COUNCIL OF EUROPE CONSEIL DE L'EUROPE

CPT/Inf (2010) 37

Report

to the United Kingdom Government on the visit to the Bailiwick of Guernsey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 19 to 22 March 2010

The United Kingdom Government has requested the publication of this report and of the response of the States of Guernsey. The response is set out in document CPT/Inf (2010) 38.

Strasbourg, 19 November 2010

CONTENTS

Copy of the letter transmitting the CPT's report

Mr John Kissane
Deputy Head
Human Rights Division
Ministry of Justice
102 Petty France
UK- London SW1H 9AJ

Strasbourg, 23 July 2010

Dear Mr Kissane,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of the United Kingdom drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Bailiwick of Guernsey from 19 to 22 March 2010. The report was adopted by the CPT at its 72nd meeting, held from 5 to 9 July 2010.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix to the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the relevant authorities to provide within **three months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the authorities to provide, in the above-mentioned response, reactions and replies to the comments and requests for information.

It would be most helpful if a copy of the response could be provided in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Mauro Palma
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

I. INTRODUCTION

1. The Bailiwick of Guernsey is a group of islands[1] situated in the English Channel, off the coast of Normandy and close to the Bailiwick of Jersey, with which it forms the Channel Islands. The islands of the Bailiwick of Guernsey have a population of approximately 65,000 inhabitants and a combined total surface area of 78 km²; Guernsey, the largest of the islands, has 65 km².

The Bailiwick of Guernsey is not part of the United Kingdom. It is a Crown Dependency with its own legislative assembly, the States of Guernsey, and separate legal and administrative system. All domestic issues, including those relating to the deprivation of liberty, are the responsibility of the Bailiwick authorities.

2. The United Kingdom Government is responsible for the Bailiwick's defence and international relations. The United Kingdom ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter "the Convention") on 24 June 1988. In November 1994, the United Kingdom authorities declared that the application of the Convention was to be extended also to the Bailiwick of Guernsey. The Convention came into force in respect of the Bailiwick of Guernsey on 1 March 1995.

3. In pursuance of Article 7 of the Convention, a delegation of the CPT carried out a visit to the Bailiwick of Guernsey from 19 to 22 March 2010. It was the CPT's first visit to the Bailiwick.

4. The visit to the Bailiwick of Guernsey was carried out by:

- Mr Wolfgang HEINZ (Head of Delegation), member of the CPT.

He was supported by the following members of the CPT Secretariat:

- Hugh CHETWYND (Head of Division)
- Caterina BOLOGNESE

and assisted by two experts:

- Veronica PIMENOFF, Expert for psychiatry at Helsinki Administrative Court (Finland)
- Jurgen VAN POECKE, Director of Bruges Prison (Belgium).

[1] Alderney, Brechou, Burhou, Guernsey, Herm, Jethou, Lihou, Little Sark, Sark and a number of islets.

5. The CPT's delegation enjoyed excellent cooperation at all levels. It had unlimited access to all places it wished to visit, was able to meet with those persons with whom it wanted to speak in private and was provided with access to all the information required. In particular, the CPT would like to thank the liaison officer, Jo REEVE, for the assistance provided to the delegation both before and during the visit.

In the course of the visit, the delegation held fruitful discussions with Deputy Lyndon TROTT, Chief Minister, Deputy Hunter ADAM, Minister of Health and Social Services, Deputy Francis QUIN, Deputy Minister of the Home Department, Howard ROBERTS QC, HM Procureur (Attorney General), and Mike BROWN, Chief Executive of the States of Guernsey, as well as senior officials from relevant departments.

6. The delegation visited the following establishments:

- Police Headquarters in St. Peter Port
- Customs and Immigration detention facility at White Rock in St. Peter Port
- Guernsey Prison (Les Nicolles Prison)
- Perruque House Secure Unit for Children
- Albecq acute psychiatric ward, Castel Hospital

II. FACTS FOUND AND ACTION PROPOSED

A. Law enforcement agencies

1. Legal framework

7. The basic rules concerning the detention, treatment and questioning of persons detained by the police are contained in the Police Powers and Criminal Evidence Law of 2003 (PPACE) and its Codes of Practice, and are largely the same as the provisions in place in England and Wales[2]. Persons should not normally be held in police custody more than 24 hours before being charged. However, when the person has been arrested in connection with a "serious arrestable offence", his detention may under certain circumstances be extended by a police officer of the rank of at least chief inspector to 36 hours.

If the police wish to prolong detention without charge beyond 36 hours, they must seek authorisation from a magistrates' court; the detained person must be brought before the court, and he is entitled to be legally represented. The court may authorise further detention for up to 36 hours. This period may subsequently be extended by the court at the request of the police. However, under no circumstances can police custody without charge be extended by the court beyond an overall length of 96 hours.

It should also be noted that the Court may remand a person to detention in a police station for up to three days for the purpose of inquiries into other offences[3] and, as regards suspected drug offenders, it may remand a person to customs detention for a period of up to eight days (192 hours), renewable[4].

In practice, the delegation found that it was very rare for a person to be held in a police station for more than 24 hours. The delegation did not find any recent case of detention for longer than 36 hours.

---

2 See CPT/Inf (91) 15, paragraphs 15 to 18.

3 See Section 53 of Police Powers and Criminal Evidence Law of 2003.

4 See Section 54 of Police Powers and Criminal Evidence Law of 2003.

2. Ill-treatment

8. In the course of the visit, the delegation received no allegations of severe ill-treatment by police officers and gathered no other evidence of such treatment.

However, the delegation did receive a few allegations of excessive use of force at the time of arrest. The CPT recognises that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used when effecting an arrest and, once arrested persons have been brought under control, there can never be any justification for striking them. **Police officers should be reminded regularly, and in an appropriate manner, of these basic principles.**

Further, several complaints were received of handcuffs being applied too tightly; at times, the reddening of wrists caused by handcuffs was noted in the custody record by the duty officer. **The CPT recommends that appropriate steps be taken to ensure handcuffs are applied in a correct manner. Where ratchet handcuffs are applied, the persons concerned should be informed that struggling against the cuffs might cause them to tighten.**

9. The CPT has consistently stated that the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment.

Complaints against the police are handled in Guernsey by the Professional Standards Department (PSD), reporting to the Deputy Chief of Police. It is headed by a Detective Chief Inspector and staffed by two investigators, one of whom previously worked for the London Metropolitan Police. All complaints whether oral or written are registered and a decision is taken early on whether to apply informal resolution procedures or to undertake a PSD-led investigation.

