



HMIPS

HM Inspectorate of Prisons for Scotland
INSPECTING AND MONITORING

**Inspection of the Court Custody Provision,
Edinburgh Sheriff Court**

18 June 2018

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Introduction and Background

HM Chief Inspector of Prisons for Scotland (HMCIPS) has responsibility for the inspection of the treatment of and conditions for prisoners under escort against a pre-defined set of standards. These Standards are set out in the document 'Standards for Inspecting Court Custody Provision in Scotland', published March 2017 which can be found at <https://www.prisoninspectorscotland.gov.uk/news/standards-inspecting-court-custody-provision-scotland>.

These standards contribute positively to the effective scrutiny of court custody provision in Scotland and will encourage continuous improvement in the quality of care and custody of people held in court cells.

The Standards provide assurance to Ministers and the public that inspections are conducted in line with a framework that is consistent and that assessments are made against appropriate criteria. This report is set out to reflect the performance against these standards.

HMIPS assimilates information resulting in evidence based findings utilising a number of different techniques. These include:

- obtaining information and documents from the Scottish Courts and Tribunals Service and the court inspected;
- shadowing and observing staff as they perform their duties within the court custody unit;
- interviewing prisoners and staff on a one-to-one basis;
- inspecting a wide range of facilities impacting on both prisoners and staff;
- reviewing policies, procedures and performance reports

The information gathered facilitates the compilation of a complete analysis of the Court Custody Unit against the standards used. A written record of the evidence gathered is produced by the Inspector allocated each individual standard. This consists of a statement against each of the indicators contained within the standard inspected.

Overview by HM Chief Inspector of Prisons for Scotland

Introduction

Edinburgh Sheriff Court's Custody Unit (CCU) was busy on the day of the inspection with over 60 people in custody, having arrived from Police Scotland custody cells and Scottish Prison Service (SPS) establishments. Inspectors found the CCU to be a well-run facility with staff that were clearly well motivated, well led and working well as a team. It was evident that individual team members supported each other, and were operating with a clear vision of what they wanted to achieve.

The design of the Unit allowed for the separation of those from arriving from police custody and prisons. Additionally young people and woman were held separately, with the woman being located in a small dedicated facility.

The Unit appeared clean, well lit and tidy. However, some graffiti was observed on the ceiling of some holding cells, which appeared to be 'burnt' onto the ceiling and should be removed or painted over.

Despite the Unit being busy and noisy, it was clear that staff maintained good levels of supervision and were highly visible and approachable. Staff were observed undertaking appropriate levels of supervision whilst taking account of the varied needs of those they were responsible for. One individual that had arrived in a highly vulnerable state was located near the main desk and staff engaged with him on a regular basis to ensure that he felt safe and supported.

Whilst it was clear that CCU staff took their responsibilities seriously, local management should review how they undertake some of the more sensitive engagements with those held within the Unit. On occasions sensitive or potentially personal matters were discussed in open areas where confidentiality could have been breached.

When observing prisoners being removed from escort vans it was noted that one female prisoner arrived in her nightclothes, two prisoners were in shorts, one prisoner appeared to be in his underwear and one prisoner had no footwear. Police Scotland should ensure that those arriving from police custody are appropriately dressed for the journey and their subsequent court appearance. It is unacceptable that individuals are expected to appear in a court of law in their underwear or nightclothes.

The management and control of Personal Escort Records (PERs) was undertaken with great diligence and care, and the details contained within them were regularly updated. This is particularly important as they contain critical information regarding the prisoners presenting risks or developing issues. The manner in which this task was approached and undertaken is practice worthy of sharing.

One aspect that requires immediate clarification relates to the provision of medical information. Inspectors were informed that CCU staff had previously received a 'health management plan' from Police Scotland, but this had ceased some months ago. The escort contractor and the SPS must review this situation to ensure that

custody staff have the information they require for the safe management of individuals, whilst maintaining the appropriate level of confidentiality.

The provision of open urinals within many of the holding cells does not meet basic standards of decency, and raises concerns around infection control. Therefore their use should cease with immediate effect.

Finally, to allow people to access their rights they need to know their rights, and if English is not their first language or they have limited communication skills it becomes challenging. Clear guidelines are required to ensure that prisoners arriving at court fully understand why they are there, and the outcome of their court appearance. All parties concerned must develop a joint approach to ensure that procedures are in place for this to happen, and that the process is fully understood by all those involved.

