

**COVID-19 PANDEMIC EMERGENCY
LIAISON VISITS - SCOTTISH PRISONS – MAY 2020-2021
SUMMARY REPORT**



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1. INTRODUCTION

Her Majesty's Inspectorate of Prisons for Scotland (HMIPS) inspect prisons under the authority of The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015. The Order specifically outlines the purpose of inspection and monitoring of prisons.

HMIPS 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.

2. BACKGROUND

From the outset of the COVID-19 pandemic, Her Majesty's Chief Inspector of Prisons for Scotland (HMCIPS) acknowledged that there would be a need for amendments to the daily routines and regimes in Scotland's prisons in order to keep people safe. HMCIPS made it clear, however, that "protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty", and she would continue to report to the Cabinet Secretary for Justice on the treatment and conditions in which people are held, in line with HMIPS's [Standards for Inspecting and Monitoring Prisons in Scotland](#).

All the Standards are grounded in human rights.

In recognition of the pressures imposed by COVID-19, HMIPS developed an adapted methodology to their usual full inspection process and a new, temporary, [Liaison Visits Framework - Prison and Court Custody Units](#) was applied for use during this COVID-19 emergency. The framework looks specifically at the measures that Prisons have had to adopt to reduce the risk of transmission of COVID-19.

This report is intended to share the key outcomes from our programme of Liaison Visits (LVs) to prisons in Scotland during the COVID-19 pandemic emergency from May 2020-May 2021.

3. PROCESS

Prior to undertaking these LVs, HMIPS carried out a comprehensive risk assessment to determine both the selection of the prison to visit but also the priority areas to discuss with the Governors-in-Charge (GICs).

As the LVs were only of one or two days in duration, HMIPS selected core elements of each of the nine Standards, as set out in HMIPS's Standards for Inspecting and Monitoring Prisons in Scotland, to measure Scottish Prison Service (SPS) performance and provide information to prisoners, prison staff and the wider community justice sector.

This LV Summary Report will provide assurance to Ministers, appropriate bodies and the wider public that scrutiny of the treatment and conditions in which prisoners have been held has been continued during the pandemic.

The LV Summary Report will be available on the HMIPS website.

4. OVERVIEW BY HMCIPS

My grateful thanks go to GICs for facilitating HMIPS's LVs between May 2020 and May 2021 and to Senior Management Teams (SMTs), prison staff and prisoners for their level of support and engagement.

The decision to undertake LVs to all Scottish prisons during this period, reflected the need to continue to scrutinise daily operations and to gain insight and report on conditions and treatment of prisoners during the emergent COVID-19 pandemic.

These LVs were undertaken against a backdrop of the Human Rights Act 1998, that sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the rights set out in the European Convention on Human Rights (ECHR) into domestic British law. The Human Rights Act came into force in the UK in October 2000.

The Act sets out the human rights in a series of 'Articles'. Each Article deals with a different right. These are all taken from the ECHR and are commonly known as 'the Convention Rights':

- Article 2 Right to life
- Article 3 Freedom from torture and inhuman or degrading treatment
- Article 8 Respect for your private and family life, home and correspondence

The tension between Articles 2, 3 and 8 in the current pandemic is fundamentally the difficulty of ensuring that transmission of the virus is minimised (Article 2) against the definition of ill treatment (Article 3), and the need to respect family life (Article 8).

The [Statement of Principles](#) relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic issued by the Council of Europe in March 2020 (Annex C) clearly states:

"While it is legitimate and reasonable to suspend non-essential activities, the fundamental rights of detained persons during the pandemic must be fully respected. This includes in particular the right to maintain adequate personal hygiene (including access to hot water and soap) and the right of daily access to the open air (of at least one hour). Further, any restrictions on contact with the outside world, including visits, should be compensated for by increased access to alternative means of communication (such as telephone or Voice-over-Internet-Protocol communication)."

The introduction of in-cell telephony, and virtual visits transformed the communication possibilities and were very much welcomed. However, whilst I absolutely accept the untenable position that establishments were experiencing in managing the fallout from the pandemic, the measures imposed still placed a significant challenge to human rights

compliance and rehabilitative activity, with far too many prisoners locked in a cell not considered big enough to hold two people for 22 hours a day.

Against this backdrop, GICs provided my inspection teams with excellent briefings in line with HMIPS's Reporting Standards. The briefings themselves afforded SMTs the opportunity to highlight both the successful outcomes they had achieved and the significant challenges that they had faced during the COVID-19 lockdowns.

Inspectors were provided with a very helpful and comprehensive summary, at the start of each visit, on the number of SPS and NHS staff who were on sick leave or special leave isolating or shielding in relation to COVID-19, along with a detailed summary of the impact on the prison population at that time.

Inspectors welcomed the transparent and open approach taken by SMTs when highlighting local issues, to the extent that very few issues emerged during the LVs that were contrary to the briefing provided.

The COVID-19 related core-day introduced across Scotland had contributed to the ability of all prisons to safely operate and maintain reasonable staffing levels despite the initial high staff absence. The overwhelming impression was of a calm and orderly atmosphere in prisons, and regimes that were restricted but safe. It was also clear that prisons were working hard to provide more opportunities and reduce restrictions wherever possible.

The most impressive aspect of our visits was the positive staff and prisoner culture. There was a clear sense in all prisons of a staff team at all ranks rallying round to respond to the extreme challenge. The cohesive and collaborative team ambience, even when so many staff were absent, ensured that the establishments continued to respond positively to the daily challenges and were committed to providing prisoners with access to minimum acceptable standards.

