

## **COVID-19 PANDEMIC EMERGENCY**

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



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

**Monday, 13 July 2020**

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## Introduction and Background

This report is part of a programme of liaison visits to Court Custody Units (CCUs), carried out by HM Inspectorate of Prisons for Scotland (HMIPS), during the COVID-19 pandemic emergency.

These visits contribute to the UK's response to its international obligations under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). OPCAT requires that all places of detention are visited regularly by independent bodies – known as the National Preventive Mechanism (NPM) – which monitor the treatment of and conditions for detention. HMIPS is one of 21 bodies making up the NPM in the UK.

In these challenging times, HM Chief Inspector of Prisons for Scotland (HMCIPS) acknowledges that there will be a need for amendments to the daily routines and regimes in Scotland's CCUs in order to keep people safe. HMCIPS has made it clear however that “protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty”, and she will continue to report to the Cabinet Secretary for Justice on the treatment and conditions in which custodies are held, in line with HMIPS' [Standards for Inspecting and Monitoring Prisons in Scotland](#).

In recognition of the pressures imposed by COVID-19, HMIPS have developed an adapted methodology to their usual full inspection process; the [Liaison Visits Framework - Prison and Court Custody Units](#) that will be applied during this emergency.

HMIPS has developed an algorithm that is populated by weekly information sharing with the CCUs, which helps to provide intelligence to inform the scheduling of visits. More information can be found at [Liaison Visits Framework - Prison and Court Custody Units](#).

## Process

Due to the COVID-19 pandemic, the number of Scottish courts operating at the time of this visit was 10. HMIPS will contact each of the 10 GEOAmeY Team Managers on a weekly basis to confirm numbers attending, with a focus on understanding the CCU response to COVID-19. A Log of those calls will be maintained. Where it is deemed appropriate, through telephone calls, information received from GEOAmeY, or results from the risk based HMIPS Liaison Data Algorithm, HMIPS will conduct a one-day liaison visit to one of the CCUs.

Liaison visits to CCUs, will have the following functions:

- To ensure scrutiny of CCUs continue and are grounded in human rights, looking at the treatment and conditions of those held in detention.
- To offer support to the CCU management and staff.
- To provide assurance to the Cabinet Secretary for Justice on the SPS, NHS GEOAmeY and Scottish Court and Tribunals Service (SCTS) response to the COVID-19 pandemic for those in custody.

- To garner intelligence and information to make informed decisions on future HMIPS priorities.
- To identify good practice that can be shared.

HMIPS assimilates information prior to the liaison visits to select the CCU to be visited and to contribute to the focus of the visit and consequently develop evidence-based findings utilising a number of different techniques. These include:

- calls to the Team Manager prior to the visit
- obtaining information and documents from the SCTS and the court inspected;
- shadowing and observing staff as they perform their duties within the CCU;
- interviewing custodies and staff on a one-to-one basis;
- inspecting a wide range of facilities impacting on both custodies and staff; and
- reviewing policies, procedures and performance reports.

The information gathered facilitates the compilation of a report into the CCU against the modified standards used. A written record of the evidence gathered is produced by those undertaking the visit consisting of a detailed narrative against each of the standard's inspected.

A log of recommendations and good practice arising from the liaison visit is completed and stored in our secure Electronic Records Document Management filing system.

Liaison visits will be undertaken in most cases by two HMIPS staff, the Inspector of Prisons and the Operations Manager who normally undertake CCU inspections, but may be accompanied by other members of staff from HMIPS.

The full inspections and our COVID-19 adapted liaison visit methodology are informed by a set of Standards as set out in our document [Standards for Inspecting Court Custody Provision in Scotland](#), published March 2017 and reviewed in January 2020. This report is set out to reflect the performance against these Standards.

These Standards contribute positively to the effective scrutiny of court custody provision in Scotland, designed to both encourage continuous improvement in the quality of care and custody of people held in court cells and to provide assurance.

Published CCU liaison visit reports provide assurance to Ministers, key stakeholders and the wider public that inspections are conducted in line with a framework that is consistent, and that assessments are made against appropriate criteria.

