner Supervision System should be reviewed.

9.9 The SPS should publish a community reintegration strategy for the guidance of Governors and Directors.

9.10 The SPS should publish a risk management and progression manual for the guidance of practitioners.

10. SUMMARY OF KEY ACTION POINTS

10.1 Prisoner Progression Assessment plans and recommendations should be SMART.

10.2 Multidisciplinary Progression Management Group documentation should be easily accessible prior to meetings.

10.3 All information provided to the MDPMG should be verified for accuracy, currency and completeness.

10.4 Healthcare staff should be standing members of the MDPMG.

10.5 The PPA should confirm physical fitness to transfer.

10.6 Clear guidance should be produced on the Chairing and conduct of MDPMG meetings.

10.7 Consideration should be given to re-engineering the progression system in order further to strengthen existing arrangements.

10.8 Community Based Social Work staff should meet with prisoners during their home leave periods.

10.9 All Home Leave Home Background Reports should be submitted on the new template.

10.10 Risk assessments should be kept up to date by Prison Based Social Work staff.

10.11 Clear processes should be in place to ensure the sharing of sensitive information.

10.12 All External Enquiry Forms should be researched to a common standard by every Police Force.

10.13 Consideration should be given to permitting suitably screened prison staff access to relevant police databases.

10.14 The SPS National Intelligence Bureau should be provided with a list of all prisoners to be considered by the MDPMG in order to screen them for links with serious and organised crime.

10.15 Staff should be PR2 competent to the level required for their roles.

10.16 All relevant documentation must be filed on PR2 and a reliable assurance process installed.

10.17 The SPS IT system needs to be developed to facilitate better data interrogation and information sharing with community partners.

10.18 The assurance checks undertaken at the OE should include the option to refer cases back the sending MDPMG for reconsideration.

10.19 A form of ICM should be applied to the process of considering STPs for open conditions.

10.20 PPA forms should clearly reflect the MDPMG's recommendations in relation to community access and reintegration planning.

10.21 Closed prisons which allow community access should adopt the CMB model for risk and planning purposes.

10.22 PSS3 forms should always be filed in PR2.

10.23 All staff making decisions about risk assessment and progression should receive training for their role.

10.24 MDPMG members should be fully conversant with the regimes and opportunities available in the OE and NTEs. Ideally they should visit these Establishments.

10.25 All MDPMG members should receive training specific to their role.

10.26 They should also be trained in defensible decision-making, public protection issues and the range and limitations of risk assessment tools.

10.27 A protocol should be in place to ensure that all relevant information is shared between partners.

10.28 ICM and PR2 should be examined to ensure that they are capable of supporting the introduction of LS/CMI.

10.29 LS/CMI should not be introduced in advance of adequate levels of understanding and training for those staff who will be required to work with the tool.

10.30 A communication plan should be developed to advise all staff and prisoners of the operation of the progression system.

10.31 Guidance and where appropriate, training, should be provided to MDPMG Chairs to ensure rigour and consistency.

10.32 A comprehensive pre-transfer programme should be obligatory for prisoners moving from closed to open conditions.

10.33 A clear national strategy should be introduced to ensure priority access to offending behaviour interventions for the highest risk prisoners.

10.34 Closed prison staff need to be better informed about National Top Ends and the Open Estate.

10.35 Community based social work staff should engage with relevant prisoners during their home leave periods in order to establish the supervisory relationship and assist with the transition between prison and community.

10.36 Separate guidance should be provided for prisoners about the progression system, perhaps including a process map.

10.37 PPA forms should be completed to include maximum detail and comprehensive recommendations to assist the CMB to prepare robust community management plans.

10.38 More consideration should be given to issues of domestic abuse, children affected by substance misusing parents and hidden harm in MDPMG meetings and subsequently on PPA forms.

10.39 Information should routinely be provided to prisons by the Courts if an offence is one of domestic abuse.

10.40 The recommendations made in the SPS Assurance Review of 2008 should be revisited.

10.41 MAPPA plans should be initiated prior to the prisoner's first Home Leave rather than after release.

10.42 The reasons for MDPMG and ECMDP decisions should be comprehensively recorded.

10.43 Improvements require to be made in the quality and consistency of staff reporting standards.

10.44 Filing of paper based and electronic records should be improved to ensure consistency across all prisons.

10.45 The Personal Officer scheme should be reinvigorated.

10.46 The conduct of MDPMG meetings should be uniformly methodical, rigorous and analytical.

10.47 All MDPMG members should prepare comprehensively before meetings.

10.48 A means should be found to provide MDPMG members with easy access to all casework documentation in advance of meetings.

10.49 ACRs should routinely be filed on PR2.

10.50 SPS HQ should ensure that any organisational learning resulting from critical incidents, is cascaded throughout the Service and with community partners where appropriate.

10.51 MDPMG Chairs should ensure that all relevant documentation is available for reference at meetings.

10.52 Trial Judge reports, where they are available, should always be discussed in MDPMG meetings.

10.53 Progression to open conditions should depend primarily on the level risk presented by the prisoner.

10.54 Ideally, every prison or cluster of prisons, should have a dedicated Police Liaison/Intelligence Officer.

10.55 The SPS Management Rule should be reviewed in light of the changing context in which the Open Estate operates.

10.56 Notwithstanding resource constraints, all short-term prisoners who are eligible under current rules should be considered for potential transfer to the Open Estate.

10.57 A prescribed minimum level of information should be available about short-term prisoner before he can be considered for transfer to the Open Estate.

10.58 A process map should be produced to demonstrate the interrelationship between the component parts of the progression system and the criteria and priorities attaching to them.

Glossary

SPS	Scottish Prison Service
COSLA	Convention of Scottish Local Authorities
ADSW	Association of Directors of Social Work
NHS	National Health Service
ACPOS	Association of Chief Police Officers
CJA	Community Justice Authority
OE	Open Estate (HMPs Castle Huntly and Noranside)
NTE	National Top End
ICM	Integrated Case Management
RMG	Risk Management Group
MDPMG	Multidisciplinary Progression Management Group
EEF	External Enquiry Form (sent to police)
LS/CMI	Level of Service/Case Management Inventory
HMCIP	Her Majesty's Chief Inspector of Prisons
CMB	Case Management Board
CJSW	Criminal Justice Social Work
LTP	Long Term Prisoner
STP	Short Term Prisoner
PR2	(Electronic) Prisoners' Records database
HDC	Home Detention Curfew
MAPPA	Multi-Agency Public Protection Arrangements
HLHBR	Home Leave Home Background Report
PNC	Police National Computer

ANNEX 1 (Contd)

ViSOR	Violent Sex Offender Register
SID	Scottish Intelligence Database
IMU	Intelligence Management Unit
PPA	Prisoner Progression Assessment
PF	Procurator Fiscal
CIP	Community Integration Plan
PSS	Prisoner Supervision System
NIB	National Intelligence Bureau
OLRs	Orders for Lifelong Restriction

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