



HMIPS

HM INSPECTORATE OF
PRISONS FOR SCOTLAND

INSPECTING AND MONITORING

STANDARD 4

EFFECTIVE, COURTEOUS AND
HUMANE EXERCISE OF AUTHORITY

4

INTRODUCTION TO STANDARD 4: EFFECTIVE, COURTEOUS AND HUMANE EXERCISE OF AUTHORITY

Questions which may be helpful in monitoring and inspecting the PANEL principles:

P

PARTICIPATION:

- Are prisoners involved in decisions made regarding their management plan and reviews of their security and supervision measures?
- Are there effective lines of communication between the prison and the prisoners regarding decisions taken?
- Is prisoner participation routine and embedded in the approach to security and supervision?
- Do prisoners feel able to participate and do they know they are entitled to do so?

A

ACCOUNTABILITY:

- Are security and supervision decisions made on an individual, case-by-case basis?
- Are lead staff responsible for each process and is paperwork completed to a high standard?
- Are the outcomes and processes of security and supervision decisions monitored and evaluated to ensure rights are upheld?
- Are remedies provided in the event that rights are infringed upon?

N

NON-DISCRIMINATION AND EQUALITY:

- Are those prisoners who are most vulnerable, marginalised or who have a protected characteristic identified and appropriately supported?
- How do vulnerable prisoners or those with a protected characteristic experience security and supervision measures in the prison?
- Are reasonable adjustments made for the most vulnerable and marginalised in security and supervision processes?
- Is the impact upon the most vulnerable and those with protected characteristics of security and supervision measures analysed and reviewed?

E

EMPOWERMENT:

- Does the prison provide support for prisoners who require extra assistance to participate in the implementation of security and supervision measures?
- Are staff proactive in identifying prisoners who face barriers to participation?
- How is information shared with prisoners about their entitlements and rights in terms of security and supervision?
- Are prisoners placed at the centre of any decisions made regarding security and supervision?

L

LEGALITY:

HMIPS expect that all approaches to Effective, Courteous and Humane Exercise of Authority are grounded in human rights law and in conformity with the Scottish Prison Rules. This standard is underpinned by the Prohibition of Torture, Inhuman or Degrading Treatment or Punishment (Article 3 ECHR) which is relevant to the Quality Indicators concerned with the use of force, physical restraints, the segregation of prisoners and searching of the prisoner. Other rights include the Right to a Fair Trial (Article 6 ECHR) relevant to the operation of the disciplinary system and the Right to Family and Private Life (Article 8 ECHR) which relates to cell searches and access to personal property and cash.

PROTECTED CHARACTERISTICS MUST BE CONSIDERED AND REFERENCED THROUGHOUT

The prison performs the duties both to protect the public by detaining prisoners in custody and to respect the individual circumstances of each prisoner by maintaining order effectively, with courtesy and humanity

The prison ensures that the thorough implementation of security and supervisory duties is balanced by courteous and humane treatment of prisoners and visitors to the prison. Procedures relating to perimeter, entry and exit security, and the personal safety, searching, supervision and escorting of prisoners are implemented effectively. The level of security and supervision is not excessive.

QUALITY INDICATORS (QI)

- 4.1** Force or physical restraints are only used when necessary and strictly in accordance with the law.
- 4.2** Powers to confine prisoners to their cell, to segregate them or limit their opportunities to associate with others are exercised appropriately, and their management is effected, with humanity and in accordance with the law. The focus is on reintegration as well as the continuing need for access to regime and social contact.
- 4.3** The prison disciplinary system is used appropriately and in accordance with the law.
- 4.4** Powers to impose enhanced security measures on a prisoner are exercised appropriately and in accordance with the law.
- 4.5** The law concerning the searching of prisoners and their property is implemented thoroughly.
- 4.6** Prisoners' personal property and cash are recorded and, where appropriate, stored. The systems for regulating prisoners' access to their own money and property allow for the exercise of personal choice.
- 4.7** The risk assessment procedure for any prisoner leaving the prison under escort is thorough and implemented appropriately. Any restraint imposed upon the prisoner is the minimum required for the risk presented.
- 4.8** The law concerning the testing of prisoners for alcohol and controlled drugs is implemented thoroughly.
- 4.9** The systems and procedures for monitoring, supervising and tracking the movements and activities of prisoners inside the prison are implemented effectively and thoroughly.
- 4.10** The procedures for monitoring the prison perimeter, activity through the vehicle gate and for searching of buildings and grounds are effective.