This adapted inspection methodology developed in response to COVID-19 will be kept under continual review and as soon as it is safe and reasonable to do so, full CCU inspections will recommence.

Findings from any CCU Liaison Visits and issues that are highlighted from weekly CCU telephone calls, will be reported to:

1. the Cabinet Secretaries for Justice, Health and Sport; and
2. the Scottish Government Justice Directorate, GEOAmev, Police Scotland, the Scottish Prison Service (SPS) and SCTS for information and action.

HMIPS will ensure all relevant parties are kept informed and any good practice or recommendations identified will be logged and progress monitored.

The visit team for this inspection was Graeme Neill and Kerry Love.

*Wendy Sinclair-Gieben*

**Wendy Sinclair-Gieben**

HM Chief Inspector of Prisons for Scotland

27 August 2020

## STANDARDS, COMMENTARY AND QUALITY INDICATORS

### STANDARD 1 - LAWFUL AND TRANSPARENT USE OF CUSTODY

**The custody service provider (“the provider”) complies with administrative and procedural requirements of the law and takes appropriate action in response to the findings and recommendations of official bodies that exercise supervisory jurisdiction over it.**

#### Commentary

**The provider ensures that all prisoners are lawfully detained. Each prisoner’s time in custody is accurately calculated; they are properly classified and allocated to cells appropriately. The provider cooperates fully with agencies which have powers to investigate matters in the custody areas.**

#### Quality indicators inspected

##### **1.2 Personal Escort Record (PER) forms are accurately populated and all relevant sections are completed.**

Inspectors observed the arrival and processing of two custodies. On arrival at the CCU reception desk, they were asked to confirm their name and date of birth, which was compared against their PER and computer record. When staff were satisfied that their identity had been confirmed, a photograph was taken of the custody and added to the computer system before the custody was placed in a cell.

Inspectors observed the custodies being offered hand sanitiser on arrival and being asked relevant questions in respect of COVID-19. Should the custody not have an awareness of the Scottish Government guidelines they were advised accordingly.

Inspectors observed that the responses to these questions were accurately recorded on the PER, along with the offer of hand sanitiser on arrival and throughout the day. In Kilmarnock CCU, the PER accompanied the custody throughout their time in the CCU and was updated as necessary.

##### **1.3 A Cell Sharing Risk Assessment (CSRA) is carried out on arrival, taking account of individual characteristic (including gender, vulnerability, security risk, state of mental health or personal medical condition) and individuals are then allocated to an appropriate cell.**

At the time of the visit, Kilmarnock CCU were not accepting additional custodies from any other court as a result of temporary closures.

Kilmarnock CCU has 16 cells and all were operational on the day of visit. Six cells were located within the CCU and a further 10 were located in an adjacent annex area. These 10 cells were shared between GEOAmey and Police Scotland. GEOAmey were responsible for the running of the cells and the custodies located within them Monday to Friday, then when the CCU closed on a Friday evening, responsibility for the cells was passed to Police Scotland to accommodate any

custodies over the weekend, if required. This set up helpfully reduced the movement of custodies.

All cells were single occupancy which fully met the Scottish Government's physical distancing guidance. On the day of the visit, the CCU had a total of 29 custodies to be processed. They comprised of 26 adult males, one male aged under 21, one male aged under 18 and one adult female.

There were 16 custodies present in the CCU at the time of the visit. The Team Manager had requested that the remaining custodies continue to be held in police custody until cells became available. However one of the custody vehicles had already collected two custodies from Greenock Police Station by the time the request was made. They were being held in the custody vehicle until space became available in the CCU. Whilst not ideal, they were being provided with regular refreshments to keep them as comfortable as possible.

A selection of PER forms were examined by Inspectors. All were found to have been completed correctly and accurately, documenting the custodies classification, vulnerabilities, medical issues, dependencies and whether or not an interpreter was required.

Inspectors noted that all further information pertaining to the custody, generated whilst within the CCU, was recorded by staff and included the relevant COVID-19 considerations, such as the offer of hand sanitiser or hand washing during their stay in the CCU.