In 2009, some 70 complaints were made against the police, two of which concerned allegations of excessive use of force at the time of arrest, resulting in injuries. Both cases were investigated by the PSD; in one case, the complaint was withdrawn after serious inconsistencies were shown in the complainant's account; in the second case, further to the investigation, law officers decided that there was insufficient evidence to provide a realistic prospect of conviction. In 2008, a police officer had been convicted (fined) by the court and disciplined (dismissed) for handcuffing an elderly woman (excessive use of force), but he was later reinstated by the Home Department. In general, it appeared from a survey of the cases investigated and an examination of several complaints that the PSD dealt with complaints in a professional manner. That said, **it was not evident to what extent the information garnered from the complaints was fed back to inform policing practice.**

10. For an investigation into possible ill-treatment to be effective, it is essential that the persons responsible for carrying it out are independent from those implicated in the events and ideally they should be completely independent from the agency implicated. However, the current system in Guernsey whereby the PSD is part of the police service arguably does not provide it with sufficient independence and, in the view of the CPT, alternative institutional arrangements should be considered. **The CPT would appreciate the comments of the Guernsey authorities on this matter.**

Further, the CPT understands that a new law currently under preparation will provide clearer guidance on investigating complaints, including a code of conduct. **The CPT would like to receive detailed information on these proposals.**

3. Safeguards against ill-treatment of detained persons

11. Two of the main safeguards advocated by the CPT - namely the right of those concerned to inform a close relative or another third party of their choice of their situation and the right of access to a lawyer – are provided for in law and the information gathered during the visit indicated that they operated in a satisfactory manner, in practice, as from the very outset of custody. Further, the detained person is provided with a written notice which includes these rights and is asked to sign the custody register to acknowledge receipt of this notice (the notice exists in eight languages). These rights are also clearly laid down in Code C to PPACE.

12. As for the third safeguard advocated by the CPT – access to a doctor, Section 9 of Code C provides for the care and treatment of detained person, including the duty of the custody officer to make sure a detained person receives appropriate medical attention as soon as is reasonably practicable. In practice, access to a doctor appeared to operate relatively efficiently, and detained persons could also have access to a doctor of their own choice. However, the CPT noted that access to a doctor was not included in the notice of rights. **The CPT recommends that detained persons be expressly informed of the possibility to have access to a doctor. It would be preferable for access to a doctor to be formally guaranteed as a distinct right.**

13. Further, with regard to medical confidentiality, the delegation observed that all consultations took place out of the hearing of the police officers except when the doctor requested their presence. However, the confidentiality of medical data was not properly observed; a doctor's examination notes were filed together with a detained person's criminal file, all of which was accessible to police officers. While the CPT recognises that custodial staff should have information about the state of health of a detained person, including medication being taken and particular health risks, there is no reason why non-medical staff should have access to medical diagnoses or injury reports. **The CPT recommends that custodial staff only have access to the medical information necessary to carry out their duties.**

The CPT's delegation also noted that there was a prohibition of smoking in the police station. However, in contrast to the provision of treatment for persons suffering from drug or alcohol withdrawal, no support was given to smokers, such as the provision of nicotine "patches" during their stay in the police station. **The CPT would appreciate the views of the Guernsey authorities on this matter.**

14. In accordance with PPACE and its Code C, 17-year-olds are treated as adults; concretely, this means that 17-year-olds can be interviewed without the presence of a guardian/parent. The United Nations Convention on the Rights of the Child is clear that all persons under the age of 18 years should be considered as children.

The CPT recommends that the Guernsey authorities take the necessary steps to ensure that all 17-year-olds detained by the police are treated as juveniles and not as adults.

4. Conditions of detention

15. The physical conditions of police custody should meet certain elementary material requirements. All police cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons kept in police custody for 24 hours or more should be offered outdoor exercise every day.

16. The Police Headquarters in St. Peter Port contains a discrete detention area at the back of the station, consisting of seven cells, a booking-in area, a medical room and a small outdoor fenced-in area for detainees.

The conditions in five of the seven single-occupancy cells were adequate; of sufficient size (7 to 8.5m²), with access to natural light and sufficient ventilation, and equipped with a plinth, washable mattress, a toilet and a call bell. By contrast, cell No. 1 had no window and cell No. 4 measured a mere 4.7 m². **These two cells should only be used as temporary holding places** (i.e. stays of no more than a few hours).

In principle, persons detained at the Police Headquarters were offered a warm meal in the middle of the day and in the evening. However, the delegation received a number of complaints from persons who had been detained in the station that they had not been offered any food. **The CPT recommends that the Guernsey authorities take the necessary steps to ensure detained persons are given food at appropriate times.**

17. An additional two cells were located at the Customs Vehicle Clearance Hall, White Rock, St. Peter Port, and were primarily used to accommodate persons suspected of drug trafficking. However, on occasion the police used these cells when the Police Headquarters' detention area was full. The cells were of recent build and had good access to natural light but the ventilation was poor; the cells were equipped with a plinth and a call bell, and were all under CCTV. In sum, the cells were appropriate for holding detainees for short periods, **subject to the ventilation being improved.**

At the time of the visit, the delegation noted that only one person, out of 25 detained in 2010, had spent more than 24 hours in the above cells and, in 2009 the figure was two.

B. Guernsey Prison (Les Nicolles Prison)

1. Preliminary remarks

18. Guernsey Prison is located just north of the main town of St. Peter Port and is the only prison in the Bailiwick of Guernsey. The prison was opened in 1989 to replace the original prison in St Peter Port. The prison consists of a series of nine two-storey small wings (consisting of six to 12 single-occupancy cells) leading off a central corridor on each floor and of one larger wing (44 single-occupancy cells). The certified normal accommodation (CNA) of the prison is 122 and at the time of the visit it was accommodating 74 prisoners.

The establishment is called upon to perform the functions of an entire Prison Service. All types and categories of prisoner are accommodated: remand prisoners; convicted prisoners (both short and long term); male and female; young offenders (17 to 21 years old) and, on occasion, juveniles (14 to 16 years old). At the time of the visit, the prison was holding 47 male adults (38 sentenced and nine on remand), 16 male young offenders of whom three were on remand, one male juvenile on remand and 10 sentenced females of whom one was a young offender. The range of sentences being served in Guernsey Prison varied from several weeks to upwards of ten years. For persons considered to be particularly dangerous or sentenced to very long terms of imprisonment, an agreement exists with the England and Wales Prison Service for that person to be held in an English prison.

Catering in a satisfactory manner, in the same small establishment, for such a wide range of persons deprived of their liberty represents a particularly difficult challenge.

19. It should be noted that the conditions of detention at Guernsey Prison have been the subject of three visits by the Inspectorate of Prisons for England and Wales since 2001, the most recent one being in March 2009. It was evident that the Guernsey authorities have made considerable efforts to address the recommendations made by the Inspectorate.

A notable development which has had important ramifications for the conditions of detention is the reduction in the population from a yearly average of 117 in 2006 to nearer 75 in 2009. Further efforts to reduce the prison population through developing community service might be considered. In certain European jurisdictions every effort is made to avoid sending persons to prison for short periods and instead to find alternatives to imprisonment, as less than six months is considered too short a time to tackle criminogenic behaviour yet sufficient to disrupt social and family ties. **The CPT would appreciate the comments of the Guernsey authorities on this matter.**

2. Ill-treatment

20. The CPT's delegation heard no very recent allegations of physical ill-treatment of prisoners by staff at the prison. On the contrary, positive staff-prisoner relations were in evidence.

However, it was informed of an incident in November 2009 in which a senior prison officer had apparently closed the hatch of a cell door forcefully on the fingers of the inmate in the cell; this had led to the opening of a criminal investigation which was ongoing at the time of the visit, and the disciplinary proceedings were awaiting the outcome of that investigation. The officer in question had been suspended (and subsequently resigned) and another officer, who had been present outside the cell, had been removed from any duties which brought him into contact with prisoners pending the outcome of the criminal investigation. The CPT welcomes the action taken by the prison management to deal swiftly and resolutely with this alleged case of ill-treatment. Further, the delegation noted that the police investigation into the allegation of ill-treatment was carried out promptly and thoroughly and concluded that the actions were unlawful; however, the crown advocate subsequently decided that there was insufficient evidence to prosecute for assault. **The CPT would like to be informed in due course of the outcome of the disciplinary procedures.**

21. The CPT's mandate is not limited to the prevention of ill-treatment inflicted by prison staff. The Committee is also very concerned when it discovers a culture which is conducive to inter-prisoner intimidation and violence.