Within this positive picture from the LVs, four important points stood out:

- Firstly, the predictions by numerous academic and Third Sector groups of catastrophic outcomes for contained environments thankfully did not come to pass in Scotland's prisons and, despite numerous COVID-19 outbreaks, the number of COVID-19 deaths was very low. Infection control by the SPS and NHS evolved to meet the growing crisis and became in general highly effective.
- Secondly, the resilience and commitment of the SPS and NHS that ensured prisons continued to fill their responsibility to the courts, despite the evident risk, high staff absence levels and occasional staff deaths, was commendable.
- Thirdly, a number of establishments that were not deemed fit-for-purpose with poor quality accommodation and significant overcrowding inhibiting the management of the pandemic and their contribution to an already overcrowded estate must be considered.

- Fourthly, the compliance by prisoners with the heavily restricted regime that at times breached both their human rights and the COVID-19 principles and certainly offered very little opportunity, over a prolonged period, of rehabilitative activity was impressive and deserves mention.

Finally, I would like to acknowledge the evident prisoner resilience and the co-operation provided during our LVs from the SPS and NHS in all prisons and for their swift action when issues of immediate concern, requiring a prompt response, were raised with them.

Wendy Sinclair-Gieben
HM Chief Inspector of Prisons for Scotland

January 2022

5. PARTICIPATION, ACCOUNTABILITY, NON-DISCRIMINATION AND EQUALITY, EMPOWERMENT, AND LEGALITY (PANEL) PRINCIPLES

Overview of the findings

Participation: prisoners should be meaningfully involved in decisions that affect their lives.

It was apparent that the safety of those that live and work in Scottish prisons was a priority. A suite of COVID-19 Safe Systems of Work (SSOW) and Standard Operating Procedures (SOPs) had been developed across the estate and staff were able to evidence a good working knowledge of these processes and procedures. Multi-disciplinary COVID-19 Local Coronavirus Response Groups (LCRGs) were in place across the estate. These groups met regularly to ensure that prisons were adhering to national guidelines whilst monitoring the impact restrictions were having on those that live and work in prisons.

Following advice from Health Protection Scotland (HPS) prisons were running an extremely limited regime, but there were laudable attempts to ease the pressure and increase the amount of time spent in fresh air. Attendance at purposeful activity and work was adversely affected during the two lockdowns. To a large extent people were only able to access work within the essential services areas such as the kitchen, laundry and cleaning services, to ensure that the prisons were able to function. However, we did see robust recovery plans in most prisons that were ready for implementation whenever and wherever possible.

The arrival of in-cell telephony and virtual visits technology had encouraged more participation with family and friends during both periods of lockdown. Similarly the return to face-to-face visits, although under Scottish Government (SG) guidelines, was a very welcome return to a more normal visit environment and radically improved participation in family life.

Wherever possible, recreation allowed for more personal engagement within designated areas. Where we found that recreation had been suspended, we found that SMTs were committed to maximising social interaction in other ways. In-cell activities such as workout DVDs were provided as well as a number of out-of-cell activities.

In the main, Prisoner Information Action Committee's (PIACs) continued to run throughout the restrictions with minutes being submitted to the Inspectors for scrutiny.

Accountability: there should be monitoring of how prisoners' rights are being affected as well as remedies when things go wrong.

SMTs and prison staff were evidently aware of their responsibilities in relation to human rights, whilst simultaneously balancing that against their responsibilities for adhering to HPS guidelines. There was a clear commitment and evidence of planning towards more normal regimes, increasing time in fresh air, planning the reopening of work parties, the reintroduction of face-to-face visits, a return to the education programme and other purposeful activity. Progress with lifting restrictions and a return to normality was not always as quick as HMIPS would have wished, but there can be no doubt that careful and responsible planning towards that objective was taking place while staying in step with national guidance from SG and HPS.

In general terms, prisons had endeavoured to continue with their responsibilities around Risk Management Teams (RMT) and Integrated Case Management (ICM) work to minimise the disruption to progression plans and liberation for prisoners arising from the COVID-19 pandemic. Despite this HMIPS were acutely aware of a growing backlog of cases which will, inevitably, have an adverse effect on people's critical dates.

LCRGs met regularly and reviewed both SG and SPS pandemic guidelines and adjusted prison regimes accordingly. As stated earlier, a set of COVID-19 SSOWs and SOPs had been developed and were accessible to staff through the SPS SharePoint site.

In general terms, we were able to evidence good collaborative working relationships between prison management teams, prison staff and NHS staff which was really important in dealing with the complex issues facing the SPS. Support from Public Health Scotland (PHS), local Infection Control Teams and others within NHS Health Boards was evident in day-to-day operational practice and in developing pandemic plans.

Non-discrimination and equality: all forms of discrimination must be prohibited, prevented and eliminated. The needs of prisoners who face the biggest barriers to realising their rights should be prioritised.

It is important that the rights of all those in the prison's care are upheld, especially during COVID-19 restrictions; although the two day inspections do not allow for a full investigation of discrimination, Inspectors felt that in general those within the prisons were being treated equally and fairly. HMIPS did not have any complaints with regards to discrimination, and when speaking to the more vulnerable groups they confirmed that their rights had been upheld.

HMIPS will assess this area more thoroughly during the next round of full inspections. However, some common issues did arise:

- There was little in the way of Covid-19 information or of other key information such as changes in regime being translated into a language other than English.
- Pictures on notices describing hand washing and two metre distancing did help prisoners to understand issues around keeping safe, but the information was limited.
- Inspectors found evidence, through talking to foreign nationals, that translation requirements were not always met.

HMIPS would like to see SPS make significant improvements in these areas.

Empowerment: everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.

With prisons operating under such limiting restrictions it was difficult to empower prisoners, particularly when they were spending so much of their day locked up in their own cell. A significant impact on empowerment was the cancellation of access to all external partners including education, prison based social work, psychology and a number of Third Sector partners. Prisons took steps to facilitate phone calls between key stakeholders including solicitors and social work teams to complete court reports.

One aspect of empowerment that was apparent during our LVs, was a prisoner's right to make complaints and there was ample evidence across the estate to support continued access to these arrangements. It was also noticeable that GICs and SMTs were visible in the residential areas to discuss individual complaints or offer explanations for the decisions prisons were making in meeting the restrictions.