## **STANDARD 2: DECENCY, DIGNITY, RESPECT AND EQUALITY**

**The custody areas should meet the basic requirements of decency and all prisoners within custody areas are treated with dignity and respect, irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.**

### **Commentary**

**All custody areas should be of adequate size for the number of persons they are used to detain, well maintained, clean and hygienic and have adequate lighting. Each prisoner should have access to toilets, be provided with necessary toiletries, and offered a nutritious meal. These needs should be met in ways that promote each prisoner's sense of personal and cultural identity and self-respect.**

### Quality indicators inspected

#### **2.1 The custody areas should be appropriately equipped and constructed for their intended use and be maintained to an appropriate standard.**

Inspectors noted that there was no screen between the Bar Officer and custodies to provide additional protection against the spread of COVID-19. However, Inspectors were informed that it was in the process of being installed.

There was one custody court running.

GEOAmey advice posters relating to COVID-19 were clearly displayed in the area that custodies were processed and throughout the CCU.

The corridors in the CCU were quite small and as such it was acknowledged that it was challenging to maintain physical distancing. However staff did the best they could in the circumstances and were regularly reminded of what was required during a daily briefing. Physical distancing markings had been placed on the floor of the CCU as a helpful reminder to staff.

There were 11 members of staff on duty on the day of the visit. The staff that came into close proximity with each other and custodies, for example those responsible for escorting custodies from the van to the CCU reception area and from the CCU to court, were observed to be wearing masks and gloves.

When searching custodies, staff wore gloves and masks but no goggles or apron. Inspectors discussed with the Team Manager that consideration should be given to having dedicated searchers, and that all staff tasked with searching custodies wear full PPE. The Team Manager agreed and said he would implement this process immediately.

There was adequate PPE equipment within the CCU including hand sanitiser, masks, goggles, gloves and aprons.

The use of virtual courts from police cells was limited, although they were taking place from prisons. The reason given for this was that Ayr Sheriff Court was much smaller with less cells, therefore they had priority.

**Recommendation 1: all staff tasked with searching custodies should wear full PPE. Inspectors noted that the Team Manager would ensure this happened with immediate effect.**

## **2.2 Good levels of cleanliness and hygiene are observed throughout the custody areas ensuring procedures for the prevention and control of infection are followed.**

It was the view of the staff in the CCU that the general cleaning of the Unit was inconsistent and not always of a good standard. The CCU was cleaned once as part of a daily schedule by SCTS contract cleaners, but no additional cleaning had been put in place post COVID-19 to specifically clean well used areas such as toilets, handles and surfaces. It was noted however, that cells were now cleaned between custody use and CCU staff reported that cleaners arrived quickly when requested.

The 10 cells in the annex area had in-cell toilets. The remaining six cells shared two standalone toilets that were used by both male and female custodies. Custodies wishing to use the shared toilets asked a member of CCU staff, who escorted them from their holding cell to the toilet. The facilities were clean, had toilet paper and soap, and hand towels were provided to custodies on request. It was reported to Inspectors that soap and hand towels were not always filled up by the cleaners.

Inspectors noted that there was a sanitary bin placed outside the shared toilets, rather than inside. CCU staff explained that if custodies had sanitary products they wished to dispose of, they asked a member of staff for a bag to place it in and the staff member put on gloves and disposed of it for them. Inspectors agreed with the Team Manager that this was not a particularly dignified process and that a bin would be placed inside the toilets to allow custodies to dispose of their own sanitary products.

There was no cleaning log displayed within the CCU for the cleaners to record when the area has been cleaned.

Later in the day, Inspectors had the opportunity to discuss the issues raised by CCU staff with the cleaning supervisor within SCTS, who stated that they would liaise immediately with the Team Manager to agree the cleaning schedules. Following the visit, Inspectors were advised that an action sheet would be in the CCU and completed on a daily basis to help ensure that soap dispensers were filled, there were sufficient toilet rolls and the floors were mopped and cleaned. The doors and handles within the CCU will also be cleaned on a daily basis and an extra sanitary bin will be provided.

CCU staff regularly cleaned the cell keys and search wands. They also cleaned the three interview rooms between custodies using them.