At Guernsey Prison, policies were in place to clamp down on bullying, and prisoners met by the delegation stated that they felt safe. Nevertheless, the delegation was concerned that the prison management was not in a position to properly monitor instances of bullying or intimidation as certain accommodation units did not have a permanent staff presence. **The CPT would appreciate the comments of the Guernsey authorities on this matter.**

3. Conditions of detention

22. The single-occupancy cellular accommodation in the prison was generally of a good standard; each cell (8m²) was equipped with a bed, chair, table, shelving unit and a toilet and sink (hot and cold water). In general, access to natural light and ventilation were adequate. All cells had a call bell and were fitted with a television, for which the prisoner paid a weekly fee (£1.15).

However, the delegation received a number of complaints concerning the upkeep of the prison; and it observed for itself that the showers on J Wing had been out of order for some time and that the ventilation slats in a number of cells were broken. **The CPT recommends that these deficiencies be remedied.**

23. As regards activities, the CPT's delegation recognised that efforts have been made in recent years to try and provide a satisfactory regime for the various groups of prisoners. However, providing purposeful activities for such a small and diverse prison population is not a straightforward matter.

In terms of time out-of-cell, those prisoners on an enhanced regime (which could be attained after three months of good behaviour in the prison) could spend much of the day out of their cell and had access to the well-equipped gym and sports hall several times a week. Further, each of the wings, apart from J Wing, were equipped with at least one exercise bike and pool table to which inmates had access whenever they were out of their cells.

By contrast, prisoners on a standard regime in J Wing (16 at the time of the visit) spent most of the day locked in their cells. They were in principle let out every morning for an hour and a half, during which they were offered outdoor exercise, and in the evenings for one to two hours. However, in practice, access to outdoor exercise was often limited to only half an hour a day; in addition, the yard had no shelter from inclement weather and standard regime prisoners were not provided with appropriate clothing for going outside in such weather (i.e. they were only permitted to wear one prison issue sweatshirt). Further, at the time of the visit these prisoners were no longer given access to the gym and, at the same time, the two exercise bikes on the wing had been removed.

The CPT recommends that all prisoners be offered a minimum of one hour of outdoor exercise every day, and that arrangements (including appropriate clothing) be made to enable such exercise to be provided in inclement weather.

24. Work opportunities were limited primarily to cleaning and, for seven male prisoners, to working in the kitchen and a horticultural centre also provided work for several prisoners. A workshop for making garden furniture could also employ eight prisoners but was not operational at the time of the visit.

Efforts to increase access to education have been made, particularly as concerns English language, mathematics, art and information technology courses, and each newly admitted prisoner was being assessed for their basic literacy and numeracy level. Some 90% of prisoners were engaged in an educational activity of some sort (four days a week for one hour) and, in most instances, it formed part of the sentence plan (i.e. engagement was required in order to attain enhanced status). However, as regards vocational courses and behaviour management courses much more needs to be done; longer-term prisoners interviewed by the delegation who were approaching the end of their sentence voiced concerns that they were not prepared for reintegration into the community.

The CPT is conscious of the fact that the cost of providing a wide range of vocational and management behaviour courses for diverse groups of prisoners, each of limited number, can be prohibitive. Nevertheless, it is in the interests not only of the inmates concerned but also of the wider community of Guernsey that prisoners are provided with the appropriate support and offered pre-release courses as they approach the end of their sentence.

The CPT recommends that the Guernsey authorities make every effort to increase the range of activities – work, preferably with vocational value, education, sport, recreation – on offer to prisoners. Further, offending behaviour courses should be developed.

25. As regards female prisoners, they were more disadvantaged than male inmates in terms of the range of activities available to them (for example, they did not have the opportunity to work in the horticultural centre). In particular, opportunities for work of a vocational nature were totally lacking, in that there were no workshops catering to female prisoners, apart from the possibility of working in the kitchen one day a week (Sunday), when the male prisoners had their day off. **The CPT recommends that greater efforts be made to provide female prisoners with more meaningful activities, and to ensure that they enjoy access to activities on an equal basis to male prisoners.**

4. Staffing

26. The complement of prison officers was 57, of whom 12 were female. The number of prison officers on duty on the wings during the day was twelve, with two always posted both to reception and J Wing, one each on the female and juvenile units while the other staff members rotated between the remaining wings and the segregation unit. As part of the planned changes in staffing arrangements, it was planned to recruit three trained physical exercise prison officers and two officers for offender programmes. These additional posts are to be welcomed. Nevertheless, although the layout of the prison as described in paragraph 18 above enabled staff to patrol a central corridor and to observe via a window what was occuring on a specific wing, **the CPT considers that all accommodation wings should have a staff presence whenever inmates are unlocked from their cells.**

Staff and inmates informed the delegation of the positive relations that usually existed between them. However, at the time of the visit, there was a visible tension between prison officers and management over the introduction of a new working schedule and the potential impact that this might have on certain staff benefits. One noticeable effect was the high sickness rate among staff (20% or more in recent months) and the impact upon staff-inmate relations was also in evidence.

27. As to the training of staff, the delegation noted that all staff underwent an initial induction course of 11 weeks of training, six of which were carried out at the training college for the England and Wales Prison Service and the remainder of the time consisted of shadowing an officer in Guernsey Prison. Officers were also given regular refresher courses in the prison, including on control and restraint.

Prison officers also acted as personal officer to three inmates and as a reserve personal officer to another three inmates, which officers said they found rewarding and prisoners met largely appreciated.

28. In a small community, staff and prisoners may well know one another outside of the prison context, and there is a mutual interest in promoting positive relations between the two groups. Further, many of the inmates in the prison were repeat offenders who had already spent time in the prison and knew the officers well. The challenge for staff is to maintain the constructive and positive approach towards inmates while at the same time ensuring that they treat all prisoners in the same vein and are not seen to be favouring one group over another. The introduction of more formal staff–prisoner relations is an attempt by management to address these concerns by introducing improved systems of oversight and supervision. It is, however, important that the new systems do not lead to an undermining of the existing positive relations.

The CPT would like to be informed about the impact of the new staff shift arrangements, including as regards staffing numbers on duty at any one time and the regime for prisoners.

5. Juveniles

29. One of the cardinal principles enshrined in the United Nations Convention on the Rights of the Child and the Beijing Rules is that juveniles should only be deprived of their liberty as a last resort and for the shortest possible period of time. The CPT fully endorses this principle. Further, juveniles who are deprived of their liberty ought to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young[5].

As a matter of principle, if, exceptionally, juveniles are held in an institution for adults, they should be accommodated separately from adults, in a distinct unit specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young. The Committee believes that the risks inherent in juvenile prisoners sharing accommodation with adult prisoners are such that this should not occur.