Legality: approaches should be grounded in the legal rights that are set out in domestic and international laws.

With the exception of HMP Castle Huntly, the pandemic and subsequent restrictions put in place to keep people safe had very obvious tensions in upholding the fundamental rights of prisoners set out by the UN Standard Minimum Rules for the Treatment of Prisoners ("Mandela Rules") and the [Statement of Principles](#) relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic issued by the CPT of the Council of Europe.

In particular point seven of the Principles states "... the right of daily access to the open air (of at least one hour)" which was clearly not the case in some prisons. However, other parts of the principles were met, for example access to family contact was maintained through the use of virtual visits and the introduction of in-cell mobile phones.

To encourage more meaningful contact between prisoners and their families, as well as access to a greater number of help lines, HMIPS would like to see in-cell telephony remain as part of the daily fabric and operation of Scottish prisons. We would also like to see a system introduced that will allow in-cell phones to be capable of having prisoners accounts 'topped-up' and an increase in the number of Freephone helplines available.

Prisoners' rights to legal representation was upheld with both face-to-face and remote access available throughout the pandemic.

Prison Rules were available on request in the residential areas with other documents required to be sourced on request

6. ESTABLISHMENT OVERVIEW (ACTION POINTS AND GOOD PRACTICE)

Table 1 provides an overview of the total number of ‘Action Points’ and elements of ‘Good Practice’ that we found during our LVs.

HMIPS do not view this as a league table, merely a record of specific findings at a specific point of time. The establishments are listed in the order of our LVs and it is important to outline that our visits structure and approach adapted and changed as we completed each visit and reviewed lessons learned. Also, as we increased the number of days we visited prisons, the more thorough we became in gathering evidence against our Quality Indicators. It should be noted that many of the observations that constituted an ‘Action Point’ or ‘Good Practice’, were relatively small in nature and, to large extent, local issues. We did however identify some systemic concerns.

Annex A contains a table of ‘hyperlinks’ which covers the full suite of LV Reports completed between May 2020 and May 2021. This will allow a more detailed insight to those prisons of a particular interest. However, we have taken the opportunity to highlight some Action Points and Good Practice findings in this summary report.

Table 1

Establishment	Dates	Action Point	Good Practice
HMP Edinburgh	1 May 2020	9	TBC
HMP Addiewell	13 May 2020	6	5
HMP Shotts	3 June 2020	9	1
HMP Kilmarnock	24 June 2020	10	3
HMP Barlinnie	15-16 July 2020	13	6
HMP Low Moss	5 August 2020	8	7
HMP YOI Polmont	26-27 August 2020	13	6
HMP Perth	16-17 September 2020	10	10
HMP YOI Cornton Vale	7-8 October 2020	4	11
HMP YOI Grampian	4-5 November 2020	11	5
HMP Glenochil	2-3 December 2020	21	7
HMP Castle Huntly	11 and 16 February 2021	16	13
HMP Greenock	9-10 March 2021	18	9
HMP Dumfries	7-8 April 2021	11	13
HMP Inverness	12-13 May 2021	14	7
Totals		173 Action Points	103 Good Practice

7. HMIPS STANDARD 1 - LAWFUL AND TRANSPARENT USE OF CUSTODY

COVID-19 - Quality Indicator for Liaison Visits

Social distancing: we will check how social distancing is being managed in areas such as dining halls, recreation, reception, time in the fresh air, and especially admissions and cell sharing. This will also include looking at preventative measures being enacted, such as screening on admission and liberation. We are particularly interested in the measures to mitigate the detrimental effects of social isolation or quarantine.

Liaison Visits Findings

On entry to Scottish prisons, Inspectors observed markings on the vestibule floors and notices on display, informing staff and visitors of the social distancing (SD) guidelines in place at that time. Perspex screens were in place in the vestibule areas and cleaning protocols were established to ensure that transactional processes could be undertaken safely (e.g. cleaning x-ray boxes).

There were markings in the main corridors indicating two metre distances and signs on doors reminding staff to keep apart. A potential pinch point in all prisons was in the key vending areas, however, we found markings on the floors outlining separation requirements, had hand sanitiser available for staff and sterilising wipes were available to wipe down keys and alarms before and after use. To minimise staff contact, prisons had local arrangements in place for staggering access to key vending areas.

Reception areas were well laid out with SD markers and the controlled movement of prisoners ensured that SD was maintained. Where rub down searches took place, masks and gloves were worn. In some prisons masks were given out to those people who were liberated so that they could adhere to SG guidelines on the mandatory use of masks on public transport or to protect those family members who came to the prison to collect them.

SMTs and First Line Managers (FLMs) in all prisons indicated that they constantly reminded staff and prisoners of the SD guidelines. Prisoners were seen as less likely to adhere to SD guidelines, particularly in the residential areas and when taking fresh air, however when most prisoners were questioned they understood the guidelines and the reasoning behind them.

Good Practice

HMP Dumfries: the resilience and flexibility shown by the management team and front line staff in dealing with the sustained pressure exerted by two large outbreaks of COVID-19 was highly commendable; the positive working relationships developed between staff and prisoners also helped with the management of extremely difficult situations for those working and living within the establishment.

8. HMIPS STANDARD 2 - DECENCY

COVID-19 - Quality Indicator for Liaison Visits

Meals: we will check if meals are of good quality, whether there is an appropriate choice in particular on religious grounds, and that food hygiene standards and dietary needs of prisoners are adhered to.

Regimes: we will look to obtain detail of the continuation of daily regimes, including access to showers where there are no in-cell shower facilities, access to time in the fresh air and access to family contact.

Liaison Visits Findings

Meals

In the main, meals were checked in all prisons and found to be of a good quality with a variety of choice available. Kitchens had reduced the size of the workforce to comply with SD guidelines but, despite this, menus had seen minimal changes. Inspectors received very few complaints regarding the meals other than suggestions, in some prisons, that meals were being left for lengthy periods of time in food trolleys.

