



CPT/Inf (2009) 31

**Response of the United Kingdom Government**  
**to the report of the European Committee**  
**for the Prevention of Torture and Inhuman**  
**or Degrading Treatment or Punishment (CPT)**  
**following its visit to the United Kingdom**  
**from 18 November to 1 December 2008**

The United Kingdom Government has requested the publication of this response. The report of the CPT on its November/December 2008 visit to the United Kingdom is set out in document CPT/Inf (2009) 30.

Strasbourg, 8 December 2009



**RESPONSE OF THE UNITED KINGDOM GOVERNMENT  
TO THE REPORT OF  
THE EUROPEAN COMMITTEE FOR THE PREVENTION OF  
TORTURE AND INHUMAN OR DEGRADING  
TREATMENT OR PUNISHMENT (CPT)  
FOLLOWING ITS VISIT TO THE UNITED KINGDOM  
FROM 18 NOVEMBER TO 1 DECEMBER 2008.**

**November 2009**

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## I. INTRODUCTION

1. The Government of the United Kingdom is pleased to provide this response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its visit to the United Kingdom from 18 November to 1 December 2008.
2. The Government welcomes the report and has given its recommendations serious consideration.
3. The Government is pleased to learn that the CPT received, on the whole, excellent co-operation from the management and staff in the establishments visited. The Government acknowledges the positive comments made by the delegation in their report, particularly in paragraphs 40, 45, 58, 70, 72, 76, 80, and 127.
4. This response follows in sequence the issues raised in the CPT's report. Extracts from the report are reproduced in bold typeface with paragraph references.

### **Cooperation between the CPT and the authorities of the United Kingdom**

**(Paragraph 5) It appeared that certain custodial officers were not sufficiently informed on the CPT's mandate, which in one case resulted in a refusal to allow the delegation to consult certain records pertaining to a detained person in Paddington Green Police Station. The Committee trusts that the United Kingdom authorities will take steps to ensure that such situations are not encountered during future visits**

5. The Metropolitan Police apologise that the CPT delegation were unable to consult certain records when they visited Paddington Green Police Station. This was due to the Custody Officer being unaware that the visit was taking place and of the status of the delegation. We will make every effort to ensure that this does not happen on future visits.

**(Paragraph 6) The CPT is concerned to note that little or no action has been taken in respect of certain recommendations made in previous reports, in particular as regards the conditions of detention and the legal safeguards against ill-treatment of persons held under the Terrorism Act 2000, and overcrowding in prisons. The Committee urges the United Kingdom authorities to step up efforts to improve the situation in the light of its recommendations, in accordance with the principle of co-operation which lies at the heart of the Convention.**

6. It is not completely clear to which recommendations the Committee is referring to in this paragraph. In successive reports the UK Government has responded specifically to each of the Committee's recommendations. Where it has been possible to accept a recommendation, the Government has said so. Where the Government has not accepted a recommendation it has given its reasons for that. On [conditions of detention and the legal safeguards against ill-treatment of persons held under the Terrorism Act 2000, and overcrowding in prisons] where those issues are referred to in the report (at paragraphs 9 and 26) the Government's position is set out at paragraphs 8, 10 and 58 of this response.
7. The Government welcomes the Committee's recommendations and gives them serious consideration. In this report, specific mention of the Government's incorporation of the Committee's recommendations in reviews of practices and procedures is made, for example in paragraphs 10, 35, 37, 374, 375, 379 and 383.

## FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### ENGLAND

#### A. Police establishments

##### 1. Preliminary remarks

**(Paragraph 9) The CPT continues to believe that all persons detained under terrorism legislation should be brought physically before a magistrate at the moment when an extension of their custody is being decided, instead of the hearing being conducted via video-link. Objections to such an approach based upon considerations of efficiency and resources are not convincing when one is dealing with such a fundamental safeguard against ill-treatment. The CPT calls upon the United Kingdom authorities to ensure that persons detained under terrorism legislation who have not yet been transferred to prison are always brought into the direct physical presence of the judge responsible for deciding the question of the possible extension of their detention.**

8. The Government does not accept that it is necessary for a detained person to always be brought within the direct physical presence of a judge. We believe it is possible for judges to consider whether to authorise continued detention through hearings conducted by video link. The decision to undertake a hearing by way of a video-link is made by a district judge who has a right to have the detained person brought before him or her. Before directing that the hearing be conducted by video link, the judge must allow the detainee, or those acting on his behalf, to make representations for a physical appearance.
9. The use of video link is cost-effective and expeditious and the Government is not persuaded of the need for a detained person's automatic physical appearance before a judge. If physical appearance before the judge was automatic in each case, that would significantly slow down investigations and require additional resources. We would also point out that the detained person is entitled to legal representation at the hearing and is able to challenge the case for extended detention regardless of the means by which the hearing takes place. The United Kingdom also has a number of independent prison and constabulary inspectorate bodies, part of whose role it is to monitor the quality of care an individual receives whilst in detention.

**(Paragraph 9) As regards persons detained under the Terrorism Act 2000, the CPT has highlighted a number of concerns in relation to the safeguards in place and the conditions of detention at Paddington Green Police Station. The CPT does not consider that the response by the United Kingdom authorities to the report on the December 2007 visit addresses sufficiently the concerns raised by the Committee. The CPT calls upon the United Kingdom authorities to make the necessary improvements to material conditions at Paddington Green Police Station or to find alternative suitable premises for stays of longer than a few days.**

10. The Government and the Police Service are acutely aware of their responsibilities with regard to detained persons and endeavour at all times to ensure that the welfare of detainees is given top priority. The United Kingdom authorities are taking the necessary measures to improve the conditions of detention at Paddington Green High Security Police Station for persons held under the Terrorism Act 2000 for longer than a few days. Work began in January 2009, and was completed at the beginning of July 2009 and includes the following:
  - Improved detainee comfort 'Safer cell' furniture, as used by HM prisons, has formed the basis of the upgrade to the cells at Paddington. This includes: desk; chair; bookshelves/wardrobe; bed top; mirror; vanity shelf; toilet and washbasin. These items are all 'Corian' finished in durable white plastic and are anti-ligature designed.

- The current cell tiled walls have been rendered over and finished with anti-bacterial, forensically wipe-able, painted surfaces. This makes the cells more ‘bed-sitting room’ like in general appearance.
- To help avoid the ‘under stimulation’ of prisoners who may be detained for up to 28 days, an in-cell audio-visual system of TV screen with DVD and music has been installed in each cell. Although the content is strictly controlled from the custody control centre, detainees have volume/channel control fitted to a cell control panel.
- The control panel also includes new ‘cell call telephony’. This aids communication between detainees and custody staff.
- The cell skylight blocks have been replaced to allow more natural light into the cells.
- Additional CCTV cameras have been included in the corridors to cover all procedures. (All cameras are digital recording).
- The cell corridors have been sub-divided by 4 expanding/collapsible doors. This effectively gives 4 booking-in areas to enable multiple-prisoner reception. Multiple registration allows the Metropolitan Police Service to address concerns that detainees were being held for excessive periods in vehicles whilst handcuffed.
- A new secure external exercise facility has been constructed in the rear yard at Paddington. This is now adjacent to the Terrorism Act 2000 (TACT) suite and no longer affects the operational running of the station when detainees are exercised. The exercise yard has a bench and is protected from external vision by a protective screen. The exercise yard contains an area sheltered from inclement weather.
- To improve the overall appearance the TACT suite has been re-painted, with dirty ceiling tiles being either replaced or cleaned.