Wendy Sinclair-Gieben

Wendy Sinclair-Gieben
HM Chief Inspector of Prisons for Scotland

22 August 2018

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

- 1.1 Statutory procedures for identification of prisoners are fully complied with.
- 1.2 All prisoners are classified and this is recorded on the Personal Escort Record (PER) form.
- 1.3 All prisoners are allocated to a custody location dependent on their classification, gender, vulnerability, security risk, state of mental health or personal medical condition.
- 1.4 A cell sharing risk assessment is carried out prior to each individual prisoner’s allocation to a cell.

Inspection findings

The officer at the reception desk established the identity of those arriving at the CCU by asking for their name and date of birth, which was then checked against the PER and the information held on the database that G4S utilise to record relevant information, a photograph is taken at the same time and saved onto the same system. The information from the PER was then used as part of the risk assessment for cell sharing decisions. In addition to the information contained on the PER, staff asked people in custody a series of set questions to identify any risks before making their final decision on where to locate them.

On the basis of the information gathered, prisoners were then allocated to a holding cell. The information gathered included whether prisoners had arrived from prison or police custody, their gender and any identified risk. This allowed for prisoners to be kept apart if necessary, and for their needs to be met regarding stricter supervision if required. It was clear from observing staffs interactions with prisoners that care was taken to clarify they were being held lawfully, their situation and their circumstances.

Inspectors were concerned that some of the more sensitive discussions were being held in an inappropriate location. Prisoners were asked a number of questions about their views on equality and diversity matters, whilst being taken from the escort van to the CCU. Local management should review this process and revise their procedures accordingly.

Inspectors observed good interaction between the CCU staff. They shared information in a clear and concise way, disseminating any issues identified by prisoners. CCU staff were clear in identifying new prisoners and relayed any information on negative attitudes and behaviours observed during travel to the court.

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

- 2.1 The custody areas should be appropriately equipped and constructed for their intended use and be maintained to an appropriate standard.
- 2.2 Good levels of cleanliness and hygiene are observed throughout the custody areas ensuring procedures for the prevention and control of infection is followed.
- 2.3 All prisoners have access to toileting facilities on request.
- 2.4 The meals provided to prisoners are nutritious, varied, served at the appropriate temperature and well presented.
- 2.5 Where an individual remains in custody beyond 17:30 they should be provided with a nutritious evening meal.
- 2.6 The meals provided to each prisoner conform to any specific dietary or medical requirements and their cultural or religious needs.

Inspection findings

The CCU was sufficiently equipped and well laid out, allowing good control of the area. Inspectors were informed that there was a maintenance programme in place that allowed for repainting every six months. However, some of the graffiti appeared to have been there for quite some time. An example of this was where the graffiti appeared to be burnt into the ceilings and looked like it had been there for an extended period.

Whilst there was no natural light within the facility the lighting was adequate in most areas. Cleanliness and hygiene was of a good standard.

On the side of the holding cell that held individuals that had arrived from prison, perspex panels were attached to the grille gates to prevent objects being thrown and to protect staff or other prisoners, however, some of the panels were missing. Scottish Courts and Tribunal Service (SCTS) management should review this situation with the escorting contractor and agree an appropriate programme of replacement or removal. It was unclear why some cells were equipped with these screens and others were not. The rationale for this should be shared with all parties.

The service provider had biohazard processes in place to reduce the spread of infection, particularly where they had to deal with those who were undertaking a 'dirty' protest. All equipment to deal with such situations was available and utilised when required. Cleaning staff from the court would be called upon to clean any area that has been subjected to a biohazard, and they were aware of the process to isolate a contaminated area.

Each holding cell has a urinal fitted. However, there was no privacy in which to use them, or facilities for hand washing after use. Therefore their use should be ceased with immediate effect. During the inspection it was clear that prisoners wishing to use the toilet could utilise other toilets out with the holding cell. The facilities were clean with toilet paper provided within the toilet area. Hand soap and paper towels were made available adjacent to the toilet cubicle. The cubicles themselves were clean but the privacy doors were so low that little privacy was provided. SCTS management should alter the door to ensure that any individual using the toilet facilities can do so with dignity. Inspectors also noted that a CCTV camera was positioned in such a way that the operator could clearly observe someone using the toilet and as such was a gross intrusion on their privacy. Inspectors instructed the escort contractor to contact SCTS to have this situation addressed before the end of the day. Assurances were provided that this would be done and HMIPS has since received verbal confirmation that the camera was moved.