4.1

FORCE OR PHYSICAL RESTRAINTS ARE ONLY USED WHEN NECESSARY AND STRICTLY IN ACCORDANCE WITH THE LAW.

FEATURES

- Proportionate use of force
- Thorough paperwork
- Review and monitoring of incidences
- Staff understanding of procedure

SPECIFICATION

The use of force or restraint is always proportionate to the risk posed and is no more than necessary for the situation.

In the event of a planned or unplanned use of force or restraint, the procedure is followed meticulously and all accompanying paperwork is filled out to a high standard.

A review of incidences involving use of force or restraint is regularly undertaken to observe and analyse any trends that may be appearing. The prison is proactive in combating concerns raised by their analysis.

Management are able to talk through the incidences of the use of force or restraint documented.

Legal Standards

Section

CPT Standards 2015	Page 19 (53)
Mandela Rules 2015	Rule 10; 47-49
European Prison Rules 2006	Rule 64.1-66; 68.1-68.4
Havana Rules 1990	Section 63-64
Scottish Prison Rules 2011	Rule 91(2); 91(3)

4.2

POWERS TO CONFINE PRISONERS TO THEIR CELL, TO SEGREGATE THEM OR LIMIT THEIR OPPORTUNITIES TO ASSOCIATE WITH OTHERS ARE EXERCISED APPROPRIATELY, AND THEIR MANAGEMENT IS EFFECTED WITH HUMANITY AND IN ACCORDANCE WITH THE LAW. THE FOCUS IS ON REINTEGRATION AS WELL AS THE CONTINUING NEED FOR ACCESS TO REGIME AND SOCIAL CONTACT.

FEATURES

- Robust rationale for formal isolation
- Recognition and identification of informal and self-isolation
- Continuous monitoring and review of all isolation

SPECIFICATION

This QI requires the examination of both formal and informal isolation of prisoners.

In situations of formal isolation (according to a Rule) the correct procedure has been followed and the paperwork completed with review dates in place.

Any restriction in place is proportionate and assessed as strictly necessary with all factors considered. Multi-disciplinary input is sought for assessing the reintegration needs of the prisoner and the prisoner participates in the development of their individualised plan which is based upon the prisoner's individual needs and requirements. Inter-prison co-operation occurs where necessary.

Where the prisoner requires support to participate in the development of their plan, the prison identifies this and assists the prisoner where necessary.

The prison establishment is aware of incidences of informal isolation and gathers information on the prisoners or population groups involved, any information about specific times or days the isolation is occurring and whether it occurs in any specific location.

Any situation of informal isolation is investigated and initiative is taken to tackle its occurrence in any way possible. The steps to be taken are recorded and reviewed regularly to ensure their efficacy. Trends are identified and analysed by the prison.

Where there is evidence of self-isolation by prisoners, a record is kept which clearly articulates the causes for this, the steps taken to assist the prisoner and a plan is established which focuses on reintegrating the prisoner back into prison life, based on their individual needs and requirements.

Legal Standards

Section

CPT Standards 2015	Page 20(56); 91(128-129)
Mandela Rules 2015	Rule 44; 45
European Prison Rules 2006	Rule 60.5
Bangkok Rules 2010	Rule 22
Scottish Prison Rules 2011	Rule 95; 95(15); 95(17)

4.3

THE PRISON DISCIPLINARY SYSTEM IS USED APPROPRIATELY AND IN ACCORDANCE WITH THE LAW.