## 2. Ill-treatment

**(Paragraph 10) The delegation did receive several complaints of handcuffs being applied too tightly, and observed for itself the wrists of detained persons with clearly reddened marks; this was particularly the case in the Greater Manchester police area. The CPT recommends that appropriate measures be taken to put an end to this misuse of handcuffs.**

11. The use of handcuffs and other restraints by Greater Manchester Police (GMP) is governed by the Association of Chief Police Officers (ACPO) of England, Wales & Northern Ireland Guidance on the Use of Handcuffs issued September 2006. Custody staff are required to endorse the custody record as to the use of handcuffs and other restraints on detainees within the risk assessment. Custody staff must also endorse the custody record as to when handcuffs and other restraints are removed.
12. GMP’s *Transporting a detained person* policy, published May 2007 further clarifies the situation in respect of the use of handcuffs and states: “Arresting or escorting officers may wish to consider handcuffing detainees in order to prevent their escape or to prevent harm to themselves or a third person. Handcuffing is a use of force and must be justified in each case. However, the handcuffing of a detainee by an unaccompanied officer might be considered reasonable in certain circumstances. Handcuffs must be used in the prescribed manner and officers must follow the criteria in which they have been trained in their use. A detainee must never be handcuffed to a vehicle or restrained to it in any way.”
13. Handcuff training is carried out in line with ACPO’s Manual of Guidance which covers the following areas:
  - Proper carriage and grip of the handcuff
  - Correct positioning
  - Correct application of the handcuff



- Correct contact pressure
- Communication with detainee
- Control of a detainee
- Double locking and checking of handcuffs
- Handcuff application to the front and rear of a subject
- Technique application subject types (uncooperative detainees, detainees who grab handcuffs)
- Technique application positions (prone and seated position)
- Removal of handcuffs

14. Refresher training is included with the annual Officer Safety Training which all officers must attend.
15. A manual of guidance for custody staff is currently being compiled covering the removal of handcuffs and other restraints, and the use of handcuffs and other restraints whilst a person is in custody. At present the only reference to this is an acceptance that staff conform to the PACE codes of practice Code C 8.2 covering the use of restraints in a cell. It is expected that this guidance will be completed by the end of 2010.
16. GMP made the decision not to use 'Use of Force' forms in 2005. However, their custody staff do update the custody record when force is used.

**(Paragraph 11) The CPT recommends that senior police officers should regularly deliver the clear message that the ill-treatment of persons deprived of their liberty is not acceptable and will be the subject of severe sanctions.**

17. Every police force within England and Wales adopted the new Standards of Professional Behaviour as of 1 December 2008. The standards were delivered as a result of the Taylor review (published in 2005) which recommended a new disciplinary procedure and a review of the unsatisfactory performance procedures for police officers.
18. A working party of the Police Advisory Board for England and Wales together with the Independent Police Complaints Commission and the Home Office worked to produce the detailed arrangements set out in the following regulations: The Police (Performance) Regulations 2008, The Police (Conduct) Regulations 2008, The Police (Complaints and Misconduct) (Amendment) Regulations 2008, The Police Appeals Tribunals Rules 2008 and The Police Amendment Regulations 2008. The new standards also incorporated a revised training regime and scale of sanctions. These standards are inclusive of all people, whether they are detainees, victims, witnesses or other members of the public. These standards can be viewed via the following link: <http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2008/026-2008/>
19. *The Safer Detention and Handling of Persons in Police Custody Guidance 2006* brings together the policies and principles that underpin the appropriate handling of persons within police custody by drawing on the collective experiences of police practitioners, stakeholders, academics and current literature. It emphasises the care requirements and reiterates the need for staff training in restraint techniques, recommending (at paragraph 10.2.2) that all custody staff must be trained in accordance with the ACPO/ Centrex Personal Safety Manual of Guidance.
20. The National Policing Improvement Agency Guidance on Personal Safety Training 2009 (which also recommends the ACPO/Centrex Personal Safety manual) says that forces must ensure that once an officer has completed the Personal Safety Module Basic Training, they should receive refresher and

development training on an annual basis. The Personal Safety Module Basic Training is undertaken during the initial training of recruits and lasts for 1 year.

21. The Personal Safety Module - Advanced Refresher Course enables effective training in the core areas of:

- Conflict management model
- Legislation surrounding use of force
- Use of force reporting and writing
- Medical implications
- Personal management skills
- Unarmed, Handcuffing, Baton, Incapacitate and Custody office skills
- Leg restraints
- Vehicle skills
- Edge weapon skills

22. Custody officer training must incorporate The Personal Safety Module - Advanced Refresher Course, tailored to suit the needs of the role of custody officer (Safer Detention and Handling of Persons in Police Custody Guidance 2006, para. 10.2.2).

23. At the present time the custody officer training described above is recommended and not mandated. However, the Chief Officers of each Police Service must ensure that staff deployed within the Custody area are properly trained and aware of their responsibilities.

**(Paragraph 12) Tasers have been piloted in a number of different police forces, mainly but not exclusively by police firearms units. The results of the pilot, including monitoring by the IPCC and Sub-Committee on the Medical Implications of Less-lethal weapons (DOMILL)<sup>1</sup>, led to the Home Secretary announcing on 24 November 2008 her agreement to allow Chief Officers of all forces in England and Wales to extend Taser use to specially trained units in accordance with Association of Chief Police Officers (ACPO) policy and guidance<sup>2</sup>. The guidance sets out that Tasers can only be used where officers would be “facing violence or threats of violence of such severity that they would need to use force to protect the public, themselves and/or the person(s) concerned”. In the CPT’s view, the loose wording of this guidance leaves open the door to the (mis)use of tasers in situations where it would not be proportionate. The CPT considers that the criteria for any use of electro-shock weapons by police officers at least closely correspond those governing the use of firearms; their use must therefore be thoroughly regulated and monitored. Furthermore, only specially selected and trained<sup>3</sup> police officers should be allowed to use such electro-shock weapons and all necessary precautions should be taken when such weapons are used. The CPT recommends that the authorities of the United Kingdom take due account of the above remarks in their guidance on the use of Tasers.**

24. The criteria for using Taser is clearly articulated in the Association of Chief Police Officers (ACPO) *Taser Policy and Operational Guidance for Authorised Firearms Officers and Specially Trained Units 2008*. The guidance has been written to inform and support decision making, stipulating training, deployment and use.

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<sup>1</sup> See Home Office Scientific Development Branch Taser: Trial Evaluation (No. 85/08); IPCC report on cases involving the use of Taser between 1 April 2004 and 30 September 2008 of 10 November 2008; Defence Scientific Advisory Council (DSAC) Sub-Committee on the Medical Implications of Less Lethal Weapons (DOMILL) Statement of 7 November 2008.