A food pack containing sandwiches, biscuits, crisps and water was available for those held in the CCU over lunch time. Hot food was available to those likely to be held there after 16.00hrs. Although not observed during the inspection, the manager of the CCU explained that those with special dietary, or religious or cultural needs had alternative meals provided. They were ordered and delivered by a supplier in the same building. The staff also provided those in custody with access to water on a regular basis.

STANDARD 3: PERSONAL SAFETY

All reasonable steps are taken to ensure the safety of prisoners while in the custody areas.

Commentary

All appropriate steps are taken to minimise the levels of harm to which prisoners are exposed. Appropriate steps are taken to protect prisoners from harm from others or themselves. Where violence or accidents do occur, the circumstances are thoroughly investigated and appropriate management action taken.

Quality indicators

- 3.1 The provider has in place thorough and compassionate practices to identify and care for those at risk of suicide or self-harm.
- 3.2 The requirements of Health and Safety legislation are observed throughout the custody areas.
- 3.3 All activities take place according to recorded safe systems of work which are based on appropriately completed risk assessments.
- 3.4 The attitude, behaviour and approach of staff contribute to the lowering of the risks of aggression and violence.
- 3.5 All reasonable steps are taken to minimise situations that are known to increase the risk of aggressive or violent behaviour. Where such situations are unavoidable, appropriate levels of supervision are maintained.
- 3.6 Particular care is taken of prisoners whose appearance, behaviour, background or circumstances leave them at heightened risk of harm or abuse from others.
- 3.7 The management and supervision of prisoners, held in custody, takes into account the nature of any identified risks.
- 3.8 All allegations or incidents of mistreatment, intimidation, hate, bullying, harassment or violence must be recorded and investigated by a person of sufficient independence with any findings being acted upon by management.
- 3.9 There is an appropriate set of readily available contingency plans for managing emergencies and unpredictable events and staff are adequately trained in the roles they adopt in implementing the plans.

Inspection findings

CCU staff were aware of the SPS Talk to Me Strategy and dealt with those arriving from prison establishments in the appropriate way. Prisoners received from Police Scotland who were documented as a risk of self-harm were also dealt with appropriately. When CCU staff had concerns about an individual's health they contacted Police Scotland or the appropriate prison for clarification. There was no safer cell in the CCU, but staff utilised the holding cells closest to the staff desk when vulnerable prisoners were identified, to allow them to observe them more closely.

Health and safety was well managed. The area was well controlled with only one person let out of a holding cell at any one time.

Personal Emergency Evacuation Plans (PEEPS) were viewed, and it was identified that a core of seven staff were trained in using the evacuation chairs, which would be utilised to evacuate wheelchair users during an emergency. Inspectors were told that more staff required to be trained in PEEPs, and cascade training was being considered to address this. Management must ensure that they have sufficient trained staff to deal with emergency evacuations.

There was a comprehensive list of Operating Instructions (OPIs) and appropriate safe systems of work. However, the online OPIs were not in an accessible or user friendly format as it was difficult to find specific instructions or directions within one large document. Management should review the format of them. In addition to the OPIs, local management had access to a range of contingency plans, and worked closely with the SCTS to ensure that they were developed collaboratively, and jointly tested at appropriate intervals.

Inspectors were shown the appropriate processes and records that were deployed to ensure the necessary Health and Safety legislation was adhered to, and that any issues or risks arising were addressed appropriately.

Staff appeared to have a good relationship with those in custody. They used their interpersonal skills to reduce the risks of aggression and violence, in what was a very noisy but ordered environment. Where risks were identified, staff reacted quickly to resolve any issues. If staff assessed that where prisoners had been located may increase aggression and/or violence, they are moved to more appropriate surroundings where they can be cared for more appropriately. When checking PERS there was clear and accurate recording of observations of all prisoners.

Where any complaints or allegations were made by those held in custody there was a clear process for dealing with them. In addition, all such complaints were reviewed by the SPS contracts team to ensure fairness of treatment and that appropriate remedies were identified and implemented when required. Local management also informed inspectors that when the allegation related to assault it was referred immediately to Police Scotland.

Standard 4: HEALTH, WELLBEING AND MEDICAL TREATMENT

All reasonable steps are taken to ensure the health and wellbeing of prisoners while in the custody areas and that appropriate and timeous medical treatment is available when required.

Commentary

Where it is necessary to do so, prisoners should receive treatment which takes account of all relevant NHS standards, guidelines and evidence-based treatments.