30. At Guernsey Prison, juvenile male inmates were held together with young offenders on a separate wing from adult male prisoners. At the time of the visit, there was only one juvenile in the prison and he associated and carried out activities together with young offenders and, from information provided to the delegation, it appeared that there were never more than a few male juveniles held in the prison at any one moment. However, female juvenile inmates were accommodated on the same wing as female adult prisoners; at the time of the visit, no female juvenile was being held in the prison.

The CPT acknowledges that on a small island where on occasion juveniles will have to be deprived of their liberty, the existing arrangements make a lot of sense from the standpoint of making the most effective use of limited resources, Nevertheless, the CPT considers that it is far preferable for juveniles to be held in specially designed detention centres.

The CPT encourages the Guernsey authorities to continue to reflect on the most appropriate place in which juveniles deprived of their liberty should be held.

---

[5] See also the United Nations Rules for the Protection of Juveniles Deprived of their Liberty of 14 December 1990 (also known as the "Havana Rules").

31. For as long as juveniles continue to be held at Guernsey Prison, **the CPT recommends that particular attention be paid to their education (including physical education) and to offering them a wide range of opportunities to develop their life skills whilst accommodated in the establishment.**

Further, the existence of multiple small units at Guernsey Prison means that separation between juveniles and other prisoners is certainly feasible. In the case of there being only one juvenile prisoner of the respective sex, to avoid isolation, he/she should be offered opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff, and should not be left locked up alone in a cell for extended periods of time. Further, a juvenile of one sex should be able to associate with a juvenile of another sex, subject to a proper risk assessment. The CPT acknowledges that holding juveniles and young adults together, as is the current situation in Guernsey Prison, can be beneficial to the young persons involved, but it requires careful management to prevent the emergence of negative behaviour such as domination and exploitation, including violence.

Moreover, it is essential that staff working with juveniles should be provided with the necessary training and that the team be of mixed gender. More generally, the policy of treating 17-year-olds as adults should also be reviewed in the light of the provision of the United Nations Convention on the Rights of the Child (see also paragraph 14 above).

The CPT recommends that the Guernsey authorities take the necessary steps in the light of the above remarks.

6. Health care

32. A prison health-care service should be able to provide medical treatment and nursing care, as well as physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community. Provisions in terms of medical, nursing and paramedical staff, as well as premises, installations and equipment, should be geared accordingly[6].

33. At the time of the visit, a general practitioner from England was contracted to visit the prison twice a week (Tuesdays and Fridays) for four hours each time. This is not sufficient for an establishment of the capacity and complexity of Guernsey Prison. Further, the fact that the doctor could not be consulted when he was not present in the prison posed considerable difficulties for the nursing staff whenever it was necessary for a prisoner to be examined or prescribed medication. The procedure, as observed by the delegation on a Friday afternoon, of the nurses consulting an on-call general practitioner by telephone who then faxed through a prescription without seeing the prisoner was not appropriate. In case of an emergency, the prison could contact the Accident and Emergency Service of the Princess Elizabeth Hospital in St. Martin's.

The situation as regards nursing resources was much better. There was a health care manager and two full-time nurses, one of whom was a registered community psychiatric nurse. Further, two additional nurse posts were expected to be filled by June 2010.

---

6 See 3rd General Report on the CPT's Activities (1992).

A dentist visited every Monday and care was provided free of charge and waiting times for an appointment did not exceed six months, as was the case in the community. A psychiatrist visited on a regular basis every Wednesday and a forensic psychiatrist from England would be called whenever there was a need for an assessment to be made in relation to sentencing reports – prisoners with serious mental health disorders would be sent to England where they would be held under the England and Wales Mental Health Act, paid for by the Guernsey authorities[7]. A psychotherapist worked on a half-time equivalent in the prison, running a two-week course on offending behaviour (Choices and challenges) four times a year and working on an individual basis with a number of prisoners. There was also a full-time substance misuse worker.

The health care manager explained to the delegation that the health care unit was only able to deliver a reactive service and provided little preventive care. For this reason, no health needs assessment had been made. In the manager's opinion, many prisoners were suffering from poor health and chronic diseases; however, the lack of resources for establishing a more proactive service were lacking.

The CPT recommends that the Guernsey authorities review the arrangements for the attendance of the general practitioner so as to ensure the presence of the equivalent of at least one-third of a full-time post spread out over more days of the week (e.g. three times four hours). It also recommends that steps be taken to develop a more proactive health care service in the prison. Further, the Committee would like to be informed of current nursing levels in the prison.

34. The CPT considers that every newly-arrived prisoner should be properly interviewed and physically examined by a medical doctor as soon as possible after his admission; save for in exceptional circumstances, that interview/examination should be carried out on the day of admission. Such medical screening could also be performed by a fully qualified nurse reporting to a doctor.

At Guernsey Prison, all prisoners were examined by a nurse on the day of admission, with the doctor seeing the prisoner a few days later. In general, it appeared that the screening process was working effectively. More generally, the delegation noted that patients with somatic health-care problems were properly followed and appropriate treatment provided.

35. In the CPT's view, prison health-care services can make a significant contribution to the prevention of ill-treatment of detained persons, through the systematic recording of injuries and, when appropriate, the provision of general information to the relevant authorities. However, the delegation observed that, at Guernsey Prison, injuries sustained in prison were not always correctly recorded. For example, in the case of alleged ill-treatment referred to in paragraph 20 above, the prisoner in question had been seen by the doctor two days after the incident and the prisoner had apparently told him what had happened. However, the medical records provided scant information on the injuries[8] and there was no recorded information on how the injury had allegedly occurred.

---

[7] In 2009, two prisoners had been sent to England for treatment under this arrangement.

[8] "Accident ® hand trapped by cell hatch. – unable to move ® ring finger, proximal phalanx ® ring finger. Fracture? Fast track x-rays."

The CPT recommends that the record drawn up following a medical examination of a prisoner contain:

- **i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),**
- **ii) an account of objective medical findings including a detailed description of all injuries based on a thorough examination, and**
- **iii) the doctor's conclusions in the light of i) and ii).**

Further, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (whether on arrival or at a later stage of his detention) the record should be systematically brought to the attention of the relevant authorities. Further, **the results of the medical examination referred to above should be made available to the prisoner concerned and to the prisoner's lawyer.**

36. As regards the treatment of mentally-ill prisoners, the CPT considers that such persons should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. Although Guernsey Prison could be designated as a psychiatric hospital according to Article 1 of the Mental Treatment Law (Guernsey), 1939, it possessed neither the staff nor the facilities to hold prisoners suffering from a serious mental health disorder.

At the time of the visit, one female prisoner who had been assessed by the general practitioner as having a borderline personality disorder in early December 2009 and about whom the visiting psychiatrist had expressed her concerns over the deterioration in the prisoner's mental state, was not receiving the treatment she required. The medical notes concerning this prisoner were rather scant and nowhere was a single psychiatric diagnosis noted down providing a clear description of the prisoner's condition. Nor do the notes shed light on the cooperation between the psychiatrist and the general practitioner. Indeed, no decisions were in evidence.

In the meantime, the uncooperative nature of the prisoner resulted in her being placed in the segregation unit (for which the doctor signed the form fit for adjudication, fit for solitary confinement) for five days before being placed in a cell on a wing on her own. In sum, this case demonstrated that the medical services of the prison were not able to manage the challenges posed by a mentally disturbed prisoner.