<sup>2</sup> See ACPO Taser Policy and Operational Guidance for Authorised Firearms Officers and Specially Trained Units - 1 November 2008 (<http://www.westmercia.police.uk/publications/acpopoliceuseoffirearms.htm>)

<sup>3</sup> Such training should include instruction in first aid.

25. Taser is only used by **specialty trained units** where officers are facing violence or threats of violence of such severity that its deployment will limit the incidence of serious injury (or death) to the public, themselves or the subject. The Government are confident that this sets a threshold for the use of Taser that is consistent with Human Rights considerations and which allows police officers to exercise their discretion appropriately. Due to the diverse nature of policing operations it is not possible to provide a definitive list of circumstances where the use of Taser would be appropriate.
26. There is a very rigorous selection procedure for these officers which is fully set out in the ACPO guidance and a Taser will only be issued to specially trained officers who have successfully completed approved ACPO training in the use of the device. All police officers are trained in basic first aid.
27. The issue, deployment and use of Taser by **authorised firearms officers** conforms to the well-established guidance already laid down in the ACPO Manual of Guidance on Police Use of Firearms and the ACPO Personal Safety Manual of Guidance. The use of Taser will be subject to the authority of an authorising officer. The following principles will apply in respect to authority to deploy Taser:
- Taser will be deployed in circumstances where firearms officers are authorised to carry firearms, **OR**
  - Where the authorising officer has reason to suppose that they, in the course of their duty, may have to protect the public, themselves and /or the subject(s) at incidents of violence or threats of violence of such severity that they will need to use force.
28. The use of any form of force, including Taser, is governed by section 3 of the Criminal Law Act 1967. This provides that a person may only use such force as is reasonable under the circumstances in the prevention of a crime or in effecting or assisting in the arrest of suspected offenders.
29. The use of Taser by the police in England and Wales is being managed in a co-ordinated and robust manner with the strictest guidelines and monitoring procedures in place. Every incident in which Taser is deployed – whether it is fired or not – is recorded by the local police force and a report sent through to the Association of Chief Police Officers (ACPO) and the Home Office Scientific Development Branch to monitor. This data is published on a regular basis and facilitates the prompt detection of any emerging adverse effects arising during operational use of this technology.
30. A panel of independent medical experts, regularly reviews and interprets clinical outcomes following Taser use and provides advice to Ministers accordingly. DOMILL (the Defence Scientific Advisory Council Sub Committee on the Medical Implications of Less Lethal Weapons) has concluded that the risk of death or serious injury from the use of Tasers within Association of Chief Police Officers Guidance and Policy is very low.
- (Paragraph 13) DOMILL has made two clear recommendations to reinforce the need for prompt medical review and, if necessary, hospital referral of individuals who suffered head injury from Taser-induced falls, and that the requirement for in-custody Forensic Medical Examiner evaluation of all persons who have been subject to Taser discharge be re-emphasised. The CPT concurs, and it would like to be informed about what steps have been taken to implement these recommendations.**
31. Both these recommendations have been fully implemented. DOMILL has approved the Association of Chief Police Officers (ACPO) *Taser Policy and Operational Guidance for Authorised Firearms Officers and Specially Trained Units 2008*. The aftercare arrangements are fully set out in the Guidance making it clear that all arrested persons who have been subjected to the discharge of a Taser must be examined by a Forensic Medical Examiner (FME) as soon as practicable.

32. In instances where the detained person has sustained a head injury as a result of the secondary effect of the Taser discharge, the FME will use his or her clinical judgement, based on the degree of injury incurred, to decide whether hospital referral is warranted. In addition, police officers closely monitor the subject throughout the period following the application of the Taser. If the person is detained in a cell they are subject to the same cell supervision provided for persons who have consumed alcohol or drugs, where a custody officer will visit a detainee every half an hour. If there are any signs of adverse or unusual reactions then medical attention is provided immediately, and if necessary, this is given precedence over conveying the subject to the police station.

### 3. Safeguards against ill-treatment by the police

**(Paragraph 14) The CPT's delegation heard several complaints from detained persons about not receiving any information in writing about their rights, and that they had only been given an opportunity to rapidly read a form detailing what rights they were entitled to. The CPT recommends that detained persons should be provided with a written copy of their rights.**

33. The requirements for the detention, treatment and questioning of suspects not related to terrorism in police custody are set out in Code C of the Police and Criminal Evidence Act 1984 (PACE). Code C 3.2 states that detained persons should be provided with a written copy of their rights.

34. When a detainee is informed of their rights at the point of reception into custody they are told that they may exercise their rights throughout their period of custody. That is set out on the form that they are required to be given. The detainee is also asked to sign to acknowledge that they have been informed of their rights and receive a copy of the form.

35. The Home Office, as part of its review of PACE, is considering different ways of making information about rights and entitlements in a variety of formats available to detainees and others coming into the custody suite. This review is subject to the legislative opportunities available to the Home Office. PACE Code C will be amended at para. 3.2 to reflect the variety of ways in which information on rights and entitlements is made available to detainees and the National Policing Improvement Agency will ensure that this recommendation is incorporated into custody officer training and refresher training.

**(Paragraph 14) The delegation also received complaints from certain detained persons about not being allowed to contact their family the morning after they had been brought into a police station in an inebriated state, as they were told they had forfeited that right by refusing to exercise it the previous night. This is not acceptable; it goes without saying that detained persons should be able to exercise their basic rights at any stage of their custody even if they may have chosen not to avail themselves of those rights at the time of their arrest and detention. The CPT recommends that all custody officers be reminded of their duty to enable detained persons to exercise their rights throughout the period of their custody.**

36. When a detainee is informed of their rights at the point of reception into custody they are told that they may exercise their rights throughout their period of custody. That is set out on the form that they are required to be given. The detainee is also asked to sign to acknowledge that they have been informed of their rights and receive a copy of the form. Rights may be suspended to prevent the detainee from abusing them for example by trying to get evidence destroyed, warning accomplices, intimidating or being abusive when allowed to make a telephone call. However, the rights of a detainee are not forfeited and Custody Officers are taught to justify and record any request that they refuse.

37. The Association of Chief Police Officers (ACPO) have commissioned the National Policing Improvement Agency (NPIA) to review Custody Officer training via the ACPO/Home Office Safer Detention Programme Board. NPIA has now commenced this work which will be completed by April 2011 and will include the issues raised by CPT.

**(Paragraph 15) The delegation met a man at Longsight Police Station who displayed hallucinatory behaviour, and who stated he suffered from schizophrenia and was taking an anti-psychotic medication. In his file the FME had written, “no mental illness, fit to be detained, fit for interview”, while the arresting custodial officer had written “he is schizophrenic and requires meds which he does not have”. Another man met by the delegation at this same police station was in a state of distress as his medication for anxiety had been stopped after his arrest. In both cases, the duty custodial officers said they would seek a second medical opinion. The CPT recommends that all FMEs and custodial staff receive appropriate training on mental health issues. More generally, in the light of recent reports and studies on the problems associated with holding persons with mental disorders in police custody, the CPT would like to be informed about the measures being taken to improve the care and attention afforded to them.**

38. In April this year a review by Lord Bradley into the treatment of people with mental health problems and learning difficulties in the Criminal Justice System was published. It forms the initial stages of the development of the national *Improving Health: Supporting Justice* strategy. Lord Bradley examined the extent to which offenders with mental health problems or learning disabilities could, in appropriate cases, be diverted from police stations or prisons to other services, and the barriers to such diversion. He recommends (inter alia) that mental health awareness and learning disabilities should be a key component in the police training programme.