Quality indicators

- 4.1 Any treatment provided in custody must be undertaken by an appropriately qualified professional and meet accepted standards.
- 4.2 There should be at least one court custody staff trained in emergency first aid on shift at any given time.

Inspection findings

It was impressive to note that all CCU staff were trained in first aid. Training records were kept centrally, and individuals were notified when they were due refresher training. Any CCU staff out of competency were removed from working with prisoners until such times as they had successfully completed the refresher training.

CCU staff could access medical services through a recognised provider, Scot Nurse. The contract provides for an appropriate response within one hour. Inspectors were told that a response was generally achieved within 30 minutes. However, on occasion, it could be over the hour. A healthcare professional was available on site on a Tuesday and Thursday. Local management must ensure that the maximum response time is achieved on all occasions.

One aspect that requires immediate clarification relates to the provision of medical information. Inspectors were informed that CCU staff had previously received a 'health management plan' from Police Scotland, but this had ceased some months ago. The escort contractor and the SPS must review this situation to ensure that custody staff have the information they require for the safe management of individuals, whilst maintaining the appropriate level of confidentiality.

STANDARD 5: EFFECTIVE, COURTEOUS AND HUMANE EXERCISE OF AUTHORITY

The implementation of security and supervisory duties is balanced by courteous and humane treatment of prisoners.

Commentary

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

Quality indicators

- 5.1 Court custody staff discharge all supervisory and security duties courteously and in doing so respect the individuals given circumstances.
- 5.2 The systems and procedures for the movement, transfer and release of prisoners are implemented effectively and courteously.
- 5.3 The systems and procedures for access and egress of all other people are implemented effectively and courteously.
- 5.4 The systems and procedures for monitoring and supervising movements and activities of prisoners inside the custody areas are implemented effectively.
- 5.5 The law concerning the searching of prisoners and their property in the custody areas is implemented thoroughly.
- 5.6 All security checks are carried out regularly and thoroughly.
- 5.7 Physical force is used only when necessary and strictly in accordance with 'the provider's' control and restraint training guidance and the law.
- 5.8 Physical restraints are only used when necessary in accordance with any associated risk information provided on the Personal Escort Record and, in any case, strictly in accordance with the law.
- 5.9 Prisoners' personal property and cash are recorded and, where appropriate, stored.

Inspection findings

During the inspection it was observed that CCU staff discharged their duties courteously and in a respectful manner, whilst maintaining an acceptable level of authority. It was evident that the CCU staff worked as a team, and each member was confident and competent in their given role.

Good communication and mutual understanding of the roles and responsibilities was observed, which helped to establish the sense of order and control whilst maintaining a decent and humane environment.

The transfer from the escort provider's vehicles and the movement of prisoners within the CCU was carried out in a safe and controlled manner. Procedures had recently been reviewed and altered due to an escape from custody, and a strict protocol for securing the drop off area before movements of custody's had been adopted.

CCU staff were observed carrying out dynamic risk assessments in order to manage those at risk, or likely to be detrimental to the good running of the Unit. An example of this was where two younger female prisoners were placed away from adult female prisoners, to ensure that they were provided with as calm an environment as possible.

There was limited access for disabled prisoners from the drop off point. Those prisoners who were wheel chair bound were required to enter the CCU by lift from the front of the main building, used by court staff and the general public. This was not ideal and should be reviewed by all concerned parties, to ensure that access and egress for those with limited or no personal mobility are provided with appropriate arrangements.

There appeared to be a good relationship between the CCU staff and prisoners legal representatives. Although there were a limited number of secure interview rooms, it appeared that there was an effective system in place to allow interviews to take place between the client and their representative, prior to a court appearance. There was CCTV throughout the CCU, and whilst it was not actively monitored, it was equipped with a playback provision and the ability to save recordings to disc.

All searching that was observed was thorough and undertaken in a consistent and professional manner. 'Rub Down' searches were undertaken at the front desk and appropriate facilities were available should a more detailed body search be required or assessed as necessary.

Prisoners' personal belongings, that were not valuables, were held securely at the front desk and clearly recorded. They were held in open storage shelves but it was unlikely to be removed without permission. CCTV covers this area. Steps to further minimise the loss of property, by adding doors to the storage shelves, were at the planning stage. Larger items were stored in a locked room, and all valuables i.e. money were placed in a safe. All property bags were sealed with a unique reference number and a process was in place if there was a requirement to open any bag.

