
**REPORT ON INSPECTION AND MONITORING ACTIVITY AND FINDINGS,
APRIL-SEPTEMBER 2020**

1. Purpose

This report summarises Independent Prison Monitoring and HMIPS Inspection activity and findings in Scottish prisons, drawing principally from the quarterly reports agreed with Governors for the period April–June 2020, as well as some further developments from the period July–September 2020. It also identifies strategic priorities for future monitoring and inspection.

The material in this report was taken from papers prepared for the consideration of the Independent Prison Monitoring Advisory Group (IPMAG) in September 2020, and has been updated to make it available to the public and other stakeholders on the HMIPS website.

2. Monitoring and Inspection Findings

Summaries of the individual prison establishments' Independent Prison Monitor (IPM) findings for the quarterly reporting period April-June 2020 can be found at Appendix 1.

2.1 Findings (for the period April–September 2020)

Positive Findings:

- **Hygiene/infection control:** all prisons had in place infection control measures; guidance was issued by Health Protection Scotland (HPS) and local health providers, and included provision of hand gel, face masks alcohol wipes and two metre markings throughout. The fast rate of change in the guidance, and the Scottish Prison Service (SPS) timely responsiveness on these issues, was noted by HMIPS and the IPMs.

- **Decency:** all establishments confirmed during the reporting period that apart from the very early period of lockdown, all non-COVID prisoners had access to the basic human rights of daily showers, time in the fresh air, exercise, access to legal advice and families, etc. The regime, particularly for time in the fresh air and showers, was restricted by HPS guidance in the early stages but successfully challenged by HMIPS.
- **Healthcare:** essential healthcare services continued to operate across the estate, and no issues were reported regarding access to medication or healthcare. IPMs in some prisons noted that the number of Talk-To-Me cases had fallen since lockdown – possibly due to a restricted regime and less contact with other prisoners leading to a reduction of potential stressors. Inspection reports noted variances in provision, for example chronic disease management clinics and mental health assessments. HIS involvement in liaison visits commenced.
- **Prisoner consultation:** IPMs in most prisons reported that Prisoner Information and Action Committee (PIAC) meetings continued to run in order to determine the views of prisoners regarding regime changes, etc. In some cases the engagement was less regular than normal and less formal than would be expected – in others more frequent - though it was reported that larger meetings were not possible due to two metre distancing requirements in meeting rooms.
- **Family links:** prisoners across the estate initially expressed frustration at the lack of speed with which virtual visits and cell phones were implemented. However, in most prisons this was resolved during the reporting period. Prisoners generally responded positively to the availability of virtual visit technology, particularly foreign nationals able to see families abroad or where the journey for UK based families is long and arduous. There have been a few technical connectivity issues, and the popularity of virtual visits appeared to reduce once physical visits started up again. During the reporting period HMP Shotts was unable to provide mobile phones.

Areas of concern:

- **Time out of cell:** during the period April-June, when restrictions were at their tightest as part of COVID risk mitigation, many prisoners were getting a maximum of two hours out of cell per day, and very little social interaction with other prisoners apart from when queuing in small groups for meals or to use phones or communal showers. While recognising the reason for this approach, and welcoming the efforts made by the SPS to support mental stimulation through the provision of puzzle books, learning packs, and greater access to DVDs, etc, the impact on the mental health of prisoners was a concern.



- **Access to fresh air for those on Rule 40/41:** while it was reported that all establishments afforded all prisoner categories time in the fresh air, those in isolation under Rule 41 (that is confirmed COVID positive/symptomatic/contact with confirmed case) were in some prisons not permitted to leave their cell for up to 14 days during the period April-June 2020. Staff explained that the decision to implement was taken following HPS guidance. They also quoted logistical reasons (including – if it were to happen – the need to clean any area the isolated prisoners traversed). While this may be the case, it left isolated prisoners unable to exercise their basic right to time in the fresh air. SPS guidance allowed access to fresh air for those on Rule 41 based on local risk assessments, but allowed restrictions to what the Governor-in-Charge (GIC) considered deliverable alongside meeting other statutory requirements. As an example, some prisons restricted COVID isolated prisoners to accessing fresh air only three times per week. HMIPS continued to challenge this interpretation, arguing that every prisoner should have a right to fresh air every day for at least one hour.
- **Recording time out of cell:** there was a variance in the method establishments use to record time in the fresh air and time out of cell. Some recorded solely the length of the activity being undertaken out of cell, whereas others also included the time prisoners take to walk to and from that activity.
- **Physical distancing and infection control:** during the reporting period prisoners expressed concern to IPMs in nearly all prisons about the lack of physical distancing by staff. This was raised with prison management in each prison, who responded to say they were aware of the matter and continued to reassert the need to observe physical distancing rules. The requirement for SPS staff and all visitors (including IPMs and HMIPS inspection staff) to wear face masks in the prison reduced the risk of transmission of the virus from that source, but did not eliminate the risk of transmission via new prisoner admissions.
- **Purposeful activity:** the reasons behind the decision to restrict regimes during the height of the pandemic lockdown, in line with HPS guidance, is fully recognised. However, this inevitably left a lack of purposeful activity opportunities during the reporting period, with only essential work parties (for example, kitchen, laundry, cleaning, gardens) operating. There was a mix of responses among prisoners across the estate with some expressing boredom and frustration, and others stating they understood the need for such restrictions during lockdown. IPMs supported the restriction of regimes during this reporting period as necessary for preventing the spread of the virus, but were keen to see purposeful activity restored as quickly and fully as possible, and remained concerned that compliance with physical distancing guideline will again inevitably reduce the number of prisoners able to participate in such activities for a long time to come. Alternative proposals, for example computers in cell for distance