39. The National Policing Improvement Agency (NPIA) has been commissioned by the Association of Chief Police Officers (ACPO) to design a dedicated training package for all police officers. The title ‘Guidance on Policing Mental Ill Health and Learning Disabilities’ reflects one of the recommendations for the police by Lord Bradley and will be accompanied by a training package. The NPIA will also be assisting all forces to implement the guidance. We expect that both the guidance and training package will have been rolled out by April 2011.

40. Lord Bradley also recommended that work takes place to understand and develop training needs for healthcare professionals, appropriate adults and other third parties to ensure that those in police custody vulnerable through mental ill health, physical ill health or social considerations have access to competent practitioners by April 2011. He has also recommended that custody suites should have access to liaison and diversion services, which will include improved screening and identification of those with mental health or learning disability issues. It is also intended that the commissioning and budgetary responsibility for healthcare services is transferred from the police to the NHS. This will ensure that all healthcare and medical professionals are trained to the same standards on these issues and there is consistency of care.

41. The UK government has committed to implementing these recommendations. The first stage of this process – assessing the feasibility of transferring commissioning and budgetary responsibility for health services in police custody suites from the police to the NHS is due to be completed by April 2010.

**(Paragraph 16) The CPT has also been informed about ongoing negotiations to change the way in which health care is provided in police stations within the Metropolitan Police Service, and possibly in other forces too. The CPT understands that under the new proposal a nurse will be employed full-time in the custody area of a police station with responsibility for examining all detained persons. The nurse will conduct an initial triage and be able to call a forensic medical examiner, if considered necessary. The CPT would like to be informed in greater detail about the proposed changes to the provision of health care in police stations and their expected impact.**

42. The Metropolitan Police are working to provide an effective forensic nursing service by introducing Custody Nurse Practitioners on a 24/7 basis to the primary custody suite of each of its 32 boroughs. The nurses will be conducting clinical assessments, identifying and implementing appropriate interventions, collecting forensic samples, providing advice and guidance and maintaining detailed and accurate records to ensure the health, safety and welfare of detained persons held in police custody.
43. Due to changes to the Police and Criminal Evidence Act 1984 (PACE) in 2003, the previous reference to “Police Surgeon” was replaced by the term, “Healthcare Professional” and the range of functions they are able to perform has been increased. The introduction of The Police Reform Act 2002 enabled nurses to take forensic samples and an amendment in 2003 to the Medicines Act 1968 allowed nurses to administer medications within custody under Patient Group Directions. The statutory responsibility for health and welfare remains that of the custody sergeant.
44. The roles of Forensic Medical Examiners and custody nurse practitioners within custody have the same foundations and therefore 96% of the workload can be undertaken by either group. This is not suggesting that there is little difference between the two professions but that instead it is the custodial environment in which they both practice that determines the threshold for the scope of practice. For example, those detainees who require extensive investigation or assessments must still be transferred to an appropriate hospital setting. The impact of introducing custody nurse practitioners to the Metropolitan Police Service will be:
- Onsite forensic healthcare provision 24/7, improving the availability of forensic healthcare in custody.
  - Providing a safer environment for detainees.
  - Improved quality of care.
  - Improved services to victims and witnesses.
  - Reduction in detention times.
  - Increase in cell availability due to timely processing of detainees.
  - Build up of local knowledge and client group
  - Re-assurance to Police, Public and Detainees
  - Local arrangements and partnerships for referral to support services
  - Efficient use of A&E Departments
  - Cost effective provision
45. All healthcare professionals; Forensic Medical Examiners and Custody Nurse Practitioners will work collaboratively to create a cohesive and robust approach to the provision of healthcare in the Metropolitan Police Service. Each healthcare professional will practice according to their own professional bodies’ codes of conduct and practices, and recognise the extent of their own scope of practice. The Forensic Medical Examiners and Custody Nurse Practitioners should liaise with each other to identify the best practice and offer the highest standard of care to those persons to whom they deliver healthcare.

**(Paragraph 16) Further, the CPT has some misgivings about the current organisation of the provision of health care to persons detained in police stations in England and Wales. It is important that health care staff are seen to be independent as well as acting independently. When health care staff are directly employed by the police or are also providing the police with clinical forensic assessments, such independence might be viewed as being compromised. In addition, there do not appear to be any specific guidelines for the standard of health care to be applied to persons in police custody nor any minimum qualifications or training required for persons charged with providing health care to detained persons. The CPT would appreciate the comments of the United Kingdom authorities on this matter.**

46. There has already been some work on formalising the standard of care and qualifications required to provide healthcare within police custody. *Skills for Health* launched the national occupational standards for healthcare professionals working in police custody in 2008. This work will undoubtedly feed into *Improving Health: Supporting Justice* strategy. The NPIA has also been tasked with updating the *Safer Detention and Handling of Persons in Police Custody Guidance 2006* in order to incorporate the outcomes from Lord Bradley's report and the *Improving Health: Supporting Justice* strategy by April 2011. The guidance focuses on practical issues and sets out to provide a guide on how police forces should put in place strategic and operational policies to help raise the standards of custodial care throughout the entirety of the detention process for those that come into contact with the police.

**(Paragraph 17) PACE Code C, Section 9.8, provides that "the detainee may also be examined by a medical practitioner of their own choice at their own expense." However, it was clear from the interviews conducted in police stations in the course of the 2008 visit, that neither custody officers nor detained persons were aware of this right. As a result, custody officers stated that they would refuse such a request if made. The CPT recommends that steps be taken to ensure that the right for detained persons to be examined by a doctor of their own choice is effective in practice.**

47. The individual circumstances of each detained person will need to be considered before they can be examined by a doctor of their choice. A custody officer will have to consider:

- the welfare of the individual and the impact of any delay on awaiting the attendance of a specific doctor;
- the impact of a delay of the investigative process and any circumstances related to that investigation which may impact on the safety or security of others; and
- whether the request for a specific doctor to attend is a delaying tactic on the part of the detainee.

48. There is a possibility that the doctor may not choose to attend to the person, particularly if he or she practices in another geographical area. We recognise that detained persons can ask to be examined by a doctor of their own choice. However it must remain a matter for the custody officer to determine whether that should occur. The revised *Safer Detention and Handling of Persons in Police Custody Guidance 2006* will include this point.

**(Paragraph 18) The CPT is aware that video recording has been introduced for certain categories of detained persons, and that pilot schemes for video recording all interviews have been run in several police stations following the adoption of the Criminal Justice and Police Act 2001. The CPT would like to receive up-to-date information on the video recording of police interviews of detained persons and on any plans to extend such recording to all police interviews. Further, it would be interested to receive information on any evaluations of audio taping of police interviews with detained persons.**

49. A number of forces video record interviews with detainees suspected of involvement in serious offences. PACE Code F 3.1 states the areas where the visual recording of suspects might be appropriate. ([http://police.homeoffice.gov.uk/publications/operational-policing/PACE\\_Chapter\\_F.pdf?version=1](http://police.homeoffice.gov.uk/publications/operational-policing/PACE_Chapter_F.pdf?version=1)). The decision to visually record suspects is at the discretion of the interviewing officer. There is no intention at present to require that all interviews with detainees must be audio and visually recorded.