The CPT recommends that the Guernsey authorities take the necessary steps to ensure that prisoners suffering from a mental health disorder are cared for in an adequately equipped hospital environment. Further, it would like to receive details of the treatment afforded to the above-mentioned prisoner since the time of the visit.

7. Other issues

a. reception and first night procedures

37. In addition to medical screening on arrival, the reception and first night procedures as a whole have an important role to play; performed properly, they can identify at least certain of those at risk of self-harm and relieve some of the anxiety experienced by all newly-arrived prisoners. All prisoners admitted to Guernsey Prison went through a three-hour reception process during which they were shown an induction film on the regime and rules in force in the prison, searched and tested for drugs. A risk assessment and cell share interview was carried out on an individual basis before inmates were transferred to a first night cell on J Wing. A female officer working in reception led the induction procedures for newly-admitted female prisoners, who would be placed on A Wing for the first night. An enhanced induction procedure was to be introduced in the coming months, which would reduce the time spent in the reception area by focusing on ten key assessment criteria while leaving the more detailed induction until after the first night. Further, a "buddy" prisoner programme was about to be launched with the assistance of the Samaritans whereby a trusted prisoner would be on hand to provide advice to newly admitted prisoners (combining to some extent the skills of a "listener" and an "insider" as performed by inmates in prisons in England and Wales).

The CPT would like to receive information on the implementation of the revised reception and induction procedures.

b. contact with the outside world

38. The CPT attaches considerable importance to the maintenance of good contact with the outside world for all persons deprived of their liberty. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature.

The Prison Ordinance of 1998 recognises the importance of a prisoner maintaining contact with the outside world (Article 52). Prisoners are allowed to receive and to write one letter per week; the CPT considers that there is no justification for such a limit on written correspondence. For telephone calls, each inmate is provided with a personal identification number (PIN) and allocated up to 12 personal numbers as often as required as long as sufficient funds remain on the account; each wing possessed a sufficient number of telephones.

The Prison Ordinance provided for a minimum of one visit per month but additional visits were allocated according to the incentives and privileges scheme. This meant that all prisoners would be granted four visits per month of a one-hour duration upon entry to the prison (standard) which could be increased to six visits after three months, if prisoners reached the enhanced level or reduced to two visits if they were placed on basic regime[9].

---

[9] The prison operated an Incentives and Earned Privileges scheme, which was based on prisoners' conduct and their willingness to cooperate and achieve their sentence planning objectives. Poor behaviour could result in a prisoner being downgraded to a basic regime which would result inter alia in less time out of cell, fewer visits, reduced privileges concerning personal belongings and lower weekly earnings.

In the CPT's view, all inmates, irrespective of the regime, should benefit from a visiting entitlement of at least one hour every week. Further, any reduction in contact with the outside world should not be the subject of the incentives and privileges scheme. **The CPT recommends that the authorities take the necessary steps in the light of the above remarks.**

c. complaints and disciplinary procedures

39. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. As noted in paragraph 19 above, inspections of the prison have been carried out by the Inspectorate of Prisons for England and Wales every four years since 2001. There is also a Board of Visitors which monitors the prison and reports to the Home Department; it has no role in the complaints procedure. **The CPT would like to receive a copy of the annual reports of the Board of Visitors for 2008 and 2009.**

40. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority. In addition to addressing the individual case involved, the CPT considers that a careful analysis of complaints can be a useful tool in identifying issues to be addressed at a general level. The complaints procedure is regulated by Prison Operational Order No. 23 of February 2006. In practice, inmates could lodge complaints in written form and place them in a locked box on the wing, which was emptied every day. Minor complaints were dealt with by the principal officers while complaints of a more serious nature were looked into by the assistant and deputy governors. In general, complaints were responded to within five days and where this was not feasible, the prisoner concerned was informed (often accompanied by an apology).

In 2009, some 155 complaints were submitted and the delegation formed the opinion that in general the system was functioning well. However, **it would be helpful if the complaints system were clearly explained in the Prison Information brochure. The CPT would also like to receive a list of all those authorities outside of the prison to whom prisoners can have confidential access.**

41. It is also in the interests of both prisoners and prison staff that clear disciplinary procedures be both formally established and applied in practice; any grey zones in this area involve the risk of seeing unofficial (and uncontrolled) systems developing. Disciplinary procedures should provide prisoners with a right to be heard on the subject of the offences it is alleged they have committed, and to appeal to a higher authority against any sanctions imposed.

Further, if other procedures exist - alongside the formal disciplinary procedure - under which a prisoner may be involuntarily separated from other inmates for discipline-related/security reasons (e.g. in the interests of "good order" within an establishment), these procedures should also be accompanied by effective safeguards.

42. The disciplinary procedures operating in Guernsey Prison to a large extent mirror those in operation in prisons in England and Wales. Articles 23 to 31 of the Prison Administration (Guernsey) Ordinance 1998, as amended, together with Prison Operational Order No. 82 regulate the procedures for inquiring into a breach of discipline as well as listing the acts which are considered to constitute such a breach. The CPT welcomes the fact that the rules provide for effective safeguards, notably: prisoners are to be informed in writing of the charges against them and given sufficient time to prepare their defence; they are also allowed to cross-examine evidence given against them, to call witnesses on their behalf, and to make a plea in mitigation to the Governor before the imposition of any penalty. The maximum period of cellular confinement that may be imposed by a Governor is 21 days.

From the cases examined by the delegation, it appeared that the disciplinary process was being carried out fairly[10], and punishments imposed were not disproportionate.

43. A prisoner may also be removed from association for the maintenance of good order or discipline or in the prisoner's own interests (Article 34 of the Prison Ordinance). In such cases, the Governor must seek the authority of the States of Guernsey (i.e. the Home Department) for any removal beyond 24 hours, for a period up to one month but which may be renewed.

At the time of the visit, there were two prisoners being held under Article 34 in the Segregation, Care and Progress Unit as they had initially been refractory and thereafter had refused to be located on the wing proposed by the management. Both prisoners knew the system well and were content to remain in the segregation unit until they were either released (imminent in the case of one of the prisoners) or alternative arrangements were proposed. In the meantime, both prisoners were subject to a regime akin to solitary confinement, with very limited activities (education classes were offered on the unit), no association and one hour of outdoor exercise every day. The CPT's delegation recognised the legitimate approach of the prison management not to be dictated to by an inmate concerning his placement within the prison, and that they needed to have regard to the well-being and security of the whole prison. Nevertheless, the delegation considered that a more proactive approach by the prison management to engage with the two prisoners might have led to a less intransigent stance by one or both of the prisoners. Prolonged confinement of an individual is not conducive to their mental well-being and providing some stimulation is more likely to lead to a prisoner becoming cooperative.

The CPT would appreciate the comments of the Guernsey authorities on the above remarks.

44. The Segregation, Care and Progress Unit (SCAPU) consisted of nine cells divided between two floors and three separate corridors, with access to a small discrete exercise yard (which possessed a bench and a shelter from inclement weather). Three of the cells were unfurnished and were used for locating violent prisoners for short periods until they had calmed down. The other cells were equipped with a bed, table shelving unit and a toilet and sink. The unit was not in the best possible state of repair and the delegation was informed that plans to upgrade the unit had been drawn up, including for one safer custody cell, but that the financing was not currently available. All cells were under CCTV and possessed call bells. **The CPT would like to be informed of the steps taken to upgrade the SCAPU.**

---

[10] In 2009, some 40% of charges brought against prisoners were dismissed following a disciplinary hearing.