learning have been explored by HMIPS with the SPS. Most prisons started to open up work sheds, education and other elements of the regime from August onwards and had plans to keep extending these opportunities in line with the national SPS Recovery Plan. We welcomed this positive development, but we will need to monitor whether sufficient meaningful opportunities can be provided for the prison population as a whole, and whether all categories of prisoner get fair access to them. Access to purposeful activity and the juxtaposition of social isolation for remand and vulnerable prisoners remained a concern, exacerbated by the number of prisoners held on remand increasing to over 25% of the population.

- **Progression:** progression activities were generally suspended during the April-June 2020 period. Under the SPS recovery route map transfers were recommenced in August. The heavy dependence on offending behaviour programmes to demonstrate reducing risk was inhibited by COVID guidelines and is unlikely to be resolved fully in the near future. From July 2020 onwards most prisons were reintroducing Risk Management Team (RMT) meetings and beginning to consider programme delivery options again. However, we were concerned before COVID that the waiting times to access national offender management programmes were too long and the pause in delivery of such programmes will only have added to the backlog. We support the action that the SPS is starting to take to explore alternative approaches to how programmes may be delivered in future, and to consider how best to measure and demonstrate risk reduction. Nevertheless, we are concerned that this review will not deliver results quickly enough for many prisoners, whose prospects for community access and success at the Parole Board may be adversely affected.
- **Availability of cell phones for prisoners at HMP Shotts:** these had still not been made available to HMP Shotts prisoners by the start of September 2020. This delay in securing access to available in all other establishments was understandably frustrating for prisoners in HMP Shotts (but has subsequently been resolved)
- **Access to health assessment for late admissions:** it came to light during the Healthcare Improvement Scotland (HIS) part of our COVID liaison visit to HMP Barlinnie that late admissions to the prison, and the revised core dayshift pattern for NHS prison healthcare teams, were creating a risk that prisoners may not be assessed on admission by NHS staff and were accordingly being put on Talk-To-Me observations overnight until they could be assessed by NHS teams the following morning. Further enquiry elicited that other prisons were experiencing the same issue. HIS were clear this was unacceptable and the issue was immediately escalated by HMIPS to the health board. While late shifts for NHS prison healthcare teams have been reinstated to address the immediate risks, concerns remained that there was an over-reliance on the good will of nurses to stay late, sometimes even beyond the end of their allocated evening



shift, and that it may result in nurses working excessively long shifts, with detrimental effect on their decision making. HMIPS and HIS joined a working group set up by the Prison Care Network to seek reassurance that a sustainable solution is found, and suggested that this NHS led group invited other members of the judicial system to join the group.

2.2 Focus for the Future

- **Regimes:** IPMs will monitor the reimplementation of the fuller regimes (discussed above) to ensure that **all** prisoner groups are offered these opportunities equably. We will continue to monitor whether local situations tally with the information collated centrally by SPS HQ (their very helpful regime comparison spreadsheet was circulated separately) and explore any variations in regime between different establishments, prisoner cohorts and progress towards full alignment with HQ.
- **Progression:** IPMs will also monitor the reintroduction of activities involved with prisoner progression and whether significant delays are still experienced.
- **Population and location:** IPMs will be asked to monitor overcrowding and the impact on the vulnerable population, in particular; remand, those with identified mental health issues, women, young people, those requiring accessible cells and protection prisoners.
- **Multi-partner inspections:** we are in the process of shifting from the current COVID focussed one day liaison visits back towards fuller inspection with other partners. We do not envisage being able to move immediately to full inspections over five days, partly because we think that may impose too big a burden on the SPS at what is still a delicate time in containing COVID risks. Nevertheless, with the return of education, along with the opening up of more work sheds and other forms of progression, we are exploring two day liaison visits with our inspection partners - Education Scotland, the Care Inspectorate, and the Scottish Human Rights Commission. We are revising our adapted methodology to provide a stronger focus again on purposeful activity, and we anticipate HMIPS and HIS increasing our presence on-site in due course to improve our ability to triangulate evidence.
- **Future thematic reviews:** we see progression in all its forms, including the range and relevance of purposeful activities and programmes, and progression to the National Top End and the Open Estate, through to pre-release planning and liaison with community based services on release as our top priority for an in-depth thematic review in 2021 if capacity and resources allow.



3. HMIPS Monitoring Strategic Initiatives

HMIPS reintroduced partial on-site monitoring at the end of August 2020, initially piloted safely in Region 1 prisons, and then rolled-out across all establishments. IPMs adapted well to on-site monitoring while applying the required safety measures. It should be noted, however, that not all IPMs were comfortable with returning to on-site monitoring, and as such not all prisons will benefit from a weekly on-site monitoring visit. Where this is the case the remote monitoring phone call will be scheduled. Moreover in any localised outbreaks IPMs will be advised not to visit the establishment.

HM Inspectorate of Prisons for Scotland
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