

COVID-19 PANDEMIC EMERGENCY

LIAISON VISITS – PRISONS AND COURT CUSTODY UNITS



Report on a Liaison Visit to Court Custody Unit Falkirk Sheriff Court

Monday, 18 May 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 Court 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 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. Out of the 10 courts operating at the time of this inspection, HMIPS have recently completed full inspections of six: Glasgow, Edinburgh, Paisley, Hamilton, Dumfries and Aberdeen.

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 Calum McCarthy, Graeme Neill, and Kerry Love.

Wendy Sinclair-Gieben

Wendy Sinclair-Gieben

HM Chief Inspector of Prisons for Scotland

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. 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 prisoner was placed in a cell.

It was encouraging to see that custodies were offered hand sanitiser on arrival at the CCU and were asked two questions in respect of COVID-19. These questions covered general health and safety and ensured awareness of the government’s social distancing rules. Where the custody was not aware they were advised accordingly.

Good Practice 1: custodies were offered hand sanitiser on arrival at the CCU and on leaving their cells.

Good Practice 2: custodies were asked two questions in respect of COVID-19, covering health and safety and social distancing rules.

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, Falkirk CCU were accepting additional custodies from Stirling, Alloa, Kirkcaldy and Dunfermline Sheriff Courts, following their temporary closure. The CCU had a very effective process in place between themselves and Police Scotland, the Procurator Fiscal and the Sheriff Clerk in respect of the release of custodies from the police stations to the CCU.

Good communication between the agencies allowed the custody numbers to be staggered, ensuring better management of cell allocation within the CCU and as such maintain social distancing. The Procurator Fiscal was marking custody papers in batches and advising the Sheriff Clerk and the CCU in advance of the papers arriving, so that custodies could be requested from the police station they were being held at to appear at the court. Rather than custodies without marked papers being automatically sent to the CCU and the staff there having to manage a larger number of people, with lengthy delays.

The CCU had six cells that were all operational on the day of inspection. Pre-COVID-19, cells 1 and 6 could each hold up to eight custodies. There were only six custodies present in the CCU at the time of the inspection and single occupancy in each cell.

Police Scotland retained the remaining 30 custodies until cells became available in the CCU, giving a total of 36 custodies due to appear at court that day. They consisted of 30 adult males, three adult females, two under 21 males and one under 18 male.

Staff were aware that single occupancy cells were the priority and moved custodies into them as they became available. It was however understood that if the cells were of sufficient size and were clearly marked with a two metre social distancing line, they could hold two custodies, if absolutely necessary. This decision should however be recorded on any CSRA in respect of COVID-19 considerations.

It was noted that cells were not cleaned or wiped down between changes of occupants.

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 no mention was made on any of the PER forms of COVID-19 considerations and associated assessments of risk.

It was 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 or use of hand sanitiser or hand washing recorded during their stay in the CCU. This was an improvement since the liaison visit to Paisley CCU on 11 May 2020.

Good Practice 3: the process between the CCU, Police Scotland, Procurator Fiscal and Sheriff Clerk in respect of the release of custodies from police stations to the CCU was excellent and is best practice.

Good Practice 4: single occupancy cells were being maintained whenever possible.

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 not displayed within the CCU. This was brought to the attention of staff who remedied this without delay.

All staff were observed to be wearing gloves and some wore masks, it was clear that this was a personal preference and not enforced by line managers. Staff were generally seen not to be social distancing from each other by keeping a minimum of two metres apart whenever possible.

Inspectors observed that one member of staff wore full Personal Protective Equipment (PPE) kit including goggles, a mask, gloves and an 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.

It was noted that there were no markings on the floor or benches within the cells used for sharing that clearly displayed a two metre distance. There were also no two metre markings in the corridors of the CCU to encourage social distancing.

Recommendation 1: staff should be constantly encouraged to keep to social distancing rules by keeping two metres apart whenever possible.

Recommendation 2: markings should be placed on the floor and benches within the cells and the corridors clearly displaying a two metre distance to encourage social distancing.

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 a male and female toilet area, each containing a privacy wall. A door allowed adequate privacy for the user whilst being observed by CCU staff. It was seen that both had cleaning facilities with a soap dispenser, paper hand towels and sinks.

The toilet areas were very clean and in good order.

The CCU did not hold cleaning records but it was cleaned each evening by contract cleaners from the SCTS. Inspectors were made aware that due to the COVID-19 pandemic, additional cleaning was being carried out in the main court building during the day and this included areas of the CCU.

Good Practice 5: additional cleaning was being carried out in the CCU during the working day.

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.

On arrival at the CCU, custodies were seen to be handcuffed to staff who were generally only wearing gloves, one member of staff was however seen to be wearing a mask. This inconsistency meant that social distancing rules of being at least two metres apart were not being adhered to when handcuffed to custodies.

However, custodies who were being taken from the CCU to appear in court were not handcuffed and were escorted by two members of staff wearing gloves and masks to and from the court, clearly a good effort to maintain social distancing.

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

As part of the daily staff briefing, the CCU Manager reminded staff to wear masks and gloves 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.

Recommendation 3: staff who are handcuffed to custodies should wear as a minimum masks and gloves.

Good Practice 6: custodies who appeared in court were not handcuffed and were escorted by two members of staff wearing gloves and masks to maintain social distancing where risk assessment allowed.

Good Practice 7: as part of the daily staff briefing, the CCU Manager reminded staff to wear masks and gloves as a minimum when working in the CCU.

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 interview rooms.

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. An example was given from the previous week where such a custody arrived at the CCU complaining of COVID-19 symptoms. The custody remained in the Court Custody Vehicle and was returned to the originating police station where the court process was completed via a video link

ScotNurse attended when required and did so within the agreed timescales.

Summary of Good Practice

QUALITY INDICATOR	GOOD PRACTICE	RELEVANT AGENCY
1.2	Good Practice 1: custodies were offered hand sanitiser on arrival at the CCU and on leaving their cells.	GEOAme y
1.2	Good Practice 2: custodies were asked two questions in respect of COVID-19, covering health and safety and social distancing rules.	GEOAme y
1.3	Good Practice 3: the process between the CCU, Police Scotland, Procurator Fiscal and Sheriff Clerk in respect of the release of custodies from police stations to the CCU was excellent and is best practice.	GEOAme y/ Sheriff Clerk/ COPFS/ Police Scotland
1.3	Good Practice 4: single occupancy cells were being maintained whenever possible.	GEOAme y
2.2	Good Practice 5: additional cleaning was being carried out in the CCU during the working day.	GEOAme y
4.2	Good Practice 6: custodies who appeared in court were not handcuffed and were escorted by two members of staff wearing gloves and masks to maintain social distancing where risk assessment allowed.	GEOAme y
4.2	Good Practice 7: as part of the daily staff briefing, the CCU Manager reminded staff to wear masks and gloves as a minimum when working in the CCU.	GEOAme y

Summary of Recommendations

QUALITY INDICATOR	RECOMMENDATION	RELEVANT AGENCY
2.1	Recommendation 1: staff should be constantly encouraged to keep to social distancing rules by keeping two metres apart whenever possible.	GEOAmey
2.1	Recommendation 2: markings should be placed on the floor and benches within the cells and the corridors clearly displaying a two metre distance to encourage social distancing.	SCTS/ GEOAmey
4.2	Recommendation 3: staff who are handcuffed to custodies should wear as a minimum masks and gloves.	GEOAmey

ACRONYMS

COVID-19	Coronavirus Disease 2019
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 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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