The use of physical restraints was limited to ensuring security and safety for staff, other people in custody and the public. There was no evidence that they were misused or applied without due cause. Inspectors did not witness the deployment of any physical force during the inspection. They witnessed staff using good interpersonal skills to calm potentially difficult situations, and to maintain an orderly atmosphere. Should physical force be required, there was a process of review undertaken to ensure that techniques were appropriately applied and de-escalated at the earliest opportunity.

STANDARD 6: RESPECT, AUTONOMY AND PROTECTION AGAINST MISTREATMENT

Staffs treat all prisoners in custody respectfully. Prisoners' rights to statutory protections and complaints processes are also respected.

Commentary

Staff engage with prisoners respectfully, positively and constructively. Prisoners are kept informed about the progress of their court case and are treated humanely and with understanding.

Quality indicators

- 6.1 Relationships between staff and prisoners are respectful. The use of disrespectful language or behaviour is not tolerated.
- 6.2 Staff respect prisoners' rights to confidentiality in their dealings with them.
- 6.3 International human rights as asserted in law are respected.

Inspection findings

It was clear that there was a good relationship between CCU staff and prisoners. CCU staff clearly knew some prisoners from previous occasions, and the dialogue between them reflected this. This carried forward to those less familiar to CCU staff, who were also shown the same consistent positive attitude.

The layout of the CCU encouraged interaction between staff and prisoners. However, it also encouraged communication between prisoners, even when they had been separated due to risk. The area was noisy but CCU staff were on hand to talk to, and when necessary challenge prisoners and deal with their needs when recognised.

As mentioned previously, the maintenance of an appropriate level of confidentiality was a concern to inspectors. Failing to ensure that prisoners felt safe to share confidential information was highlighted during the inspection. Inspectors observed an individual who did not feel confident sharing his concerns or disclosing his anxieties in relation to potential bullying and threats from his co-accused, and feared for his safety. This situation arose due to his initial interview taking place in a public area, which was potentially within hearing distance of those he believed intended to harm him. The outcome was that he was placed in a holding area in full view of those he believed wished to harm him. When highlighted to CCU staff, they removed the prisoner to another area immediately. Local management must review their arrangements for interviewing people in custody, to ensure that individual confidentiality is maintained at all times.

Accessing your rights requires an individual to know their rights, and if English is not their first language that becomes challenging. Clear guidelines need to be established in relation to ensuring that prisoners arriving at court know and understand why they are there, and they must also fully understand the outcome of their court appearance. Prisoners who have little to no English, or who have limited communication skills must have access to translation services before they arrive at court and whilst in the CCU. It was unclear where responsibility for this lies. All parties concerned, the SPS, the SCTS and the escort contractor must agree a joint protocol that clearly sets out roles and responsibilities in this regard. This applies not only to foreign nationals but to other vulnerable groups who may struggle with understanding and comprehension.

Recommendations

1. Adjust the CCTV in the toilets so that personal privacy can be adhered to.
2. Undertake a review of the provision of protection to the cell grilles and agree a consistent approach for maintenance going forward.
3. Discuss personal and confidential matters with prisoners in a private area out with hearing distance of others.
4. The in cell urinals should be removed.
5. Access for those with mobility issues or who require wheelchairs must be reviewed to ensure that all reasonable adjustments are made.
6. PEEPS training should be provided to additional staff.
7. Review the format of the OPI's document to ensure that it is user friendly and accessible.
8. Ensure that once identified, graffiti is removed as quickly as possible
9. Police Scotland should ensure that those arriving from police custody are appropriately dressed for the journey and their subsequent court appearance.
10. Undertake a review of how critical medical information is shared with CCU staff, particularly for individuals arriving from police custody.
11. A protocol should be established to ensure that prisoners who potentially have little to no English or limited communication skills fully understand the court process and can access their rights.

Good practice

1. The management and control of Personal Escort Records (PERs) was undertaken with great diligence and care, and the details contained within them were regularly updated. The manner in which this task was approached and undertaken is practice worthy of sharing.

Inspection Team

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Acronyms

CCTV	Closed Circuit Television
CCU	Court Custody Unit
HMIPS	HM Inspectorate of Prisons for Scotland
OPI	Operating Instructions
PEEPS	Personal Emergency Evacuation Plans
PER	Personal Escort Record
SCTS	The Scottish Courts and Tribunal Service
SPS	The Scottish Prison Service



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