

COVID-19 PANDEMIC EMERGENCY

LIAISON VISITS – PRISONS AND COURT CUSTODY UNITS



REPORT ON A LIAISON VISIT TO COURT CUSTODY UNIT

Edinburgh Sheriff Court

15.06.20

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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 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 (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 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.

Statutory procedures were compliant. Staff reported to Inspectors that custodies were asked questions in respect of Cell Sharing Risk Assessments (CSRAs) on route from the Custody Escort Vehicle to the CCU, by escorting staff handcuffed to the prisoner. The answers to these questions were then reported to the GEOAmeys Bar Officer. 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 prisoner was asked further questions covering general health and safety and an awareness of the Scottish Government’s physical distancing rules. Where the custody was not aware of the rules or what was expected of them in respect of physical distancing they were advised accordingly.

It was clear to Inspectors that the process for asking these important questions of the custody, was inconsistent and not carried out in a methodical or well documented manner. The escorting officer asked the CSRA questions on the stairwell on the way to the reception desk, and only reported to the Bar Officer any answers that gave cause for concern. The staff member would then separately ask the COVID-19 related questions and document them on the PER. All questions were asked in locations that were not recorded on CCTV and therefore corroboration was lost in any future disputes or allegations.

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.

However, it was noted that on examining PER forms from the weeks prior to the week of the visit, there was no mention made of COVID-19 considerations and

associated assessments of risk. Staff confirmed that the documenting of such information on PER forms only started on the day of the visit.

It was noted that all further information pertaining to the custody, generated whilst within the CCU, was recorded by staff on the PER form and not on the GEOAmev IT system. The reason given for this was the high volume of custodies, as is the case in other large CCUs as updating GEOtrack can be very resource intensive.

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

Recommendation: CSRA and COVID-19 questions should be asked in clear view of the reception desk and recorded on CCTV.

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, Edinburgh CCU were not accepting additional custodies from other CCUs. The CCU had a process in place between themselves, Police Scotland, the Procurator Fiscal and the Sheriff Clerk in respect of the release of custodies from police stations to the CCU.

This process consisted of the CCU contacting Police Scotland early in the morning, and informing them of the custodies they wished brought to the CCU and those they wished Police Scotland to retain until cell space became available.

There was no consultation at this point with the Procurator Fiscal to determine scheduling of custodies. The decisions made on which custodies were selected to be brought to the CCU appeared to be random, not based on risk or the expected timescales for time spent in the CCU by a custody.

The staff then informed the Procurator Fiscal of the names of the custodies held in the CCU and the processing commenced.

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

The CCU had 30 cells and all were operational. There were 25 custodies present in the CCU at the time of the inspection, they consisted of 20 adult males, three adult females, one under 18 male, one under 18 female. All cells were single occupancy.

Police Scotland retained two custodies, one being medically assessed and the other subject to additional enquiries. This gave a total of 27 custodies due to appear at court that day. There were no SPS custodies present, all had arrived from police custody.

Staff were aware that single occupancy cells were the priority and managed the movement of custodies to facilitate this.

It was noted that the CCU was part of a daily cleaning rota by a dedicated SCTS cleaner, and was cleaned twice a day. The SCTS cleaner was requested to clean cells between occupants. This was done without delay with an estimated 15 minute turnover.

Good Practice: Cells were cleaned by a dedicated SCTS cleaner between changes of occupants. The CCU was part of a daily cleaning rota by a dedicated SCTS cleaner.

Recommendation: Whenever possible, the custodies that are first brought to the CCU in the morning should attend based on their CSRA, the expected time to be spent in the CCU and risk.

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.

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

All staff were observed to be wearing gloves and some wore masks. It was clear that this was a personal preference and not strictly enforced by line managers. Staff were seen generally to be physical distancing from each other by keeping a minimum of two meters apart whenever possible. Staff confirmed to Inspectors that they were regularly reminded to maintain physical distancing.

Inspectors did not observe any one member of staff wearing full Personal Protective Equipment (PPE) kit including goggles, a mask, gloves and an apron. The Team Manager informed Inspectors that when custodies first arrive in the CCU, whenever possible, a member of staff will wear full PPE kit to search them but this was not always the case. In addition, when further searches were made throughout the day full PPE was not worn. The reason for this was given as insufficient staff being available to dedicate to the wearing of full PPE for searching purposes.

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

It was noted that there were no markings on the floor of the CCU that clearly displayed a two meter distance. The markings stopped at the entrance to the CCU.

During the last inspection of Edinburgh CCU in June 2018, recommendations were made to remove the urinals from the cells as they had been disconnected and therefore not functioning. Custodies were still using them despite being advised not to and as such cleaning staff had to regularly remove stale urine from the urinals. It was disappointing to see two years later that they were still in place, and a custody

was observed by Inspectors using one during the visit. During this time of necessity to keep surfaces and other areas sanitised in an effort to control the spread of the COVID-19 infection, this is an unacceptable situation.

Good practice: Staff are encouraged to keep to physical distancing rules by keeping two meters apart whenever possible.

Recommendation: When searching custodies, staff should wear full PPE to protect themselves and custodies.

Recommendation: Physical distancing markings should be clearly displayed on the floor of the CCU.