C. La Perruque House Secure Unit for Children

45. The Perruque House Secure Unit for Children adjoins a home for young people and officially has a capacity for two persons. The second accommodation room had only recently been refurbished and, at the time of the visit, the unit had never held more than one child during the same period. With the entry into force of the Children (Miscellaneous Provisions) Ordinance 2009 on 4th January 2010, amending the Children Law 2008, a juvenile between the ages of 13 and 16 years can be placed in the unit on a secure accommodation order by the Juvenile Court for a period of 28 days, with a possible extension up to three months. In addition, the unit may also accommodate young persons on remand; the first such remand juvenile was transferred from Guernsey Prison to the unit on 25 March 2010.

46. The two accommodation rooms were each decorated with vinyl covered floors, walls and furniture (bed, bench, shelving unit) and a television in a protective case, and there is an adjoining sanitary facility which included a shower. The rooms were rather impersonal. However, the delegation noted that the juvenile in the unit at the time of the visit spent hardly any time in her room during the day. The rest of the unit consisted of a communal dining (table and four chairs) and living area (a sofa and two chairs), a small annexe for visits, with a few chairs, a compact kitchen and a bedroom for the live-in care couple. At the back of the unit was a fenced-in exercise area where some limited activities could take place. In sum, the living conditions were appropriate for accommodating a single child and his/her carers.

47. The focus of the care support was on the specific individual, with no peer group interaction or distraction. An individual care plan to support the young person in the unit had been drawn up to address her specific needs (health, social, cultural, emotional, educational), and which included contact with the family and the outside, and took into consideration the wishes of the child. The environment was supportive and the primary care couple are trusted by the child. In the case of the child on a welfare order in the unit at the time of the visit, the regime had consisted of seven days of activities (including education every day) in the unit, followed by outings into the community. After two weeks, the child and caring couple were due to move into a small cottage as an interim step towards the child going back to her family. The CPT considers that the care provided to the juvenile in the unit at the time of the visit was of a high standard**.**

48. As for oversight of the unit, an independent review officer from the National Society for the Care and Protection of Children visits on a regular basis. Further, a Secure Review Panel composed of three members, one of whom is independent of the Health and Social Services Department, is charged to review the placement of any child accommodated in the secure unit for longer than eight days (within 14 days of the placement and at intervals thereafter of 28 days). If the Panel determines that the criteria for placement no longer apply for the child to be subject to a secure accommodation order, the child must be discharged within 24 hours or the matter returned to court on the next working day. The Panel should also inform the child and parent(s)/guardian of the outcome of the review.

49. The CPT's delegation did have certain concerns as regards the unit's ability to cope properly should it ever accommodate two juveniles at the same time, and as to whether it could provide an appropriate setting for a juvenile remand prisoner.

The week after the delegation's visit, a juvenile on remand from Guernsey Prison was transferred to the unit. The care plan for this juvenile, which was provided to the CPT following the visit, shows that considerable thought was given to addressing the particular needs of the individual, including how to improve his anger management, provide him with regular physical exercise (installation of exercise equipment in the Secure Unit) and education, and explore opportunities for off-site activities. Further, the possible placement of a second juvenile in the Unit at the same time was flagged as requiring a thorough risk assessment.

The CPT would like to receive a detailed report on the assessment made of holding a juvenile remand prisoner in the Secure Unit rather than in the prison, including whether the juvenile had to be restrained during his stay in the Unit. Further, the CPT would like to be informed whether the unit has accommodated two young persons at the same time, and whether any conclusion can be drawn from this experience.

D. Involuntary psychiatric placement

1. Preliminary remarks

50. The CPT's delegation visited Albecq acute psychiatric ward, at Castel Hospital, the only mental health-care institution in Guernsey where patients subject to an involuntary placement order may be accommodated.

It is noteworthy that Article 1 of the Mental Treatment Law (Guernsey) of 1939[11] allows any location, public or private, to be designated as a place for patients to be confined involuntarily. Thus, on rare occasions, Guernsey Prison, the Police Station or a private house had been designated as such a place.

Neither a prison nor a police station are appropriate places to hold mentally-ill patients. Instead, persons suffering from a mental disorder who need to be deprived of their liberty in a secure setting, should be held in a special secure unit in a health-care institution. **The CPT recommends that the Guernsey authorities take the necessary steps to ensure that mentally-ill persons are not held in prison or in a police station. Further, it would like to be informed of the criteria for confining a patient involuntarily in a private house.**

51. The Mental Treatment Law was undergoing extensive review at the time of the visit. The CPT's delegation was informed that the Guernsey authorities expected a new mental health law to be approved by the end of 2010. Drawing on certain aspects of the 1983 Mental Health Act of England and Wales (including proposed revisions thereto) and international best practice, yet retaining both simplicity and relevance to the Guernsey context, the reform purports to bring the legal framework for mental health in line with the European Convention on Human Rights[12], which was incorporated into domestic law in the year 2000[13].

It should also be noted that, pending revision of the outdated law, a number of procedures and guidelines had been introduced in practice. These essentially reflected practices in England and Wales, where most mental health-care practitioners in Guernsey were trained.

---

11 This law applies to the islands of Guernsey, Sark, Herm and Jethou. For Alderney, the Mental Treatment (Transfer of Patients from Alderney) Law of 1952 applies.

12 See States of Guernsey (Board of Health) Order Paper, *Billet d'État XXIII*, 27 November 2002, p. 1950. During the visit, the CPT's delegation was provided with a copy of the March 2010 version of the Draft Mental Health Law.

13 Human Rights (Bailiwick of Guernsey) Law, 2000.

2. Albecq Acute Psychiatric Ward, Castel Hospital

a. introduction

52. Albecq House acute psychiatric ward is located in an old building on the Castel Hospital grounds. The CPT's delegation was informed that a new purpose-built unit was planned. **The Committee would like to be informed of the basic features of the planned new unit, including the timeline for its construction.**

53. Care provided on the Ward included treatment for psychiatric illness, learning disability and substance dependence. The maximum stay recorded in 2009 was of four months' duration, but the records showed that most patients generally stayed for a period of two to three weeks. With a capacity of 21, at the time of the visit the facility was accommodating 17 adult patients, 4 of whom were certified patients. The remainder were being accommodated on a voluntary basis. Although normally intended for both men and women aged 18 to 65, the establishment could also accommodate children as young as 12 years old.

The CPT recommends that alternative arrangements be found, when necessary in the best interests of the child, so that psychiatric patients who are minors are accommodated separately from adults.

54. The CPT should state at the outset that its delegation received no allegations of ill-treatment of patients by staff. On the contrary, the delegation observed staff providing care and treatment to patients in a dedicated and professional manner.

b. living conditions and treatment

55. Material conditions at Albecq Ward were very good. There were three two-person bedrooms, the remainder of the rooms being for single occupancy. One of these latter rooms was a self-contained suite for one-on-one staff supervision. All rooms were spacious, bright, and well-appointed, and allowed for adequate privacy.

Several small but comfortable common rooms were available for dining, watching television and other activities, including therapy, crafts, art and relaxation. They looked out onto a small, pleasant garden which was readily accessible to patients, under staff supervision as required.

