

**COVID-19 PANDEMIC EMERGENCY**

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



**REPORT ON A LIAISON VISIT TO COURT CUSTODY UNIT**

**Dumbarton Sheriff Court**

**10 August 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 will 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, that 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 GEOAme Court Manager 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 GEOAme, 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 GEOAme 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 CCU 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 (eRDM) 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 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 Calum McCarthy

*Wendy Sinclair-Gieben*

**Wendy Sinclair-Gieben**  
**HM Chief Inspector of Prisons for Scotland**  
**9 November 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 that custodies were asked questions in respect of Cell Sharing Risk Assessments (CSRAs) in front of the Bar Officer and in view of CCTV by a member of the CCU staff. The answers to these questions were then recorded by the Bar Officer on the IT system. Custodies were then 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 asked further questions covering general health and safety and an awareness of the Scottish Government’s physical distancing rules.

Inspectors were concerned that the CSRA questions, COVID related health and safety questions and the provision of information relating to the Scottish Government’s physical distancing rules, were not carried out clearly or methodically. Inspectors observed custodies arriving at the CCU clearly struggling to understand the questions being asked of them, and when some stated that they did not understand they were pointed towards a list of questions to read themselves. There was clearly a high risk that a number of custodies may not have answered the questions correctly as they did not understand what was being asked of them. One custody in particular reported to staff that he could not read the questions as he was dyslexic. The staff did not take this on board or make any attempt to further explain the questions, and the custody was then led to a cell.

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. It was noted that all further information pertaining to the custody, generated whilst within the CCU, was recorded by staff on the GEOAme IT system and any incidents

of note were also added to the PER form as an added measure for the information of partner agencies.

It was encouraging to see that custodies were offered hand sanitiser on arrival at the CCU.

Inspectors observed three custodies attend the CCU from HMP Low Moss for intermediate diets. All three wore face masks and, when questioned, confirmed that they were issued them when leaving the prison as there had been a COVID incident and part of the prison was on lockdown. On checking the PER forms there was no mention of this to allow the CCU staff to make an assessment of risk. Staff relied on the information being given to them by the prisoners themselves.

Two of these custodies were convicted and one was remanded on a separate warrant, therefore they were all returning to HMP Low Moss after their appearance in court. Consideration should have been given to using the virtual court facilities. This would have freed up cells for use by police custodies, and reduced the health risks of prisoners attending a CCU from a prison in partial lockdown due to COVID.

**Recommendation: CSRA and COVID questions should be asked methodically and clearly, and custodies should only be accepted into the CCU when staff are satisfied they have understood and answered all questions.**

**Recommendation: The SPS must ensure that where custodies are attending CCUs from prisons where COVID is known to be present, this is clearly conveyed to the CCU via the PER forms.**

**Recommendation: Consideration should be given to the use of virtual court facilities for custodies attending a CCU from prison where there is no possibility of them being released.**

**1.3 A Cell Sharing Risk Assessment (CSRA) is carried out on arrival, taking account of individual characteristics (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, Dumbarton CCU were accepting additional custodies from Campbeltown and Oban CCU that were temporarily closed.

Inspectors were informed by the GEOAmeY Team Manager that there was an established communication process between GEOAmeY, the Procurator Fiscal and the Sheriff Clerk. This process consisted of the names of the custodies that first arrived at the CCU being populated onto the bar sheet, and shared via email by the CCU Manager with the aforesaid recipients. This was usually before 09:00. This process should allow prioritisation of paperwork and custody running orders to create a good flow of custodies through the CCU, minimising the volume of people generally in the CCU and as such promote physical distancing in line with the Scottish Government's guidelines.

However, when Inspectors examined this process in detail, it was found that the email to the partners was not sent until nearer 10:00 and it did not specify what custodies were being held in the CCU, thereby not giving the Procurator Fiscal the opportunity to prioritise the marking of papers.

Inspectors then found that the custody court did not start until 12:00 and that the papers from the Procurator Fiscal tended to arrive at the CCU ahead of this start time. Physical distancing was clearly compromised as some custodies were being brought from single occupancy cells in prisons and police stations to be doubled up in CCU cells. It is understood that the timing of the custody court was fixed by the Sheriff Principal thought an Act of Court and always started at 12:00. If this is a set procedure then it is unclear why there is a requirement for custodies to start arriving in the CCU from 08:00. This caused an unnecessary gathering of custodies sitting in cells within the CCU, some for over six hours.

After their court appearance, the Sheriff Clerk was reported to be providing custody papers within a good timescale to release custodies.

The CCU had eight cells and all were operational. Three cells were for single custody use and five were deemed by Inspectors to be suitable for two custodies whilst maintaining physical distancing.

There were 18 custodies in total expected on the day of the visit, they consisted of 15 adult males, one adult female and two under 21 males. At the time of the visit there were 12 custodies present, and it was seen that four cells had double occupancy and four had a single occupant. Six custodies were being held at Clydebank Police Station until cell space at the CCU became available.