50. Evaluations of audio taping of police interviews with detained persons include:

- *Police Interrogation – Tape Recording* by J A Barnes and N Webster, The Royal Commission on Criminal Procedure, Research Study No.8, London: HMSO 1980
- *The Tape Recording of Police Interviews with Suspects* by Carole F Willis, Home Office Research Study No.82, London: HMSO 1984
- *The Tape Recording of Police Interviews with Suspects: A Second Interim Report* by Carole F Willis, John Macleod and Peter Naish, Research Study No.97, London: HMSO 1988
- *Management and Supervision of Police Interviews* by Janet E Stockdale, Police Research Series, Paper 5, 1993. [www.homeoffice.gov.uk/rds/prgpdfs/fprs5.pdf](http://www.homeoffice.gov.uk/rds/prgpdfs/fprs5.pdf)
- *PACE Ten Years On: A Review of the Research* by David Brown, Home Office Research Study 155, London: Home Office 1997 – Chapter 7, Interviews with suspects. [rds.homeoffice.gov.uk/rds/pdfs2/hors155.pdf](http://rds.homeoffice.gov.uk/rds/pdfs2/hors155.pdf)
- *In police custody: police powers and suspects' rights under the revised PACE codes of practice* by Tom Bucke and David Brown, Home Office Research and Statistics Directorate, 1997 – Chapter 4, The interviewing of suspects. Available at <http://www.homeoffice.gov.uk/rds/pdfs/hors174.pdf>

**(Paragraph 19) The CPT recommends that the United Kingdom authorities take the necessary steps to ensure that all 17 year olds detained by the police are treated as juveniles and not as adults.**

51. As part of the review of the Police and Criminal Evidence Act 1984 the Government have proposed to extend the definition of “juvenile” to under 18s. An amendment will be made when a suitable legislative slot is available.

**(Paragraph 22) The IPCC should rightly be viewed as a model body for examining complaints against the police, notwithstanding the need to regularly review, adapt and improve its functioning. The CPT trusts that the United Kingdom authorities will continue to ensure that the resources of the IPCC are sufficient to enable the Commission to carry out its tasks effectively.**

52. The Government welcomes the Committee’s positive remarks.

53. There has been an increased demand placed on the Independent Police Complaints Commission’s (IPCC) resources in the wake of complaints made against police officers who policed the recent G20 protests. However the Government is fully aware of this and is working with the IPCC to ensure that it matches resources to priorities in order to carry out its work effectively.

54. For 2009/10 the IPCC has been delegated a total budget of £36.7m by the Home Office to deliver the aims and objectives set out in its published 2009 corporate plan.



#### 4. Conditions of detention

**(Paragraph 23) It is regrettable that newly-built police stations, such as the main custody suite at Longsight Police Station in Manchester, do not provide for any natural light in the cells. Detained persons were usually offered a shower and access to outdoor exercise if they spent more than 24 hours in police custody. However, the opportunities for outdoor exercise in the London police stations were extremely limited, if they existed at all. The CPT recommends that the deficiencies observed concerning access to natural light and outdoor exercise be remedied when custody suites are constructed/refurbished.**

55. Although Longsight Custody Complex is not a new building in terms of Greater Manchester Police's custody estate, all of its cells and detention rooms have natural light provided by an outward facing window. These windows provide more than adequate natural lighting for each of the cells/ detention rooms. Most of Greater Manchester Police's custody cells and detention rooms have windows of this type providing natural lighting. All newly built custody offices have sun tubes providing natural lighting to cells/detention rooms.

**(Paragraph 24) The CPT's delegation noted that in certain police stations visited the custody area, including all the cells, were covered by CCTV. The CPT commented that CCTV should never replace direct human contact and the matter of a right to privacy needs to be taken into account.**

56. The Government agrees with the CPT that CCTV should never replace direct human contact. This is reflected in *The Safer Detention and Handling of Persons in Police Custody Guidance 2006* which recommends, at paragraph 15.3.4 that, where a CCTV equipped cell is used, an appropriate cell visiting regime is to be instigated; and that CCTV must not replace visits to detainees, other physical checks for well-being, nor the need for constant observation for detainees assessed as being high risk. The Guidance also makes clear that if the custody officer authorises a strip search to take place in a CCTV cell, additional measures must be taken to protect the detainee's privacy and dignity and those measures should be recorded in the custody record. This Guidance is included in the *Safer Detention Training* package.

57. The Guidance does not state clearly the need for privacy in a CCTV cell when the toilet facility is being used. However, this will be reflected in the training materials and in the revised version of the Guidance which is due to be issued by April 2011. Currently some CCTV facilities automatically remove from sight the toilet facilities within custody cells.

## **B. Prison establishments**

### **1. Preliminary remarks**

#### **a. overcrowding**

**(Paragraph 26) The CPT calls upon the United Kingdom authorities to consider fresh approaches towards eradicating overcrowding as a chronic feature of the prison system.**

The Government's strategy for dealing with the increase in demand for prison places has three main themes. Taken together, these actions amount to a clear strategy for proper targeting of the use of custody and ensuring that there are sufficient places in the prison estate for those who receive a custodial sentence.

#### (i) Expanding Existing Capacity

The Government has been taking strong action to ensure sufficient capacity in the prison estate. Between 1997 and 2009, against a population rise of over 22,300, the operational capacity has increased by over 25,000 places. The National Offender Management Service (NOMS) are pursuing an extensive building programme to expand the prison estate and the Capacity programme has delivered around 5000 places since April 2007.

The Government recognises both Certified Normal Accommodation (CNA) and operational capacity as important measures of the capacity of the prison estate. Although CNA is sometimes referred to as "uncrowded capacity", the operational capacity of a prison is the number of places an establishment can hold taking into account control, security and the proper operation of regimes. All prisoner accommodation is assessed and certified by the Director of Offender Management, in accordance with national guidance *Certified Prisoner Accommodation* and the related Performance Standard on Accommodation.

Since May 2003, the prison estate has increased by just over 9,300 places, and its operational capacity has increased by just over 11,000 places against a population rise of just under 11,000 prisoners.

In financial year 08/09 NOMS met both their safety and decency in custody key performance indicator targets.

The Government expects the pressure on prison places to continue and therefore plans to expand capacity further, to 96,000 places by 2014. Within this, the Government announced on 27 April, that instead of three large prisons (Titans) each holding around 2,500 prisoners (as proposed in the Carter report) it plans to build five new 1,500 place prisons.

Alongside plans to build these prisons, planning permission has to date, been granted to build prisons at Belmarsh West (London) and Maghull (Liverpool). There are also plans to build a 1,605 place prison within the existing HMP Featherstone boundary, to be operational by 2012. Planning permission has to date been granted for two new prison establishments to be built within existing prison sites: a 600 place Young Offenders Institution HMP Isis (Thamesmead) and, in partnership with the Youth Justice Board, a 480 place prison at Glen Parva (Leicestershire). There are also plans to open the 259 places at a new prison at Coltishall in Norfolk which has been converted from former Royal Air Force accommodation. A further 264 places will be opened at Coltishall in Spring 2010.