FEATURES

- **Emphasis on care element**
- **Prisoner understanding of offence and process**
- **Provision of assistance where necessary**
- **Staff involvement**

SPECIFICATION

There is an emphasis on the care element of the Orderly Room process. One-to-one time with the prisoner is maximised and staff are able to provide input for the benefit of the prisoner. This includes the environment in the Orderly Room itself.

The prisoner involved understands the disciplinary system and where extra assistance is required to enable the prisoner to understand, the prison is proactive in providing it. This extra support may include, but is not exclusive to, foreign language translation, further time taken to explain, large print documentation or advocacy.

Information as to the offence committed and the process undertaken is provided to the prisoner in advance, and the prisoner is assisted to understand the documentation where necessary. Prisoners are also aware of their entitlements including calling witnesses and receiving legal assistance. The paperwork is completed correctly and the Orderly Room guidance is available for all prisoners to access. A process for challenging a decision made exists and prisoners are able to challenge a limitation against them or appeal for a second opinion where they feel they have been unduly restricted.

Time is allowed for questions and concerns to be raised by the prisoner. Mitigating circumstances are considered by the prison staff before the final decision is made and sanctions are applied.

Legal Standards

Section

CPT Standards 2015	Page 19(55); 91(126-128)
Mandela Rules 2015	Rule 37; 39; 40; 41; 43
European Prison Rules 2006	Rule 56-62
Bangkok Rules 2010	Rule 22; 23
Havana Rules 1990	Section 66-71
Scottish Prison Rules 2011	Rule 110-114

4.4

POWERS TO IMPOSE ENHANCED SECURITY MEASURES ON A PRISONER ARE EXERCISED APPROPRIATELY AND IN ACCORDANCE WITH THE LAW.**FEATURES**

- **Special Security Measures (SSMs) are proportionate and applied fairly**
- **Prisoner understanding of measures and entitlements**
- **Provision of support where necessary**

SPECIFICATION

This QI applies specifically to SSMs.

The correct procedure is followed and paperwork is recorded accurately with clear explanations of the reasons why certain measures have been applied. These reasons are understood by staff and the prisoner involved.

Prisoners understand the measures applied to them. They know that they are permitted to represent themselves at stages during the process and are supported to do so by the prison.

Where extra assistance is required for the prisoner to understand the SSM itself or the reasons for its application, the prison provides this. Assistance may include foreign language translation, large print documentation or further time taken to explain verbally.

Staff are regularly updated on the security restrictions of prisoners in their area.

Legal Standards**Section**

CPT Standards 2015	Page 25(30); 27(32)
European Prison Rules 2006	Rule 53.1-53.7
Scottish Prison Rules 2011	Rule 23-25

4.5

THE LAW CONCERNING THE SEARCHING OF PRISONERS AND THEIR PROPERTY IS IMPLEMENTED THOROUGHLY.

FEATURES

- Searches follow procedures
- Protection of human dignity

SPECIFICATION

When searching the prisoner or their cell, human dignity is absolutely maintained at all times. All searches are carried out in strict conformity with the Prison Rules and other relevant legislation.

For instance, the prisoner must never be fully naked at any time, and cell searches occur with the prisoner and property card present unless in exceptional circumstances. The cell is not left in an overturned state once the search is completed.

Legal Standards

Section

CPT Standards 2015	Page 94(23)
Mandela Rules 2015	Rule 50-52
European Prison Rules 2006	Rule 54.1-54.8
Bangkok Rules 2010	Rule 19-21
Scottish Prison Rules 2011	Rule 92
Prisons (Scotland) Act 1989	Section 41A

4.6

PRISONERS' PERSONAL PROPERTY AND CASH ARE RECORDED AND, WHERE APPROPRIATE, STORED. THE SYSTEMS FOR REGULATING PRISONERS' ACCESS TO THEIR OWN MONEY AND PROPERTY ALLOW FOR THE EXERCISE OF PERSONAL CHOICE.