Pleasingly some prisons were able to demonstrate a bit on innovation by introducing 'theme nights' including Mexican and Indian food. In some but not all prisons food heat probes were evident in the residential areas and logs were kept on a daily basis indicating that the food was being served at the appropriate temperatures. The prisoners who were serving meals were observed to be wearing appropriate Personal Protective Equipment (PPE).

Regimes

Due to the pandemic, prison regimes had been shortened to a more restricted 'core-day'. During the two periods of lockdown, only essential workers attended their work parties, with the new prison regimes only offering time out-of-cell for fresh air, meals, showers, recreation and visits/virtual visits.

All prisons had suitable plans and schedules in place by way of ensuring that everyone, except in some cases those isolating on Rule 41, had access to their exercise periods.

9. HMIPS STANDARD 3 - PERSONAL SAFETY

COVID-19 - Quality Indicator for Liaison Visits

Talk to Me (TTM): we will check that there is an appropriate and ongoing process in place for people subject to TTM procedures and prisoners and staff are using referral systems.

Rule 41 paperwork: we will check that the revised process for people being detained under Rule 41 due to COVID-19 are being adhered to. We will enquire into processes in place to ensure in-cell activity is available, and a television is available to those who are isolated. We will also be interested in the numbers of people on Rule 41 and the length of time held under this Rule.

Liaison Visits Findings

Talk to Me (TTM)

Inspectors spoke to a number of prisoners, across the estate, who were on TTM. In the main they confirmed that they had been treated well and that they fully understood the process. Paperwork was checked and in the main found to be of a good standard, with case conferences held within the required timeframes. Where Inspectors did attend case conferences, they observed caring, compassionate and non-judgemental approaches by all staff and prisoners were given ample opportunity to discuss how best they could move forward.

During the first few months of the first lockdown, Inspectors did gather evidence, in some prisons, of a fairly dramatic increase in the number of people being managed on TTM. In HMP Perth, for example, the number on TTM had increased by 200% between April and July 2020. Conversely some establishments such as HMP Inverness were able to evidence a significant reduction in those on TTM during the pandemic in comparison with 2019.

Rule 41

All prisons had identified specific areas for managing the impact and the fallout from COVID-19. The designated areas were well-resourced and where possible the same staff were working within that environment, which allowed for a consistency of practice and continuity of care. Staff managing these areas wore full PPE.

Inspectors had the opportunity to speak to a number of people who were either being managed on Rule 41 or had been in the recent past. It was evident that there was some inconsistent practice as some prisons were able to provide access to phones, showers and fresh air on a regular basis from the start of lockdown whilst in some other prisons this was not the case. It should be noted that the SPS Pandemic Plan Guidance did change during our scheduled visits in an attempt to bring about that consistency, but this issue remained an aspect of concern.

10. HMIPS STANDARD 4 - EFFECTIVE, COURTEOUS & HUMANE EXERCISE OF AUTHORITY

COVID-19 - Quality Indicator for Liaison Visits

Rule 95 paperwork: we will check that those under this Rule are treated lawfully and with humanity, and there is a sufficient regime in place and adhered to. The Separation and Reintegration Unit (SRU) is a default check by HMIPS at all times.

Liaison Visits Findings

Inspectors visited each and every SRU during our scheduled round of LV's; most were being managed at full capacity. All SRUs were found to be clean, orderly and well run. All prisoners being held in these conditions were being managed lawfully under the following arrangements; Rule 95(1), Rule 95(11), Rule 95(12), Rule 41 (COVID-19 and Mental Health concerns) and Refusal to Return to Circulation (RRC).

The SRUs, to a large extent, were unaffected by the pandemic or indeed the introduction of the core day. SRUs continued to run their standard regimes with all prisoners given the opportunity for daily access to fresh air, a shower, and the use of the phone. Due to COVID-19 restrictions the SRUs gymnasium facilities were, in the main, closed.

PPE was available to all staff however, in some prisons, Inspectors observed that some staff were not always adhering to SD guidelines within the team.

Inspectors took the opportunity to speak to some prisoners who were being held out of circulation, the majority of whom indicated that they had been treated well, confirmed daily access to their entitlements and had received both face-to-face and virtual visits depending on the level of restrictions imposed.

11. HMIPS STANDARD 5 - RESPECT, AUTONOMY AND PROTECTION AGAINST MISTREATMENT

COVID-19 - Quality Indicator for Liaison Visits

Access to families contact: we will look at what access prisoners have to telephones or other measures (for example, email a prisoner, video link, mobile phones, etc) in order to keep in contact with friends and family. Monitoring the implementation and impact of agreed actions such as increased availability of virtual visits or the provision of access to mobile telephones, tablets, and incoming and outgoing mail is a default position for HMIPS.

Access to recreation: we will check what type of social interaction takes place, and opportunities for fitness, distraction, and learning.

Access to legal representative: we will check that agents and other statutory visits are being facilitated even when prisoners are isolated under medical grounds for COVID-19.

Liaison Visits Findings

Family Contact

Where restrictions were lifted and face-to-face visits were being facilitated, Inspectors observed that the routes to the visits rooms (visitors and prisoners) and the visit rooms themselves, were set up to meet all of the SG COVID-19 guidelines. Seating areas were adequately spaced out and one way systems (where possible) were in operation. The SG guidance was displayed appropriately and prisoners and visitors were taking precautions by wearing masks. Vending machines had been put out of use to reduce movement. Officers, in the main, were highly efficient in ensuring that visitors knew what was expected of them in terms of hygiene and SD. Younger children in the visit rooms were seen to be permitted to approach their fathers/mothers with older family members maintaining the two metre distance rule.