**Recommendation 2: the Team Manager should regularly meet with relevant SCTS staff to discuss their concerns about the standard of the cleaning within the CCU. Also, additional cleaning of the CCU by the SCTS contract cleaners should be carried out whenever possible.**

**Recommendation 3: a sanitary bin should be placed within the shared toilets to allow custodies to dispose of their own sanitary products.**

## **STANDARD 4 - EFFECTIVE, COURTEOUS AND HUMANE EXERCISE OF AUTHORITY**

**The implementation of security and supervisory duties is balanced by courteous and humane treatment of custodies in the CCU.**

### **Commentary**

**Procedures relating to perimeter, entry and exit security, and the personal safety, searching, supervision and escorting of custodies are implemented effectively. The level of security and supervision is proportionate to the risks presented at any given time.**

### Quality indicators inspected

#### **4.2 The systems and procedures for the movement, transfer and release of custodies are implemented effectively and courteously.**

The atmosphere amongst the team in Kilmarnock CCU was observed to be positive, the Team Manager appeared confident and professional in his manner.

As mentioned in QI 2.1, Inspectors observed custodies arriving at the CCU. They were brought in from the GEOAmev van handcuffed to staff who were wearing gloves and masks.

It was standard practice in Kilmarnock CCU for all custodies not to wear handcuffs when being escorted to and from court. This permitted a degree of physical distancing by the two staff members on escort duty.

To try and promote physical distancing, only one custody was permitted to move through the CCU at any one time.

#### **4.3 The systems and procedures for access and egress of visitors to the CCU are implemented effectively and courteously. There is adequate accommodation to facilitate such visitors.**

Due to the layout of the CCU, solicitors were permitted to enter the corridors to gain access to the three interview rooms to speak with their clients. Inspectors noted that some solicitors did not wear masks or gloves and it appeared to be a personal choice that could be exposing others to unnecessary risk. It was clear that this was difficult for the CCU staff to address. Inspectors were advised that some solicitors can visit the CCU up to three times a day for each custody, as they do not all wait until papers are marked to carry out an initial visit. This causes an unnecessary increase in movement throughout the CCU.

**Recommendation 4: SCTS may wish to liaise with the relevant body to encourage solicitors only to enter the CCU area when absolutely necessary and to always wear a mask and gloves.**

## **STANDARD 6: HEALTH, WELLBEING AND MEDICAL TREATMENT**

**All reasonable steps are taken to ensure the health and wellbeing of custodies while in the CCU, and appropriate and timeous medical treatment is available when required.**

### **Commentary**

**Where it is necessary to do so, custodies should receive treatment that takes account of all relevant NHS standards, guidelines and evidence-based treatments.**

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

There was no requirement for a Scot Nurse during the visit. Staff reported that there could be slight delays in someone attending and this was the case pre COVID-19.

## Summary of recommendations

QUALITY INDICATOR	RECOMMENDATION	RELEVANT AGENCY
2.1	All staff tasked with searching custodies should wear full PPE. Inspectors noted that the Team Manager would ensure this happened with immediate effect.	GEOAmey
2.2	The Team Manager should regularly meet with relevant SCTS staff to discuss their concerns about the standard of the cleaning within the CCU. Also, additional cleaning of the CCU by the SCTS contract cleaners should be carried out whenever possible.	GEOAmey/SCTS
2.2	A sanitary bin should be placed within the shared toilets to allow custodies to dispose of their own sanitary products.	SCTS
4.3	SCTS may wish to liaise with the relevant body to encourage solicitors only to enter the CCU area when absolutely necessary and to always wear a mask and gloves.	SCTS

**ACRONYMS**

<b>CCU</b>	Court Custody Unit
<b>CSRA</b>	Cell Sharing Risk Assessment
<b>HMCIPS</b>	HM Chief Inspector of Prisons for Scotland
<b>HMIPS</b>	HM Inspectorate of Prisons for Scotland
<b>NPM</b>	NATIONAL PREVENTATIVE MECHANISM
<b>OPCAT</b>	Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
<b>PER</b>	Personal Escort Record
<b>PPE</b>	Personal Protective Equipment
<b>SCTS</b>	Scottish Courts and Tribunal Service
<b>SPS</b>	Scottish Prison Service



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