Recommendation: As a priority, the urinals should be removed from all cells.

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 two male, one female and one juvenile toilet, each containing a privacy door constructed to allow staff to monitor custodies if required. 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 were clean and in good order.

It was observed that the original medical examination suite was being converted to an additional male toilet. On inspection it was found that none of the sanitary ware had been plumbed in and no door was fitted to the door frame, staff reported it had been like this for over two months. HMIPS recognises that COVID-19 causes delays but would urge completion as soon as possible

It was noted that all cells were cleaned by a dedicated SCTS cleaner to the CCU between changes of occupants. This service was excellent with a maximum turnover time of 15 minutes.

Inspectors observed a large tray within the busy reception area holding individual cups of water that were prepared for supplying to the custodies when required. It was clear that under the current COVID-19 conditions this was unacceptable as staff were continually moving around the tray and potentially contaminating the cups of water. This was brought to the attention of staff who immediately rectified it and ordered jugs with lids to store the water before dispensing.

Recommendation: As a priority, the new toilet facilities should be completed for use by custodies.

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.

Custodies were seen by inspectors to be handcuffed to one member of staff whilst walking from the CCU to the court. Staff were all wearing gloves with only some wearing masks, this being a personal preference not enforced by the Team Managers. This meant that physical distancing rules of being at least two meters apart were not being adhered to whilst handcuffed. Staff informed inspectors that custodies were provided with a mask if they requested one but not all custodies took one. Custodies wearing masks were observed by the inspectors on only two occasions.

There was a clear inconsistency in that not every member of staff and custody who were handcuffed together wore masks.

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

Edinburgh CCU did not have a daily staff briefing due to staggered start and finish times. The Team Manager did however remind staff to wear gloves and a mask as a minimum when working in the CCU, and was proactive in reminding them of this throughout the day. In addition, staff were reminded of the social distancing rules when not dealing with custodies.

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, when leaving their cells or the CCU.

Good practice: The Team Manager reminded staff to wear masks and gloves as a minimum when working in the CCU.

Recommendation: All staff should wear a minimum of gloves and a mask when handcuffed to custodies.

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 entered the CCU since the COVID-19 measures were put in place. Any contact with custodies was now through a glass partition in the one of the six interview rooms. Staff or SCTS cleaners did not clean the interview rooms between custody visits with antiseptic wipes, however the rooms were cleaned as part of a rota at lunchtimes.

Recommendation: Interview rooms should be as a minimum wiped down with antiseptic wipes between uses.

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.

It was observed that the original medical examination suite was being converted to an additional male toilet. CCU staff were not aware as to why this conversion took place, as the room was better suited as a medical room. As a replacement for the medical room, a rail with a curtain had been fitted in the corner of the female reception area. It could not be used as there was furniture around it, and even if it was used, when the curtain was drawn it would just be big enough to provide privacy for two adults - standing very closely opposite each other.

The CCU now used an empty cell to provide the privacy required for a medical consultation.

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.

Recommendation: Consideration should be given to providing a medical room that is fit for purpose.

Summary of Good Practice

| QUALITY INDICATOR | GOOD PRACTICE |
|-------------------|--|
| 1.3 | Cells were cleaned by a dedicated SCTS cleaner to the CCU between changes of occupants. The CCU was part of a daily cleaning rota by a dedicated SCTS cleaner. |
| 2.1 | Staff are encouraged to keep to physical distancing rules by keeping two meters apart whenever possible. |
| 2.2 | Additional cleaning was being carried out in the CCU during the working day including the cells between occupants. |
| 4.2 | The Team Manager reminded staff to wear masks and gloves as a minimum when working in the CCU. |

Summary of Recommendations

| QUALITY INDICATOR | RECOMMENDATION | RELEVANT AGENCY |
|-------------------|---|-----------------|
| 1.2 | CSRA and COVID-19 questions should be asked in clear view of the reception desk and recorded on CCTV. | GEOAmeY |
| 1.3 | Whenever possible, the custodies that are first brought to the CCU in the morning should attend based on their CSRA, and expected time to be spent in the CCU and risk. | GEOAmeY |
| 2.1 | When searching custodies staff should wear full PPE to protect themselves and custodies. | GEOAmeY |
| 2.1 | Physical distancing markings should be clearly displayed on the floor of the CCU. | SCTS |
| 2.1 | As a priority, the urinals should be removed from all cells. | SCTS |
| 2.2 | As a priority, the new toilet facilities should be completed for use by custodies. | SCTS |
| 4.2 | All staff should wear a minimum of gloves and a mask when handcuffed to custodies. | GEOAmeY |
| 4.3 | Interview rooms should be wiped down between uses. | SCTS |
| 6 | Consideration should be given to providing a medical room that is fit for purpose. | SCTS |

ACRONYMS

| | |
|-----------------|--|
| COVID-19 | Coronavirus Disease 2019 |
| CCTV | Closed Circuit Television |
| CCU | Court Custody Unit |
| CSRA | Cell Sharing Risk Assessment |
| HMCIPS | HM Chief Inspector of Prisons for Scotland |
| HMIPS | HM Inspectorate of Prisons for Scotland |
| NPM | National Preventive 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 Tribunals 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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