### (ii) Maximising Current Capacity

The Government have been maximising the use and availability of existing capacity by;

- ensuring that open prisons sustain high levels of occupancy;
- ensuring we maximise the use of existing accommodation through, for example, reclaiming cells otherwise out of use; and
- balancing availability across the estate nationally ensuring space is maintained where we need it most.

### (iii) Managing Demand, Supporting Diversion and Alternatives to Custody

The Government have also taken significant steps to ensure that the use of custody is properly targeted. Measures to improve this in The Criminal Justice & Immigration Act 2008 were rolled out from last summer. The Act introduced new provisions for fixed term recall – around one third of prisoners recalled are now subject to a fixed 28 day period of recall. It amended the Criminal Justice Act 2003 to introduce new release provisions for long determinate sentence offenders. And it amended public protection sentences reducing the number of prisoners received with this type of sentence rather than a determinate one.

NOMS have also worked with sentencers and communities to take forward a number of custody diversion schemes and we invested an additional £40m in the Probation Service in 2008/09 to facilitate the use of community orders rather than short prison sentences and to improve offender compliance with community orders and licences. We have also been supporting the "Diverting Women project", run by the Ministry of Justice, a scheme run in partnership with the third sector to provide support for women who may otherwise be faced with a custodial sentence.

**(Paragraph 27) The proposals by Baroness Corston, in her review of March 2007 on woman offenders calls for the Government to announce a clear strategy to replace women's prisons with suitable geographically dispersed small, multi-functional custodial centres within 10 years, and for community solutions for non-violent women offenders to be the norm which would not only drastically reduce the number of women in prison but also address the specific challenges of this largely vulnerable population. The CPT recommends that the United Kingdom authorities give due consideration to these core proposals in the Corston report.**

Baroness Corston proposed that we replace existing women's prisons with geographically dispersed, small, multi-functional units. She recommended that the units should be designed to house 20-30 women in areas easily accessible to visitors such as city centres.

A project was set up to consider this recommendation. The Government accepts the principles Baroness Corston developed, if not the model she advocated. Her findings identified significant issues that suggest standalone units of that size are neither feasible nor desirable. In addition, it would not be possible to deliver the range of services required to meet the full range of women's specific needs. However, the new 77 place bed unit at HMP Bronzefield will meet the gender specific standards and the new requirements for full searching, and will include in-cell showers.

The Government is committed to reducing the number of women held in custody. On 3 February 2009 Maria Eagle, Ministerial Champion for Women and Criminal Justice matters, announced **£15.6m of new funding** over two years to invest in the provision of additional services in the community for women offenders, who are not a danger to the public, and women at risk of offending.

The funding will be used to:

- build capacity of **one-stop-shop services** at women's centres and other specialist provision for women in the community. Third Sector providers will be able to apply for grants to expand and develop one stop shop services;
- further develop **bail support services** and maximise accommodation opportunities by engaging with existing and new accommodation providers, working with NOMS on the occupancy rates of Approved Premises, and exploring other models showing success in supportive accommodation.

In co-ordination with this, action is being taken to ensure that sentencers are better informed about these supportive community provisions for women beyond and in addition to those within the criminal justice system; and how it can address their needs more effectively than custody.

**(Paragraph 28) In certain European jurisdictions every effort is made to avoid sending persons to prison for short periods, as less than six months is considered too short to tackle criminogenic behaviour yet sufficient to disrupt social and family ties. Instead, sentences are served in the community. In the light of figures attesting to multiple convictions of this group of persons in England and Wales, combined with the fact that their time in prison does not provide an opportunity to address their offending behaviour, it would appear that imprisonment is not achieving its purpose in respect of this group of people. Instead, more might be achieved through devising programmes for such persons to serve their sentences in the community. The CPT would appreciate the comments of the United Kingdom authorities on the following issues concerning persons serving sentences of less than six months.**

In general, the Government agrees that short prison sentences for certain offenders may not be entirely satisfactory. But the courts must be able to punish with imprisonment where the offence meets the custody threshold, and where they consider, in all the circumstances, that only imprisonment will suffice. That may include imprisonment for seriously persistent offenders as a means of protecting the community.

When passing the appropriate sentence in each individual case the courts have regard to the purposes of sentencing, including the reform and rehabilitation of offenders.

The Government has made available to the courts a wide range of non-custodial penalties and encourages the use of these wherever possible and appropriate. Community sentences are a core part of the criminal justice system, with 196,400 being imposed in 2007, which is 40 per cent higher than in 1997.

The new sentencing framework introduced under the Criminal Justice Act 2003 was designed to provide the courts with effective sentences to meet the needs of the particular case at every level of seriousness. This included the introduction of the generic community order, which provides the courts with a much greater degree of flexibility to put together a package of measures to manage less serious offenders safely in the community and to address their offending behaviour. Such community orders may include requirements such as offender behaviour programmes and treatment to tackle drug, alcohol and mental health problems, unpaid, work, curfew and residence requirements.

In addition, the Government has put resources into trying to divert more offenders from custody. In 2008/09 £40 million probation funding as well as Intensive Alternative to Custody (IAC) pilots have been provided for offenders who currently receive less than 12 months in custody. The IAC evaluation strategy aims to assess whether locally defined targeting of alternatives to custody can persuade courts to sentence offenders to community sentences, rather than to short term custody.

**(Paragraph 29) The CPT recommends that the United Kingdom authorities reconsider their plans to build very large prison complexes.**

As part of the response to Lord Carter's review on prisons *Securing the Future*, the Government announced their intention to further increase prison capacity by 7,500 places by building up to three 'titan' prisons, each holding up to 2,500 prisoners each.

However, when the consultation document regarding the design and operation of these prisons was launched last year, a number of respondents expressed reservations about the principles and the challenges of operating prisons on the scale proposed. In response to these comments, the Government carried out further economic analysis, and evaluated how these prisons might operate alongside our existing priorities for managing the estate. As a result, the Government has decided not to proceed with the three large prisons ('Titans'), but instead to deliver these new prison places through five new prisons holding up to 1,500 prisoners each.

By reducing the overall number of offenders in these prisons, and managing them in smaller numbers within individual units, it was felt that this would reduce the perceived operational disadvantages that the larger 2,500 model would present.

These prisons will be located in those areas where there is the greatest strategic need, i.e. areas where the greater number of prisoners come from. This will then enable us to hold the prisons' population closer to their home areas. This will help ensure that important family and other links can be maintained which help prisoner rehabilitation.

These new prisons will emphatically not be warehouses. Different regimes will be provided within smaller discrete units within one perimeter. The prisons will integrate shared services, but have separate accommodation functions so their design reduces the sense of scale.

The new prisons will provide an opportunity to modernise the prison estate by closing worn out, less efficient places elsewhere in the system. These gains in efficiency will be used to support improvements in the delivery of rehabilitation programmes and work-oriented opportunities that will help turn prisoners away from a life of crime. The new accommodation will be safe, secure and decent and will support regimes that reduce re-offending.