Where face-to-face visits were not possible, virtual visits provided an excellent alternative. Each prison had local plans in place for managing access to virtual visits technology and for ensuring that they gained maximum benefit from these assets. The Inspectors spoke to a number of prisoners about the implementation of virtual visits, the majority of whom were very positive about their experience.

The Email a Prisoner Scheme was available and there were posters in prisons advertising it. Prisoners were aware of it and how to access it, and said it worked well. There had been a significant increase in emails from friends and families during the pandemic, but very little increase in responses from prisoners.

At the start of the pandemic and prior to the introduction of in-cell telephony, prisoners only had access to phones during the day, and some prisoners, particularly those whose partners were working during the day, expressed frustration at not being able to phone during the evening when the COVID-19 related restrictions were in place.

There was an initial delay in being able to introduce mobile phones, which became a source of frustration for prisoners and staff, but when they did eventually arrive they very quickly became the main conduit through which prisoners maintained close family contact. Although some prisoners continued to express frustration at the time taken to receive a mobile phone after admission, there is no doubt that prisoners appreciated the ability to maintain contact with family and friends from the privacy of their own cell at times that were convenient to their family. The case for continuing some form of in-cell telephony after the pandemic is overwhelming.

Recreation

Sessions were available in various forms throughout the estate and for varying lengths of time, but in general a reasonable balance was struck between the absolute need for COVID-19 protection requirements and efforts to allow interaction with other prisoners to reduce the impact on prisoners' mental health.

The main prison libraries had closed due to the provider no longer being on site, but in some establishments prisoners were still able to access books on request or from a smaller hall library, with appropriate COVID related cleaning measures adopted.

Legal Representatives

Access to legal representation appeared to be good and to a large extent services in this area were largely uninterrupted. In some establishments we saw increased use of virtual visits technology to support access to legal representation, along with greater use of video links for court appearances, sometimes saving long journeys in prison escort vans for very short court appearances.

12. HMIPS STANDARD 6 - PURPOSEFUL ACTIVITY

COVID-19 - Quality Indicator for Liaison Visits

Access to fresh air: we will look at the provision for fresh air for all prisoners and note where access is denied and the authority to do so.

Communication: we will look at the communications/information that is in place regarding any changes to the regime, or other functions within the prison, for all relevant parties including prisoners, their families, and other relevant agencies regarding the COVID-19 pandemic, ensuring that all communications/information is in a format/language people can understand.

Access to Education: we will look at what access prisoners have to education, and if prisoners are able to continue with their current education or start new ones. Initiatives in education and learning will be documented.

Access to religious services: we will look at any initiatives involving religious services including pastoral visits, remote linked services, information loops on in-house media, or religious information pamphlets.

Access to gym and fitness: we will look at what the establishment has in place for fitness. In particular, we will inspect any alternative fitness initiatives, for example in-cell fitness activities, circuit training, satellite gyms, etc.

Liaison Visits Findings

Access to fresh air

Prisons had introduced a structured exercise programme to dovetail with their own staffing arrangements, their own facilities and their wider programme of activity and regimes. This meant that there was varying degrees of time set aside for exercise and indeed when those periods could take place. It was evident, however, that prisons were trying to get the most out of their core day activity and kept their arrangements under constant review.

Communication

Inspectors gathered good evidence that information about regime changes and other impacts of the pandemic had been communicated regularly and clearly to prisoners to help them understand the situation, the response by the SPS, and what they needed to do to keep themselves safe.

In a few cases the current regime was not easily visible within the residential areas and in some prisons the Inspectors found insufficient evidence of important notices related to COVID-19 being translated into other languages to accommodate those where English is not their first language.

Action Point

SPS to review the support available to foreign nationals including increasing the use of translation services and increasing the availability of core regime information in other languages.

Access to Education (HMIPS were supported by Education Scotland)

During the majority of our visits there was no formal education provision being provided as a result of the need to comply with HPS guidelines. In-cell activities were being created in some prisons, including self-learning packs, but the uptake was variable. Learning packs were also placed on SharePoint for SPS staff to download and issue over the period of time when Fife College had withdrawn.

During some of our visits, Fife College were on-site planning for the potential resumption of face-to-face education in line with the Further Education Colleges. Planning was also underway to develop and update the learning packs and provide a blended education model of classroom activity and in-cell learning education. Where the Education Centres were up and running at the time of our visits, we saw a full timetable being delivered, albeit with reduced attendance numbers to observe physical distancing and safe working practices. In several instances, however, participation rates were disappointing even accounting for the reduced capacity available.

Access to religious services

During many of our visits, services in the multi-faith centres had been halted in line with HPS guidance, but the Chaplaincy Team were continuing to provide pastoral support and respond to requests from individual prisoners. Where possible, prisons were using TV channels and radio broadcasts to providing further opportunities for individuals to access religious messages.

Action Point

SPS and Prison Chaplaincy Teams should develop and stream standard religious content or produce material on DVDs to improve the services available when access to communal services has to be restricted.

Access to gym and fitness

During the majority of our visits we found gymnasiums closed in line with SG COVID-19 guidance. However, Inspectors observed prisoners taking part in small groups, socially distanced outdoor health and wellbeing sessions wherever possible. There were also examples of fitness programmes being distributed to be undertaken within a cell.

Inspectors observed some of the gymnasiums in operation, offering a range of activities including short tennis, circuits and a range of workout machines.

All activities in the gymnasiums were observed to be regulated to ensure appropriate two metre distancing, all workout machines were contained within their own two metre box

marked out in tape on the floor and prisoners were seen to be observing the distancing rules appropriately.

While the closure of the main gymnasiums in line with national guidance was understandable, HMIPS did question whether the satellite gyms in the residential areas might have been opened up more quickly where strict adherence to household bubbles and robust cleaning could be facilitated.

13. HMIPS STANDARD 7 - TRANSITIONS FROM CUSTODY TO LIFE IN THE COMMUNITY

COVID-19 - Quality Indicator for Liaison Visits

Prisoners on release: we will look at the plans developed with those leaving custody regarding access to services, that is housing, healthcare, welfare services, and opportunities to utilise their time constructively.