FEATURES

- All prisoners receive access to property
- Appropriate recording and storage of property
- Compensation available for loss or mishandling

SPECIFICATION

Both staff and prisoners are aware of what is allowed to be kept in the prisoners' cell, what must be stored and what is classed as a valuable possession.

The Standard Operating Procedure (SOP) for access to property was created with input from prisoners, and is robust and exercised appropriately. The rules are clearly and fairly applied to ensure all prisoners are able to access their property in accordance with the SOP. This includes the proforma system for property received from outside of the prison.

Any prisoners who face barriers in accessing their property are assisted by the prison to gain access. The prison is proactive in assessing potential barriers and mitigating them or removing them where possible.

The storage facilities are appropriate for the property stored, for example, valuable property is stored properly with safeguards. Facilities are adequate for storing the amount of property required.

The recording of property is well completed and there is a compensation system in place in the event of mishandling of property or loss.

Legal Standards

Section

Mandela Rules 2015	Rule 67
European Prison Rules 2006	Rule 31.1-31.4; 31.7
Havana Rules 1990	Section 35
Scottish Prison Rules 2011	Rule 46-51
Prisons (Scotland) Act 1989	Section 41A

4.7

THE RISK ASSESSMENT PROCEDURE FOR ANY PRISONER LEAVING THE PRISON UNDER ESCORT IS THOROUGH AND IMPLEMENTED APPROPRIATELY. ANY RESTRAINT IMPOSED UPON THE PRISONER IS THE MINIMUM REQUIRED FOR THE RISK PRESENTED.

FEATURES

- Comprehensive risk assessments
- Minimum restraint imposed
- Compassionate leave is permitted

SPECIFICATION

This does not include risk assessment relating to release, prison leave or Risk Management Team. It includes hospitalisation, attending funerals and escorts generally (either planned or emergency).

The risk assessment procedure is individualised for the person involved and takes into consideration their needs.

The full range of risk is assessed, including the risks presented by the prisoner and potential risks from others against the prisoner.

Risk assessments for frequently used local locations are available but regularly reviewed, monitored and updated.

Any restraint used is the minimum required for the risk posed both on transfer and when at the destination. Maintaining human dignity is a paramount consideration, particularly where there are compassionate grounds.

Legal Standards

Section

Mandela Rules 2015	Rule 70
European Prison Rules 2006	Rule 24.7
Havana Rules 1990	Section 59
Scottish Prison Rules 2011	Rule 99; 100; 101
Prisoners and Criminal Proceedings (Scotland) Act 1993	Section 3
Criminal Justice (Scotland) Act 2003	Section 210D

4.8

THE LAW CONCERNING THE TESTING OF PRISONERS FOR ALCOHOL AND CONTROLLED DRUGS IS IMPLEMENTED THOROUGHLY.

FEATURES

- Targeted intelligence driven approach
- Analysis of trends and data
- Consistency of approach

SPECIFICATION

Alcohol testing occurs when there is a reasonable suspicion. The procedure in place is followed correctly and the accompanying paperwork is filled out properly.

Drug testing occurs on a risk and intelligence informed basis or as directed by SPS HQ. Results are analysed to understand where the drugs are coming from, locations they appear in the prison and the reasons for this.

The prison is vigilant in tackling any instance of discriminatory practice.

The manner in which testing is carried out is consistent across all population groups, and staff involved are ideally not from the prisoner's residential area. The process is as discreet as possible within the required security procedures.

Legal Standards

Section

Scottish Prison Rules 2011
Prisons (Scotland) Act 1989

Rule 93; 94
Section 41B; 41C

4.9

THE SYSTEMS AND PROCEDURES FOR MONITORING, SUPERVISING AND TRACKING THE MOVEMENTS AND ACTIVITIES OF PRISONERS INSIDE THE PRISON ARE IMPLEMENTED EFFECTIVELY AND THOROUGHLY.

FEATURES

- Established and well understood process
- Staff understanding
- Mechanism for post-incident review

SPECIFICATION

There are clearly defined procedures in place for key activities, for example the route movement, time in the open air, recreation and visits.