**(Paragraph 30) The CPT has also taken note of the implementation of 3% year on year efficiency savings on the Prison Service. A concrete effect of such savings was the reduction of the prison working week to four and a half days across the prison estate as of August 2008, with the result that the reduced weekend regime now starts at Friday midday. The CPT is concerned that the declared objective of holding all prisoners in a safe, decent and healthy environment is in fact being jeopardised by year on year efficiency savings.**

NOMS must achieve significant savings to accommodate new funding pressures and the financial settlement agreed in the last spending review.

The priority is to make savings in administration and overheads and to protect front line work with offenders wherever possible. The creation of the NOMS agency has already contributed significant savings by reducing some duplication that had emerged in previous structures. Developing existing IT infrastructure with new offender

applications and exploiting the shared service approach is also helping to reduce the cost of administration and transactional services in human resources, finance and procurement.

In prisons, the introduction of the standardised core day in 2008 helped bring greater consistency and predictability to the regime for offenders. A high level evaluation of its introduction revealed no adverse impact on conditions or treatment of prisoners. The core day has also helped trail the wider strategic changes being introduced in NOMS following recommendations in Lord Carter's review of value for money in the Prison Service. NOMS is working to develop and implement costed specifications for all offender services delivered in custody and in the community. The framework of service specifications will build on existing best practices to define the essential processes and outputs that prisons must deliver and will help underperforming or expensive establishments improve performance nearer the levels of the best. In this way savings can be achieved without compromising performance or increasing risk.

## **b. prisons visited**

**(Paragraph 32) Manchester Prison is the subject of a 10 year Service Level Agreement (SLA). In 2001, the management of the prison was awarded to the Prison Service following a commercial competition. The SLA stipulates that a certain number of services must be delivered and that penalties will ensue if standards are not met. Two independent contractors, based in the prison, monitor the application of the SLA, and if necessary can impose financial penalties. The SLA was based upon a CNA of 960 but allowed for increased finances for each additional prisoner up to 1,213. Manchester Prison therefore attempted to operate as close to this latter number in order to maximise the resources it could obtain, particularly in terms of staffing. If inmate numbers dropped below 1,200 for a sustained period, staff numbers would have to be cut commensurately. The CPT commented on the system at Manchester Prison whereby there are financial incentives to run a prison on the basis of constant overcrowding would not appear to be compatible with achieving the Prison Service's goal of holding all prisoners in a safe, decent and healthy environment.**

At the time the CPT visited Manchester there was indeed an issue around the SLA price and the population figure. The pricing mechanism provided for additional payments for prisoners above the CNA. Therefore if the population dropped below 1213 it did have an impact on funding. This only became problematic in the last few months of 2008 when the population average regularly began to drop below 1213. This was identified as a problem and the existing SLA pricing mechanism has been suspended since the beginning of 2009. Since that time there has been no reduction in the SLA price when the population drops below 1213. Therefore there is no longer any financial incentive to maintain the population above 1213.

## **2. Ill-treatment**

**(Paragraph 36) In all the prisons visited, there were policies and units in place to promote Race Equality and to clamp down on bullying. Nevertheless, the delegation got the impression that these [Race Equality] units were rather passive and waited to receive complaints from inmates before acting. The CPT recommends that a more proactive stance be taken by the "anti-bullying" and Race Equality teams in Wandsworth, Manchester and Woodhill.**

Management at all three prisons do not accept that the Race Equality teams have taken a "passive" approach to bullying and race equality. However, they acknowledge that there is always room for improvement in these areas, and they are taking further measures to tackle deep seated problems.

## **Wandsworth**

A recent survey undertaken by Her Majesty's Chief Inspector of Prisons (HMCIP) reported that prisoners found Wandsworth a largely safe place (safer than the local prison norm). The same inspection also found high levels of satisfaction with the work of the Diversity Team. Management at Wandsworth do not accept that the team is in any way passive. The team actively seek out issues and robustly investigate allegations and during 2005 – 2009 the Diversity Team were active in instigating formal investigations against 22 members of staff for a range of issues including racist behaviour or language, abuse, bullying or intimidation and sexual harassment. Of this number, 6 members of staff were dismissed from the Service, 8 members of staff received warnings, were demoted, or received advice and guidance.

## **Manchester**

The Director of Safety and Decency at Manchester now has responsibility for the Safer Prisons Team, (which includes a full time Violence Reduction Coordinator (VRT)) and the Diversity Team (DT), and ensures that the two teams work closely together, and collaborate pro-actively. For example, work is in its early stages to consider anti-racist training as part of a portfolio of services offered to prisoners.

Within the Diversity Team at Manchester race equality has a very high priority. A member of the Diversity Team attends both the violence Reduction and the Safer Custody Committee Meetings, and the Director is a member of Race Equality Action Team (REAT). The team is chaired by the Governor of the prison and comprises, amongst others, the Race Equality Officer, the Director of Safety and Decency, the Diversity Manager, the Chaplaincy, prisoner representatives, and the Independent Monitoring Board (IMB).

The purpose of the REAT includes the promotion, co-ordination and monitoring of the prison Diversity and Equality Strategy, to challenge any discriminatory behaviour and assess for discriminatory practices, to promote awareness of all those at the prison of the range of race issues and to encourage appropriate staff/prisoner training, to receive reports or any racist incident and its resolution and to monitor and evaluate Race Equality Impact Assessments.

Meetings of REAT are monthly and minuted. A copy of these minutes is available to prisoners via the prison library and upon request from wing staff.

## **Woodhill**

Woodhill has introduced a number of initiatives to promote more 'joined up' approach to bullying and race equality. These include moving both teams of staff who deal with anti-bullying and race equality into the same function within the prison, thereby reporting to the same manager.

At Woodhill the interaction between the safety team, healthcare and the segregation unit staff is being examined. The aim of the proposed project is to positively support, care for, and engage with individuals requiring specific intervention. In partnership, the multi-disciplinary function will proactively engage with all, providing purposeful and constructive regimes in order to meet healthcare and/or behavioural needs.

The function will comprise three pathways:

### a. Healthcare

A 14 bed unit that cares for any medical admission residents. The unit will also operate day care facilities. A multi-disciplinary team will support individuals providing a therapeutic and rehabilitative regime.

### b. Segregation

A 10 bed unit that manages individuals based on the risk they present to others. Individuals are managed, supported and challenged in order to address unacceptable behaviours in a safe and secure environment. In addition, support processes are available for individuals requiring segregation for their own protection.

### c. Safer Custody

The team underpins best practice in working with any individual that requires intervention. They support not only the individuals and staff in relation to all safer custody issues. They work in partnership with the Healthcare and Segregation Pathways.