Liaison Visits Findings (HMIPS were supported by the Care Inspectorate)

Establishments have a number of different approaches to managing prisoners through to liberation, through care and ultimately community integration. This position was no different pre-COVID-19 restrictions. Inspectors did see external partners such as Housing, the Department for Work and Pensions, community-based social workers and other specialists contributing to discussions remotely.

Inspectors noted, at some prisons, that ICM arrangements had diminished through the early stages of the pandemic, however, they did see evidence of traction being established and slow momentum being built-up in getting the arrangements back to pre-COVID-19 performance. This position will be thoroughly examined through the newly formed HMIPS Thematic Review in 2021/22.

However, in some other prisons Parole Tribunals and case conferences for pre-release had continued throughout lockdown and Inspectors were able to observe some ICMs being handled very professionally despite the challenges of having to liaise via conference calls with some external partners and families. Risk Management Teams (RMTs) and Multi-Agency Public Protection Arrangement (MAPPA) processes had also continued throughout the pandemic (to a greater or lesser extent) with the engagement of external partners via conference calls.

SPS did distribute pre-release packs with important information and contacts which assisted with the Early Release Scheme that were undertaken in the early part of the summer 2020.

In general, the SPS was able to co-ordinate effective risk assessment and pre-release planning with their partners remarkably well given the inherent challenges posed by partner organisations working off-site. However, in a few establishments we saw that local difficulties accessing SPS data remotely or securing information from partner organisations was impacting adversely on risk assessment activity and pre-release planning.

Good Practice

HMP YOI Grampian's relationships and communication with partner agencies and organisations around pre-release planning and the immediate post liberation period was highly commendable.

Good Practice (Cont'd)

HMP Greenock: SPS HQ worked with the prison to ensure that prisoners could have their voice heard with regards to progression.

The prisoners we heard from had been able to raise their concerns and have them heard by key people. It reflects well on SPS and the prison that they have viewed this engagement as essential, listened to these concerns, have been open and honest about the challenge (both from the pandemic and other drivers), and have committed to make improvements to address the prisoners' concerns.

HMP Dumfries: the instinct to pull together prison-based and community-based partners to plan for release of all prisoners is strong. The Multi-Agency Community Reintegration Board (MACRIB) meeting is the most obvious example of this, attempting to address the absence of ICM processes for short-term prisoners and the suspension of Throughcare Support Officers (TSOs). During the pandemic this instinct has also ensured that planning for early release was effectively established quickly.

HMP Perth: the action undertaken by the pre-release planning team to facilitate work experience and employment opportunities with Balfour Beatty is highly commendable and may be capable of being replicated with other companies and by other prisons.

Action Points

SPS must continue to prioritise clearing the backlog of progression paperwork, identifying and addressing any inhibitors, to ensure that prisoners' rights are being respected.

SPS to work with partner agencies to find technical solutions to resolve local issues accessing SPS systems and data where that is crucial to effective joint working and risk assessment.

SPS to ensure staff have sufficient time to engage effectively in their designated roles as Personal Officers and in support of ICM activity and pre-release planning.

SPS to reinstate offender management programmes as quickly as possible and work creatively to clear the backlog of prisoners requiring programmes. They should work with the Risk Management Authority (RMA) and the Parole Board to consider how evidence on action taken to reduce the risk of reoffending can best be presented to the Parole Board whilst the SPS reinstates offender management programmes and addresses the backlog.

14. HMIPS STANDARD 8 - ORGANISATIONAL EFFECTIVENESS

COVID-19 - Quality Indicator for Liaison Visits

Staffing and regime: we will look to establish if staff understand their roles and what is expected of them. Are staff updated on any changes and are knowledgeable of the present position of the establishment.

Liaison Visits Findings

Throughout the LVs there was a good degree of interaction between the Inspectors and prison staff. In general terms, staff reported they were comfortable with their role during the COVID-19 core-day and what was expected of them. There were mixed views in relation to the long-term continuation of the COVID-19 day or a return to the previous early/late shift pattern.

Many officers from regimes, who had been supporting their residential and operational colleagues since lockdown, were keen to return to facilitating work for prisoners and had started to look at how to get prisoners to the work sheds whilst keeping everyone safe.

Most of the prison staff that Inspectors spoke with thought that management were keeping them well informed on ever-changing developments. In general terms, Inspectors felt that morale and motivation amongst staff appeared to be strong, and both SPS HQ and local prison management are to be congratulated on that.

There were also some good local examples of effective and compassionate support for staff on COVID-19 related sick leave and when returning to work.

15. HMIPS STANDARD 9 – HEALTH AND WELLBEING

COVID-19 - Quality Indicator for Liaison Visits

Healthcare issues: we will check that there is a daily assessment on wellbeing in a way that maintains the health and safety of all parties, and that there are measures in place to ensure healthcare continues to be managed under the principle of equivalence including health checks on admission, liberation, and transfer and escalation procedures. Checking processes are in place to support people with pre-existing health conditions.

Liaison Visits Findings

The following narrative sets out the findings from LVs undertaken by Healthcare Improvement Scotland (HIS) in support of HMIPS. The inspections focused on the health aspects of how the prison was functioning during the COVID-19 pandemic, particularly in terms of access to care (primary care, mental health and substance misuse), governance, leadership and staffing; and infection, prevention and control.

HIS asked NHS staff at each prison to complete a pro forma in advance of the liaison visit regarding the healthcare provision during the pandemic. HIS Inspectors then held a teleconference meeting with healthcare staff in each prison to discuss the completed pro forma and to help inform the key lines of enquiry for the visit. During the LVs, two Inspectors spoke with members of staff and viewed the care environment within the health centre. The Inspectors did not speak with or come into contact with any patients given restrictions on the movement of prisoners and also to safeguard prisoner and staff safety.

