

COVID-19 PANDEMIC EMERGENCY

LIAISON VISITS – PRISONS AND COURT CUSTODY UNITS



REPORT ON A LIAISON VISIT TO COURT CUSTODY UNIT KIRKCALDY SHERIFF COURT

Thursday, 9 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, GEOAmey, 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 Calum McCarthy and Graeme Neill.

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 did not observe the arrival of any custodies. However, staff informed them that on arrival at the CCU reception desk, custodies were asked to confirm their name and date of birth, which was compared against their PER and 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.

It was clear that GEOAmey had ensured that the recommendations from previous liaison visits to other CCUs had been shared, regarding custodies being offered hand sanitiser on arrival at the CCU and being asked questions in respect of COVID-19. Should the custody not have an awareness of this they were advised accordingly.

Inspectors observed that the responses to these questions were accurately recorded on the GEOAmey IT system, along with the offer of hand sanitiser on arrival and throughout the day.

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, Kirkcaldy CCU were accepting additional custodies from Dunfermline Sheriff Court due to its temporary closure. There appeared to be a scheduling issue with the local Procurator Fiscal for custodies attending the CCU to allow the custody numbers to be staggered, ensuring better management of cell allocation within the CCU and achieving physical distancing.

Kirkcaldy CCU had six cells and all were operational on the day of visit.

At the time of the visit, the CCU had agreed to permit double occupancy in five cells, with one smaller cell designated as single occupancy. On inspection, it was felt by the inspectors that all cells within the CCU that were used for double occupancy were too small to hold two custodies and still maintain physical distancing.

There were seven custodies present in the CCU at the time of the visit, with one cell having double occupancy. All custodies were from Police Scotland. In total the CCU were managing eight custodies, all of whom were adult males, with one additional custody held at the police station awaiting a cell space.

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 if an interpreter was required.

Inspectors noted that all further information pertaining to the custody, generated whilst within the CCU was recorded by staff electronically on the GEOAmey IT system rather than the PER. This system was seen to include COVID-19 considerations, including the offer of hand sanitiser or hand washing which was recorded during their stay in the CCU.

Recommendation 1: due to their size, all cells in Kirkcaldy CCU should be single occupancy with phased management of custodies.

Recommendation 2: all key agencies should work together to improve the scheduling to aid phased management of custodies coordinated by the Team Manager.

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.

One custody court was operating on the day of visit.

GEOAmey advice posters relating to COVID-19 were clearly displayed throughout the CCU.

There were six members of staff on duty and on arrival Inspectors noted that not all were wearing masks. It was clear that this was a personal preference and not fully enforced by Team Managers. Some staff were seen to be physically distancing from each other but others were not. The CCU was quite cramped and as such it was acknowledged that it was challenging to maintain physical distancing, however, this increased the importance of staff wearing masks.

Inspectors noted that the Team Manager had relayed this point to staff and by the end of the visit, all staff were seen to be wearing masks.

The Team Manager included physical distancing and the use of Personal Protective Equipment (PPE) in his staff briefings and stated that he regularly reminded staff throughout the day.

It was seen that one member of staff wore full PPE kit including, goggles, mask, gloves and apron, and they were tasked with searching custodies as they arrived at the CCU.

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

Physical distancing markings on the floor of the court building stopped at the entrance to the CCU, it was noted however that this was in the process of being

addressed as the inspectors were leaving the building. There was no such markings within the cells.

Recommendation 3: staff should continue to wear masks at all times where physical distancing is not able to be maintained.

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.

The cells did not have internal toilet facilities. Therefore prisoners wishing to use the toilet asked a member of CCU staff, who took them from their holding cell to a toilet situated outside the holding cells. There were two toilets, one toilet was allocated for males and one for females. The facilities were clean, with toilet paper and hand towels being provided to prisoners on request. The toilets themselves were clean and in good order.