56. Each patient was assigned a primary nurse, and an individual care plan was drawn up and regularly reviewed. A broad range of treatment was offered, including monitored pharmacotherapy, one-to-one supportive discussions and group therapy.

Electro-convulsive Therapy ("ECT") was also available, though it was infrequently used. When applied it was used in a modified form (i.e. with anaesthesia and a muscle-relaxant) and it took place out of sight of other patients, at the Princess Elizabeth Hospital. The CPT's delegation noted that, although there was no legal requirement for a second doctor's opinion for ECT to be administered, one was always sought in practice. Further, the delegation was informed that the consent of the patient was always sought before ECT was administered. However, no central ECT register was kept.

The administration of ECT, a recognised form of treatment for psychiatric patients suffering from some particular disorders, must nevertheless be accompanied by appropriate safeguards. In particular, recourse to ECT should be recorded in detail in a specific register. It is only in this way that any undesirable practices can be clearly identified by hospital management and discussed with staff. **The CPT recommends that a central register be introduced for the administration of ECT at Albecq Ward.**

c. staff

57. A consultant psychiatrist attended during regular office hours, 5 days per week, and a junior doctor was on call in the evenings and during weekends. Staffing numbers on the Ward were adequate; they consisted of a manager, six senior and 11 junior psychiatric nurses, and the equivalent of five and a half full-time carers.

At the time of the visit, the Ward was short of two junior psychiatric nurses and one carer. Due to a shortage of qualified staff on the island, and in conjunction with immigration restrictions[14], the Ward had experienced difficulty recruiting qualified staff. It was planned to fill the two vacant nursing posts later in 2010 from among graduates of a new nurses training course set up in Guernsey. Such efforts are to be commended. Nevertheless, **the CPT invites the Guernsey authorities to explore ways to facilitate the recruitment of qualified psychiatric staff.**

3. Safeguards in the context of involuntary placement

58. On account of their vulnerability, the mentally ill warrant much attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment should always be surrounded by appropriate safeguards.

a. the initial placement decision

59. The procedure by which involuntary placement is decided should offer guarantees of independence and impartiality as well as of objective medical expertise. Leaving aside emergency cases, the formal decision to place a person in a psychiatric hospital should always be based on the opinion of at least one doctor with psychiatric qualifications, and preferably two, and the actual placement decision should be taken by a different body from the one that recommended it.

[14] Non-residents of the Bailiwick would be issued five-year residence permits.

60. In Guernsey, the initial involuntary placement may occur through three different avenues. The consultant psychiatrist can decide to apply a 72-hour *Holding Order* to a voluntary patient whose mental state he or she considers warrants the patient's compulsory detention. Second, a person's next-of-kin or, if the next-of-kin is unwilling or unable to sign, the Parish Constable may authorise a 7-day *Urgency Order*, based on a medical practitioner's recommendation for the person's immediate compulsory admission. Third, the Police Surgeon may issue a 7-day *Urgency Order* for a mentally ill person's compulsory admission, in the interest of the person's welfare or for the safety of others.

Certification of a patient usually - but not always - follows an initial placement order. It must be prompted by the person's next-of-kin or by the Parish Constable, supported by two medical practitioners, and signed by one of two Law Officers (who are equivalent to Attorney General and Solicitor General). Certification is valid for one year (renewable for two, then three, then five-year periods), but during this period the consultant psychiatrist may decide to discharge the patient or, if the patient has already been discharged, to recall him or her to hospital.

The decision-makers involved in the above procedures had to see the person before taking their decision, with the notable exception of the Law Officer signing the certification.

61. **The CPT recommends that long-term admission orders such as Certifications, always be based on the opinion of at least one doctor with psychiatric qualifications, and preferably two; the need for such placements should be reviewed at regular intervals. Further, the person or body deciding upon a compulsory admission should always see and hear the person concerned before making the decision.**

As regards Holding Orders, **an opinion from a second doctor who is independent of the hospital would offer a further, important, safeguard in the context of the transformation of voluntary stays into involuntary placements.**

62. A person who is involuntarily placed in a psychiatric establishment by a non-judicial authority must have the right to bring proceedings by which the lawfulness of his detention shall be decided speedily by a court. In Guernsey, involuntary psychiatric placement - which is not decided by a court - may be reviewed by the Royal Court via an order for the examination of a patient by two medical practictioners certifying that the patient may be safely discharged[15]. However, it is not clear whether the patient himself or herself may prompt such a review. Further, for such an examination to be ordered, the person applying for it must first satisfy the Court that it is proper to grant such an order. **The CPT recommends that a fully-fledged right of appeal against compulsory admission orders be introduced, without waiting for the new mental health law to be adopted.**

---

[15] See Article 35 of the Mental Treatment Law (Guernsey) 1939.

b. safeguards during placement

63. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should be provided systematically with relevant information about their condition and the treatment which it is proposed to prescribe for them. Relevant information (results, etc.) should also be provided following treatment.

The CPT notes the absence of formal legal safeguards in respect of consent to treatment, and the fact that the information brochure given to patients clearly provided for compulsory treatment. **The Committee recommends that the right to consent to treatment be enshrined in the new Law on Mental Health, in accordance with the above precepts.**

64. The CPT's delegation observed that all patients were informed of their rights (for example, to high quality treatment and care, to be treated with dignity, respect, confidentiality) through a comprehensive booklet on patients' rights and information on the house rules.

Further, a formal, internal complaints procedure was in place, allowing patients' complaints to be lodged with the Ward Manager, who passed them on to the hospital Complaints Manager for action. The Health and Social Services Department received a report on the complaints, including the time to respond to each complaint and any action taken. Nevertheless, **specific arrangements should exist enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment.**

65. The maintenance of contact with the outside world is essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint. Patients should be able to send and receive correspondence, to have access to the telephone, and to receive visits from their family and friends. Confidential access to a lawyer should also be guaranteed.

The CPT's delegation noted that a call box was available and that patients could receive visits from 6 to 8 p.m. daily and, unless it interfered with their treatment plan activities, also from 2 to 4 p.m.

66. The CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.

The delegation was informed that Albecq Ward had been the subject of occasional service quality inspections by external organisations based in England, the two most recent in 2007 and 2008, and that one inspection, by the Health and Social Care Advisory Service, had produced a detailed report with recommendations for improvement; an action plan on those recommendations was soon to be presented to the Health and Social Services Department Board.

The CPT recommends that Albecq Ward be inspected by an independent body on a regular basis.

Further, the Committee would like to receive a copy of the above-mentioned inspection report and, in due course, of the relevant action plan.

APPENDIX

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS OF INFORMATION

Law enforcement agencies

Ill-treatment

recommendations

- appropriate steps to be taken to ensure handcuffs are applied in a correct manner. Where ratchet handcuffs are applied, the persons concerned should be informed that struggling against the cuffs might cause them to tighten (paragraph 8).

comments

- police officers should be reminded that no more force than is strictly necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can never be any justification for striking them (paragraph 8);

- it was not evident to what extent the information garnered from complaints made against the police was fed back to inform policing practice (paragraph 9).

requests for information

- the comments of the Guernsey authorities on the matter raised in paragraph 10 concerning the independence of perons responsible for carrying out investigations (paragraph 10);

- detailed information on the proposed new law including a code of conduct on investigating complaints, mentioned in paragraph 10 (paragraph 10).