As a result of these LVs, HIS completed a comprehensive overview of NHS performance in each prison, the details of which can be read in the individual reports.

Overall, the feeling from HIS was that the NHS, in collaboration with SPS, had performed well. NHS health boards had an effective governance structure with clear lines of reporting and accountability. This allowed normal escalation and governance processes to continue during the pandemic. In addition, lines of communication were evident between NHS boards and prisoner healthcare teams to discuss workforce planning, clinical demand and the allocation of resources, sometimes between prisons.

Good Practice

HMP Inverness: a role was developed (NHS Band-6) to focus on infection control processes within the prison as well as health promotion for prisoners. This role has been a success with this member of staff taking responsibility for ordering PPE, reviewing the latest guidance and feeding back to staff when any guidance changes.

HMP Castle Huntly: all mental health, occupational therapy and substance misuse patients were assessed against a 'red, amber, green' score to establish who would require contact during the pandemic. There is on-going assessment of these patients to identify any change in risk levels.

Action Points

HMP Greenock: must provide an environment for the delivery of healthcare that is permanently free from water ingress in order to minimise the risk of transmission of infection.

HMP Barlinnie: National co-ordination and discussion with partner agencies (such as Police Scotland, Scottish Courts, GEOAmey and SPS) is required to ensure that people arrive at the prison during the prison's core opening times.

16. CONCLUSION

In general terms, prisons came across as being calm and orderly, with a newly established 'core day' regime that was safe but restricted, and where work was clearly in progress to lift those restrictions whenever the opportunity arose.

HMIPS found that there was a clear sense of all prisons responding speedily and purposefully, with commitment and integrity, to each new change and development in terms of guidance and protocols around COVID-19, and of considerable efforts being made by the SPS, NHS and GICs to communicate clearly with both staff and prisoners. Prisoners spoke about the positive relationships between staff and prisoners assisting with the transition to a different regime.

It is commendable, that at the time of our visits, prisons were coping well with the significant challenges around COVID-19 transmission risks and had taken robust action to manage these risks locally and indeed where necessary at a national level. In general, there was good awareness amongst staff and prisoners about the processes and action needed to keep everyone safe. Communication with prisoners and with staff was also perceived positively.

It is also commendable that Inspectors identified 103 elements of Good Practice as well as identifying 173 Action Points. Overall, every prison in Scotland had performed well in managing COVID-19 related risks and they deserve praise for their continuing efforts to manage the acute impact being felt by the pandemic.

We welcome the very solid efforts to maintain decency and provide the basics for prisoners such as hot meals, access to showers, fresh air, recreation, etc, all of which helped underpin the calm, safe atmosphere we perceived at the time of our visits. Tensions must be acknowledged however between the action taken by the SPS to protect lives and their ability to provide daily access to fresh air and showers for those having to isolate.

We welcome the generally very positive assessment that HIS Inspectors took of the work undertaken between SPS and NHS prison healthcare teams. There was ample evidence of effective collaboration and efficient communication at senior management levels and indeed operational levels, to ensure issues were quickly addressed. In the main, relationships between the SPS and NHS were also very positive and constructive.

Conversely, HMIPS remain very concerned about access to progression and offending behaviour programmes, and look forward to the results of action under way by SPS to address these long-standing concerns, which have only intensified as a result of COVID-19 related restrictions. HMIPS will also be conducting a Thematic Inspection of this key business area given the level of concern.

Another major concern for HMIPS, made all the more acute given the impact of the pandemic, was the ageing infrastructure and general condition of some of Scotland's prison buildings, that are evidently ill-suited to a modern prison system, not least at HMPs Barlinnie, Castle Huntly, Dumfries, Greenock, Inverness and Perth.

HMIPS are firmly of the view that an estates optimisation plan should be developed for each of these sites by way of articulating short, medium and long-term objectives to improve living conditions for prisoners and working conditions for prison staff.

We would like to see the SPS develop more ingrained awareness in all establishments of the additional support foreign nationals need to live and navigate safely and easily around our prisons at any time, but particularly during a pandemic.

We also hope that some of the real successes spearheaded by the SPS in response to the pandemic will continue and be built upon – the introduction of mobile phones, virtual visits technology, and increased use of virtual courts are outstanding examples of creative responses to the threat posed by the pandemic that also helped modernise our prison system and deliver compassionate improvements for those in the care of the SPS.

Now is the time for the SPS to go further and introduce full in-cell technology and telephony wherever possible, allowing prisoners to more easily access education and training, receive emails, book appointments, make requests to see healthcare, etc, and order meals on line. This would facilitate the move to a fully paperless system that would release front line staff from unnecessary administrative burdens and, with appropriate legislative changes, tackle some of the substance abuse challenges that flow into prisons on a daily basis through drug contaminated correspondence.

ACRONYMS USED IN THIS REPORT

CPT	Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
COVID-19	Coronavirus Disease 2019
ECHR	European Convention on Human Rights
FLM	First Line Manager
GIC	Governor-in-Charge
HIS	Healthcare Improvement Scotland
HMCIPS	Her Majesty's Chief Inspector of Prisons for Scotland
HMIPS	Her Majesty's Inspectorate of Prisons for Scotland
HMP	Her Majesty's Prison
HPS	Health Protection Scotland
HQ	Headquarters
ICM	Integrated Case Management
LCRG	Local Coronavirus Response Group
LV	Liaison Visit
MACRIB	Multi-Agency Community Reintegration Board
MAPPA	Multi-Agency Public Protection Arrangement
NHS	National Health Service
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the UN Convention against Torture and other cruel, inhuman or Degrading Treatment or Punishment
PANEL	Participation, Accountability, Non-discrimination and equality, Empowerment, and Legality
PIAC	Prisoner Information Action Committee
PPE	Personal Protective Equipment
RMA	Risk Management Authority
RMT	Risk Management Teams
RRC	Refusal to Return to Circulation
SD	Social distancing
SG	Scottish Government
SMT	Senior Management Team
SOP	Standard Operating Procedures
SSOW	Safe Systems of Work
SPS	Scottish Prison Service
SRU	Separation and Reintegration Unit
TSO	Throughcare Support Officer
TTM	Talk to Me