There is a senior staff member responsible for the operation of a specific procedure.

Procedures in the SOPs are followed on the ground as detailed and expected.

Technology available is used to its full potential but staff are able to complement the procedures by using their own developed skills.

Legal Standards

Section

Scottish Prison Rules 2011

Rule 90

PARTICIPATION

ACCOUNTABILITY

NON-DISCRIMINATION
AND EQUALITY

EMPOWERMENT

LEGALITY

4.10

THE PROCEDURES FOR MONITORING THE PRISON PERIMETER, ACTIVITY THROUGH THE VEHICLE GATE AND FOR SEARCHING OF BUILDINGS AND GROUNDS ARE EFFECTIVE.

FEATURES

- Structured and systematic approach
- Equipment operated and maintained
- Staff awareness

SPECIFICATION

There is a structured and systematic approach to physical security that clearly identifies risk and responds to it effectively.

This includes the access of people, mail, goods and vehicles to the prison.

In dealing with all people who come to the prison with regard to delivering goods for prisoners or the prison generally, prison staff always behave in a humane and professional manner.

Staff understand their roles in terms of the systematic approach to security, and if this changes for any reason, this is communicated to them.

Legal Standards

Section

Scottish Prison Rules 2011	Rule 90; 94
Prisons (Scotland) Act 1989	Section 41

QI ADDITIONAL LEGAL STANDARDS	SECTION
4.1 CoE Recommendation on Juvenile Offenders Subject to Sanctions or Measures 2008	Section 90.1-91.3
CoE Recommendation on the Code of Ethics for Prison Staff 2012	Section 16; 18
Code of Conduct for Law Enforcement Officials 1979	Article 3
Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990	Principle 4; 5; 15
CoE Guidelines Regarding Radicalisation and Violent Extremism 2016	Section 10
4.2 CoE Recommendation on Juvenile Offenders Subject to Sanctions or Measures 2008	Section 91.4; 93.1; 93.2 95.3; 95.4
CoE Recommendation on the Management by Prison Administrations of Life Sentence and other Long-Term Prisoners 2003	Section 19(c); 26
Basic Principles for the Treatment of Prisoners 1990	Principle 7
Scottish Prison Rules (Cellular Confinement) Direction 2011	As a whole
4.3 CoE Recommendation on Juvenile Offenders Subject to Sanctions or Measures 2008	Section 94.2; 94.4; 95.1; 95.6
CoE Recommendation Concerning Foreign Prisoners 2012	Section 21.5
Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 1988	Principle 30
CoE Recommendation on Prison Leave 1982	Section 8
CoE Recommendation on the Use of Remand in Custody 2006	Section 41; 42
Scottish Prison Rules (Disciplinary Appeals) (No 2) Direction 2013	As a whole
4.4 CoE Guidelines Regarding Radicalisation and Violent Extremism 2016	Section 21
Scottish Prison Rules (Special Security Measures) Direction 2011	As a whole
4.5 CoE Recommendation on Juvenile Offenders Subject to Sanctions or Measures 2008	Section 89.1-89.4
Scottish Prison Rules (Storage of Property) Direction 2016	As a whole
4.6 CoE Recommendation on Juvenile Offenders Subject to Sanctions or Measures 2008	62.2(d)
CoE Recommendation on the Code of Ethics for Prison Staff 2012	Section 17

QI ADDITIONAL LEGAL STANDARDS	SECTION
4.7 CoE Recommendation Concerning Dangerous Offenders 2014	Section 33
CoE Recommendation on Prison Leave 1982	Section 1-3
CoE Recommendation on the Management by Prison Administrations of Life Sentence and other Long-Term Prisoners 2003	Section 23(b)
CoE Recommendation on Juvenile Offenders Subject to Sanctions or Measures 2008	Section 86.1
Scottish Prison Rules (Escorted Day Release) Direction 2011	As a whole
Scottish Prison Rules (Special Escorted Leave) Direction 2016	As a whole
4.8 No additional rules	
4.9 No additional rules	
4.10 No additional rules	



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