Safeguards against ill-treatment of detained persons

recommendations

- detained persons to be expressly informed of the possibility to have access to a doctor. It would be preferable for access to a doctor to be formally guaranteed as a distinct right (paragraph 12);

- custodial staff to have access only to the medical information necessary to carry out their duties (paragraph 13).

- the Guernsey authorities to take the necessary steps to ensure that all 17-year-olds detained by the police are treated as juveniles and not as adults (paragraph 14).

requests for information

- the views of the Guernsey authorities on the matter raised in paragraph 13 concerning the absence of support for smokers (paragraph 13).

Conditions of detention

recommendations

- cells No 1 and 4 at the Police Headquarters in St. Peter Port to be used only as temporary holding places (paragraph 16);

- the Guernsey authorities to take the necessary steps to ensure persons detained at the Police Headquarters in St. Peter Port are given food at appropriate times (paragraph 16).

comments

- ventilation should be improved in the cells of the Customs Vehicle Clearance Hall, White Rock, St. Peter Port (paragraph 17).

Guernsey Prison (Les Nicolles Prison)

Preliminary remarks

requests for information

- the comments of the Guernsey authorities on the matter raised in paragraph 19 concerning the reduction of the prison population (paragraph 19).

Ill-treatment

requests for information

- the outcome of the disciplinary procedures regarding the case of alleged ill-treatment referred to in paragraph 20 (paragraph 20);

- the comments of the Guernsey authorities on the matter raised in paragraph 21 concerning the absence of a permanent staff presence in certain accommodation units (paragraph 21).

Conditions of detention

recommendations

- the deficiencies referred to in paragraph 22 concerning the upkeep of the prison to be remedied (paragraph 22);

- all prisoners to be offered a minimum of one hour of outdoor exercise every day, and arrangements (including appropriate clothing) to be made to enable such exercise to be provided in inclement weather (paragraph 23);

- the Guernsey authorities to make every effort to increase the range of activities – work, preferably with vocational value, education, sport, recreation – on offer to prisoners. Further, offending behaviour courses should be developed (paragraph 24);

- greater efforts to be made to provide female prisoners with more meaningful activities, and to ensure that they enjoy access to activities on an equal basis to male prisoners (paragraph 25).

Staffing

comments

- all accommodation wings should have a staff presence whenever inmates are unlocked from their cells (paragraph 26).

requests for information

- the impact of the new staff shift arrangements, including as regards staffing numbers on duty at any one time and the regime for prisoners (paragraph 28).

Juveniles

recommendations

- for as long as juveniles continue to be held at Guernsey Prison, particular attention to be paid to their education (including physical education) and to offering them a wide range of opportunities to develop their life skills whilst accommodated in the establishment (paragraph 31);

- the Guernsey authorities to take the necessary steps, in the light of the remarks in paragraph 31, concerning the separation of juveniles, the training and mix of staff, and the need to treat 17-year-olds as juveniles (paragraph 31).

comments

- the CPT encourages the Guernsey authorities to continue to reflect on the most appropriate place in which juveniles deprived of their liberty should be held (paragraph 30).

Health care

recommendations

- the Guernsey authorities to review the arrangements for the attendance of the general practitioner so as to ensure the presence of the equivalent of at least one-third of a full-time post spread out over more days of the week (paragraph 33);

- steps to be taken to develop a more proactive health care service in the prison (paragraph 33);

- the record drawn up following a medical examination of a prisoner to contain:
  i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),
  ii) an account of objective medical findings including a detailed description of all injuries based on a thorough examination, and
  iii) the doctor's conclusions in the light of i) and ii).
  (paragraph 35);

- whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (whether on arrival or at a later stage of his detention), the record to be systematically brought to the attention of the relevant authorities (paragraph 35);

- the results of the medical examination referred to in paragraph 35 to be made available to the prisoner concerned and to the prisoner's lawyer (paragraph 35);

- the Guernsey authorities to take the necessary steps to ensure that prisoners suffering from a mental health disorder are cared for in an adequately equipped hospital environment (paragraph 36).

requests for information

- current nursing levels in the prison (paragraph 33);

- details of the treatment afforded to the prisoner referred to in paragraph 36 since the time of the visit (paragraph 36).

Other issues

recommendations

- the authorities to take the necessary steps concerning contact with the outside world, in the light of the remarks in paragraph 38 (paragraph 38).

comments

- it would be helpful if the complaints system were clearly explained in the Prison Information Brochure (paragraph 40).

requests for information

- on the implementation of the revised reception and induction procedures (paragraph 37);
- a copy of the annual reports of the Board of Visitors for 2008 and 2009 (paragraph 39);
- a list of all authorities outside the prison to whom prisoners can have confidential access (paragraph 40);
- the comments of the Guernsey authorities on the remarks in paragraph 43 concerning two prisoners who had been removed from association (paragraph 43);
- the steps taken to upgrade the Segregation, Care and Progress Unit (SCAPU) (paragraph 44).

La Perruque House Secure Unit for Children

requests for information

- a detailed report on the assessment made of holding a juvenile remand prisoner in the Secure Unit rather than in the prison, including whether the juvenile had to be restrained during his stay in the Unit (paragraph 49);
- whether the unit has accommodated two young persons at the same time, and whether any conclusion can be drawn from this experience (paragraph 49).

Involuntary psychiatric placement

Preliminary remarks

recommendations

- the Guernsey authorities to take the necessary steps to ensure that mentally-ill persons are not held in prison or in a police station (paragraph 50).

requests for information

- the criteria for confining a patient involuntarily in a private house (paragraph 50).

Albecq Acute Psychiatric Ward, Castel Hospital

recommendations

- alternative arrangements to be found, when necessary in the best interests of the child, so that psychiatric patients who are minors are accommodated separately from adults (paragraph 53);

- a central register to be introduced for the administration of Electro-Convulsive Therapy (ECT) at Albecq Ward (paragraph 56).

comments

- the CPT invites the Guernsey authorities to explore ways to facilitate the recruitment of qualified psychiatric staff (paragraph 57).

requests for information

- the basic features of the planned new unit, including the timeline for its construction (paragraph 52).

Safeguards in the context of involuntary placement

recommendations

- long-term admission orders such as Certifications, always to be based on the opinion of at least one doctor with psychiatric qualifications, and preferably two; the need for such placements should be reviewed at regular intervals (paragraph 61);

- the person or body deciding upon a compulsory admission always to see and hear the person concerned before making the decision (paragraph 61);

- a fully-fledged right of appeal against compulsory admission orders to be introduced, without waiting for the new mental health law to be adopted (paragraph 62);

- the right to consent to treatment to be enshrined in the new Law on Mental Health, in accordance with the precepts referred to in paragraph 63 (paragraph 63);

- Albecq Ward to be inspected by an independent body on a regular basis (paragraph 66).

comments

- as regards Holding Orders, an opinion from a second doctor who is independent of the hospital would offer a further, important safeguard in the context of the transformation of voluntary stays into involuntary placements (paragraph 61);

- specific arrangements should exist enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment (paragraph 64).

requests for information

- a copy of the inspection report mentioned in paragraph 66, and in due course, of the relevant action plan (paragraph 66).