**Recommendation: If an Act of Court determines the start time of the custody court to be 12:00, then partner agencies should consider working together to reduce the unnecessary gathering of custodies and associated staff early in the day, thus reducing the need for social distancing and cell sharing.**

## **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.**

GEOAmev advice posters relating to COVID-19 were clearly displayed within the CCU and staff areas.

All staff were observed to be wearing gloves and masks. Staff were seen generally to be physical distancing from each other by keeping a minimum of two metres apart whenever possible.

Inspectors observed that when custodies first arrived in the CCU a member of staff wearing full PPE kit including goggles, mask, gloves and an apron searched them. There was adequate PPE equipment within the CCU including hand sanitiser, masks, goggles, gloves and aprons.

It was noted that there were markings on the floor of the CCU that clearly displayed a two metre distance.

The cells were found by Inspectors to have physical distancing markers and dividers on the floor. Five of the cells were large enough to facilitate two custodies. HMIPS will always recommend single occupancy cells, however under certain circumstances they could be used for double occupancy if strict physical distancing rules are adhered to and the markings clearly reflected this. Three cells were suitable for single occupancy.

## **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 CCU had three toilets, two were used by males and the other by females. The female toilet displayed information posters in relation to sanitary products and had a sanitary bin. It was seen that all toilets had cleaning facilities with a soap dispenser, paper hand towels and sinks.

The toilet areas appeared clean and in good order. There was no additional cleaning of the toilets due to COVID-19, they continued to be cleaned daily as part of the scheduled cleaning programme. It was noted however that the Team Manager would often arrange for additional cleaning of the toilets if the CCU was particularly busy.

GEOAmev staff reported that they cleaned searching wands, keys, solicitor interview rooms and door handles periodically throughout the day with antiseptic wipes.

The CCU was still only cleaned once a day in the evening, with no additional cleaning having been scheduled post COVID-19. It was noted however that all cells were cleaned by a dedicated SCTS cleaner to the CCU between changes of occupants. This service was reported as excellent with a quick turnover time.

Cells were seen to be in generally good condition and had very little graffiti or damage. Some cells had damage to the ceilings caused by lighters or matches and appeared to be dated as far back as 2017.

## **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 Team Manager was aware that the allocation of single cells in the CCU is the priority and would be adhered to whenever possible.

Inspectors observed some custodies being brought from the Court Custody Vehicles into the CCU. It was clear that a Handcuff Risk Assessment was carried out for each custody to allow physical distancing whenever possible. All escorting staff were seen to wear masks but many did not wear gloves.

Inspectors were informed that custodies were handcuffed to one member of staff whilst walking from the CCU to the court. This meant that physical distancing rules of being at least two metres apart could not be adhered to whilst handcuffed, therefore all staff wore gloves and masks.

Staff were aware of the need to wear full PPE when dealing with any custody displaying or reporting COVID-19 symptoms.

Only one custody was permitted to be in the cell area at any one time, this was mainly for security but also promoted physical distancing rules.

It was clear that GEOAmev had acted on recommendations from previous liaison visits to other CCUs and that hand sanitiser was offered to custodies on arrival, using the toilets and when leaving their cells or the CCU.

**The recommendation made under QI 1.3 is also relevant to this QI.**

**Recommendation: Staff escorting custodies from the Court Custody Vehicles to the CCU should wear both masks and gloves.**

**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 had not fully entered the CCU cell areas since the COVID-19 measures were put in place. Any contact with custodies was now through a glass partition in one of the four interview rooms.

To gain access to these interview rooms solicitors and visitors did not need to enter the CCU, but used an intercom system to skirt round a corridor on the edge of the Unit.

## **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.

Scot Nurse attended when required and did so within the agreed timescales.

## Summary of Recommendations

QUALITY INDICATOR	RECOMMENDATION	RELEVANT AGENCY
1.2	CSRA and COVID questions should be asked methodically and clearly and custodies should only accepted into the CCU when staff are satisfied they have understood and answered all questions.	GEOAmev
1.2	SPS must ensure that prisoners attending CCUs from prisons where COVID is known to be present, this is clearly conveyed to the CCU via the PER forms.	SPS
1.2	Consideration should be given to the use of virtual court facilities for custodies attending a CCU from prison where there is no possibility of them being released.	SCTS SPS
1.3	If an Act of Court determines the start time of the custody court to be 12:00, then partner agencies should consider working together to reduce the unnecessary gathering of custodies and associated staff early in the day, thus reducing the need for social distancing and cell sharing	GEOAmev SCTS COPFS
4.2	Staff escorting custodies from the Court Custody Vehicles to the CCU should wear both masks and gloves.	GEOAmev

**ACRONYMS**

<b>CCU</b>	Court Custody Unit
<b>COVID-19</b>	Coronavirus Disease 2019
<b>HMCIPS</b>	HM Chief Inspector of Prisons for Scotland
<b>HMIPS</b>	HM Inspectorate of Prisons for Scotland
<b>NPM</b>	National Preventive 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>SCTS</b>	Scottish Courts and Tribunals Service
<b>SPS</b>	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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