It was noted that no action had been taken following a recommendation made in the last full inspection report of Kirkcaldy CCU in August 2018, regarding the large glass viewing panels on the toilet doors. This should be reviewed to ensure that the individuals using them are afforded sufficient privacy and decency whilst using the facilities.

The CCU was cleaned at the end of each day by SCTS contract cleaners. No additional cleaning processes had been put in place post COVID-19 to clean the general area, the toilets or handles and surfaces. Cells continued to be cleaned between custodies and CCU staff reported that cleaners arrived quickly when requested.

CCU staff regularly sanitise the cell keys and search wands and were seen by Inspectors to be periodically cleaning handles and surfaces with antiseptic wipes.

Recommendation 4: additional cleaning of the CCU by the SCTS contract cleaners during COVID-19 should be carried out whenever possible.

Recommendation 5: whilst it is necessary to have viewing panels within toilet doors, these should be reviewed to ensure that the individuals using them are afforded sufficient privacy and decency whilst using the facilities.

STANDARD 4 - EFFECTIVE, COURTEOUS AND HUMANE EXERCISE OF AUTHORITY

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

Commentary

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

Quality indicators inspected

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

Inspectors did not observe any custodies arriving at the CCU. They were however informed by staff that on their arrival at the CCU custodies were handcuffed to staff wearing gloves and masks.

In addition, a dedicated member of staff wore full PPE equipment to search custodies on arrival at the CCU, which prevented staff changing in and out of equipment.

In respect of the movement of custodies from the CCU to the court. Inspectors were informed that a Handcuff Risk Assessment was always carried out, and if appropriate the current process, in response to COVID-19, was for custodies to be handcuffed to a staff member by a closet chain to try and maintain physical distancing. This was deemed by Inspectors to be good practice.

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

Good Practice 1: the standard movement of custodies using closet chains maintained physical distancing.

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

Visitors, including legal representatives and agency workers, no longer entered the CCU since the COVID-19 measures were put in place. Any contact with custodies was now through a glass partition in one of the three interview rooms.

Staff confirmed that they cleaned the interview rooms with antiseptic wipes between uses, which was a task that was also carried out in many other CCUs.

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 inspectors visit and staff did not report any change to service since COVID-19 restrictions were implemented.

Staff reported to Inspectors that any custody being released that required a travel warrant or money were directed to Social Work for assistance through The Social Welfare Fund.

Summary of Good Practice

QUALITY INDICATOR	GOOD PRACTICE	RELEVANT AGENCY
4.2	The standard movement of custodies using closet chains maintained physical distancing.	GEOAmey

Summary of Recommendations

QUALITY INDICATOR	RECOMMENDATION	RELEVANT AGENCY
1.3	Due to their size, all cells in Kirkcaldy CCU should be single occupancy with phased management of custodies.	SCTS GEOAmey
1.3	All key agencies should work together to improve the scheduling to aid phased management of custodies through the Team Manager	SCTS GEOAmey Police Scotland COPFS
2.1	Staff should continue to wear masks at all times where physical distancing is not able to be maintained	GEOAmey
2.2	Additional cleaning by the SCTS contract cleaners during COVID-19 should be carried out whenever possible.	SCTS
2.2	Whilst it is necessary to have viewing panels within toilet doors, these should be reviewed to ensure that the individuals using them are afforded sufficient privacy and decency whilst using the facilities.	SCTS

ACRONYMS

CCU	Court Custody Unit
CSRA	Cell Sharing Risk Assessment
COPFS	Crown Office and Procurator Fiscal Service
HMCIPS	HM Chief Inspector of Prisons for Scotland
HMIPS	HM Inspectorate of Prisons for Scotland
NPM	National Preventative Mechanism
OPCAT	Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
PER	Personal Escort Record
PPE	Personal Protective Equipment
SCTS	Scottish Courts and Tribunal Service
SPS	Scottish Prison Service



HM Inspectorate of Prisons for Scotland is a member of the UK's National Preventive Mechanism, a group of organisations that independently monitor all places of detention to meet the requirements of international human rights law.
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