PRISON LIAISON VISIT PROGRAMME – MAY 2020-MAY 2021

Establishment LV	Liaison Visit Report
HMP Edinburgh 1 May 2020	Report on Liaison Visit to HMP Edinburgh – 1 May 2020
HMP Addiewell 13 May 2020	Report on Liaison Visit to HMP Addiewell - 13 May 2020
HMP Shotts 3 June 2020	Report on Liaison Visit to HMP Shotts - 3 June 2020
HMP Kilmarnock 24 June 2020	Report on Liaison Visit to HMP Kilmarnock - 24 June 2020
HMP Barlinnie 15-16 July 2020	Report on Liaison Visit to HMP Barlinnie - 15-16 July 2020
HMP Low Moss 5 August 2020	Report on Liaison Visit to HMP Low Moss - 5 August 2020
HMP YOI Polmont 26-27 August 2020	Report on Liaison Visit to HMP YOI Polmont - 26-27 August 2020
HMP Perth 16-17 September 2020	Report on Liaison Visit to HMP Perth - 16-17 September 2020
HMP YOI Cornton Vale 7-8 October 2020	Report on Liaison Visit to HMP YOI Cornton Vale - 7-8 October 2020
HMP YOI Grampian 4-5 November 2020	Report on Liaison Visit to HMP YOI Grampian - 4-5 November 2020
HMP Glenochil 2-3 December 2020	Report on Liaison Visit to HMP Glenochil - 2-3 December 2020
HMP Castle Huntly 11 and 16 February 2021	Report on Liaison Visit to HMP Castle Huntly - 11 & 16 February 2021
HMP Greenock 9-10 March 2021	Report on a Liaison Visit to HMP Greenock 9-10 March 2021
HMP Dumfries 7-8 April 2021	Report on Liaison Visit to HMP Dumfries - 7-8 April 2021
HMP Inverness 12-13 May 2021	Report on Liaison Visit to HMP Inverness 12-13 May 2021



CPT/Inf(2020)13

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic - issued on 20 March 2020

The Coronavirus disease (COVID-19) pandemic has created extraordinary challenges for the authorities of all member States of the Council of Europe. There are specific and intense challenges for staff working in various places of deprivation of liberty, including police detention facilities, penitentiary institutions, immigration detention centres, psychiatric hospitals and social care homes, as well as in various newly-established facilities/zones where persons are placed in quarantine. Whilst acknowledging the clear imperative to take firm action to combat COVID-19, the CPT must remind all actors of the absolute nature of the prohibition of torture and inhuman or degrading treatment. Protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty. In the CPT's view, the following principles should be applied by all relevant authorities responsible for persons deprived of their liberty within the Council of Europe area.

1. The basic principle must be to take all possible action to protect the health and safety of all persons deprived of their liberty. Taking such action also contributes to preserving the health and safety of staff.
2. WHO guidelines on fighting the pandemic as well as national health and clinical guidelines consistent with international standards must be respected and implemented fully in all places of deprivation of liberty.
3. Staff availability should be reinforced, and staff should receive all professional support, health and safety protection as well as training necessary in order to be able to continue to fulfil their tasks in places of deprivation of liberty.
4. Any restrictive measure taken vis-à-vis persons deprived of their liberty to prevent the spread of COVID-19 should have a legal basis and be necessary, proportionate, respectful of human dignity and restricted in time. Persons deprived of their liberty should receive comprehensive information, in a language they understand, about any such measures.

5. As close personal contact encourages the spread of the virus, concerted efforts should be made by all relevant authorities to resort to alternatives to deprivation of liberty. Such an approach is imperative, in particular, in situations of overcrowding. Further, authorities should make greater use of alternatives to pre-trial detention, commutation of sentences, early release and probation; reassess the need to continue involuntary placement of psychiatric patients; discharge or release to community care, wherever appropriate, residents of social care homes; and refrain, to the maximum extent possible, from detaining migrants.
6. As regards the provision of health care, special attention will be required to the specific needs of detained persons with particular regard to vulnerable groups and/or at-risk groups, such as older persons and persons with pre-existing medical conditions. This includes, inter alia, screening for COVID-19 and pathways to intensive care as required. Further, detained persons should receive additional psychological support from staff at this time.
7. While it is legitimate and reasonable to suspend non-essential activities, the fundamental rights of detained persons during the pandemic must be fully respected. This includes in particular the right to maintain adequate personal hygiene (including access to hot water and soap) and the right of daily access to the open air (of at least one hour). Further, any restrictions on contact with the outside world, including visits, should be compensated for by increased access to alternative means of communication (such as telephone or Voice-over-Internet-Protocol communication).
8. In cases of isolation or placement in quarantine of a detained person who is infected or is suspected of being infected by the SARS-CoV-2 virus, the person concerned should be provided with meaningful human contact every day.
9. Fundamental safeguards against the ill-treatment of persons in the custody of law enforcement officials (access to a lawyer, access to a doctor, notification of custody) must be fully respected in all circumstances and at all times. Precautionary measures (such as requiring persons with symptoms to wear protective masks) may be appropriate in some circumstances.
10. Monitoring by independent bodies, including National Preventive Mechanisms (NPMs) and the CPT, remains an essential safeguard against ill-treatment. States should continue to guarantee access for monitoring bodies to all places of detention, including places where persons are kept in quarantine. All monitoring bodies should however take every precaution to observe the 'do no harm' principle, in particular when dealing with older persons and persons with pre-existing medical conditions.



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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or e-mail: psi@nationalarchives.gsi.gov.uk.

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HM Inspectorate of Prisons for Scotland
Room Y1.4
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

0131 244 8482