## 3. Conditions of detention

### a. material conditions

**(Paragraph 37) It would appear that at present the United Kingdom Government's approach is to provide primarily crowded places rather than to make efforts to ensure that cells designed for single occupancy only accommodate one person, barring exceptional circumstances. It should be borne in mind that the suitability of a cell for accommodating one or more prisoners will also depend on other factors, such as whether the meal is eaten in the cell and, most importantly, how much time is spent out-of-cell. From the information gathered during the visit, prisoners spend lengthy periods of time locked in their cells. The CPT reiterates its recommendation that cells measuring 8.5m<sup>2</sup> or less be used to accommodate no more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone). Further, the toilet area in every cell should be at least partially partitioned.**

100. The Government is taking significant steps to increase the number of places in the prison estate and plans to provide 96,000 places by 2014. Over the last year, this approach has led to a reduction in the provision of places on a crowded basis across the estate. The Government's announcement of 27 April 2009 of plans to provide five new 1,500 place prisons made it clear that we planned to provide these additional places on an uncrowded basis. Provisional data for 08/09 indicates that the crowding rate in prisons (that is, prisoners sharing accommodation designed for lower occupancy rates) had dropped slightly from 25.3% to 24.7% of the population. Data from the end of June 2008 indicated that around 60% of the prison did not share accommodation (whether on a crowded basis or not)
101. All prisoner accommodation is certified in accordance with Prison Service Order (PSO) 1900 "Certified Prisoner Accommodation" and Performance Standard 1 on Accommodation. These provide clear guidelines for determining cell capacities. Cell capacity may only be increased (for example, when single cells are used to house two prisoners), when a Senior Operational Manager has assessed them to be of adequate size and condition for doing so. As the Committee recognises, it is sometimes preferable that prisoners share, for example, to help care for those who may be at risk of self-harm.
102. NOMS recognises that the capacity of a prison will depend on a wide range of factors. The Operational capacity of each establishment is set by the Director of Offender Management on behalf of the Secretary of State taking into account control, security and the proper operation of regimes.
103. The PSO and Standard set minimum requirements for privacy when using in-cell sanitation. Modesty screens are intended to afford cell-sharing prisoners a degree of privacy from each other when using the toilet. A programme to install modesty screens in multi-occupancy cells has been completed and the programme screens have now been delivered to all establishments for installation.



104. Time out of cell will vary for individual prisoners within an establishment, as well as between different types of prison. A key reason for this is due to the prisoner's level on the incentives and earned privileges scheme. In extreme cases, some individuals or groups may be locked up for most of the day for short periods in segregation or cellular confinement for order and discipline failures or other similar reasons. Occasional disruption to the normal routine of the prison such as lock down or searches can also increase the amount of time that prisoners must spend in their cells.
105. The provisional rate of time out of cell for 2008-09 was 9.6 hours per day. This includes time where a prisoner is either out of their cell or where the cell door is unlocked allowing them to move freely in and out of the cell.

**(Paragraph 38) The delegation noted that material conditions were not satisfactory in many of the cells in the segregation unit and G Wing of Manchester Prison – poor state of cleanliness, broken windows, missing toilet seats, etc. The CPT recommends that steps be taken to remedy these deficiencies.**

106. The aim of the Governor and his staff is to ensure all accommodation is of an acceptable standard. Unfortunately the actions taken by some prisoners in respect of the accommodation means that occasionally conditions will fall below that standard.
107. A recent examination of the cells shows that all are in very good decorative order with cleanliness being of a high standard. One of the cells used when a prisoner decides to embark on a dirty protest does have scratches on the wall. Such a condition would normally result in the wall being repainted, however specialist paint is required. A record of cells with broken toilet seats and damaged windows has been made and work is in progress to rectify the problems.

**(Paragraph 39) The delegation received a number of complaints in all the prisons visited about both the quantity and the quality of the food particularly:**

- **Breakfast packs;**
- **Cold evening meals;**
- **Variable food budgets;**
- **Efficiency savings on catering services;**
- **Under capacity at Woodhill Prison**

**The CPT would like to receive the comments of the United Kingdom authorities on this matter.**

108. Policy for Prison Catering Services is set out in Prison Service Order (PSO) 5000.
109. Individual Governors of public sector prisons have had the authority to set their own catering budgets since 1994 and there is no set financial formula that prisons are required to follow when setting food budgets. Governors make choices on the budget allocated to food based on a wide variety of issues including the nature of the prisoner population.
110. Each year prison governors determine their priorities for expenditure on goods and services within their control. Some governors choose to give food a higher priority than other areas of spend, while others have more pressing concerns and choose to spend less. In all cases establishments must comply with the mandatory minimum levels of service as set out in a Prison Service Order 5000.
111. Prison establishments generally provide a cereal based breakfast, a menu which contains both hot and cold options at both the midday and evening meals and a supper snack together with all condiments and beverages. Menu requirements vary between establishments and are based on consumer preferences, local regimes and seasonal availability.

112. Some variations between prisons are due to the population – for example Young Offender Institution’s have some of the highest daily food expenditure because growing young people tend to eat more than adults
113. Other variations can be explained by:
- Differences in size of population i.e. economies of scale
  - Cultural variations in populations
  - Age and sex of population
  - Age variations e.g. lifer establishments with older populations
  - Number of serving points and whether clustering arrangement exist
  - Number of catering staff and their ability including portion sizes / control, waste management, menu content, kitchen production and process controls
114. The National Audit Office report *HM Prison Service, Serving Time: Prisoner Diet and Exercise* published in March 2006 found that on the whole the Prison Service provides “a well-managed and professional catering service” and that meals offered to prisoners were broadly in line with the Government’s recommendations on healthy eating.
115. In spending public money the National Offender Management Service quite rightly is concerned with efficiency and effectiveness in all that it undertakes. Catering for prisoners is not an exception – however efficiencies that have been made, for example better and smarter procurement, do not affect the quality of meals served to prisoners.

### **Wandsworth**

116. The daily food budget allowance per prisoner at Wandsworth is £2.15. A recent HM Chief Inspector of Prisons report survey showed that prisoners at Wandsworth are far more satisfied with the food they receive than one would expect in a local prison.

### **Manchester**

117. The daily food budget allowance per prisoner at Manchester is £1.99. Complaints are dealt with by the Catering Management Team. Where possible staff will speak to any person making a complaint in order to resolve a problem. For example a prisoner asked for a choice between fruit and a hot desert at the evening meal. This was agreed and fresh fruit was provided each evening to all wings.

### **Woodhill**

118. The daily food budget allowance per prisoner at Woodhill is £2.20. The number of complaints being experienced at Woodhill has reduced. Complaints about the quality of baguette or sandwich fillings have been rectified and service delivery improved. As part of the 5-year development plan for Woodhill a new kitchen has been proposed.
119. When Woodhill opened in 1992 its capacity was for 500 prisoners. Since that time there has been small additions to its population. The main kitchen was built between two other prison facilities and, as a result, it is not able to expand easily to increase output. The kitchen is currently working at maximum capacity. In the five-year plan for the establishment the bidding of additional prisoner accommodation is proposed. This will necessitate the building of a new kitchen that is able to provide sufficient meals to meet the demands of an increased population.

**b. regime**

**(Paragraph 40) The delegation noted the steps taken to embed numeracy and literacy learning in vocational courses, which is positive. The CPT encourages the United Kingdom authorities to take steps in all prisons.**

120. NOMS is already adopting the approach of embedding literacy and numeracy into vocational training activity in English public sector prisons.
121. In England, responsibility for funding and securing learning for prisoners rests with the Learning and Skills Council (LSC). It ensures delivery through a series of contracts let with education providers, usually Further Education Colleges. Their contracts were renewed from 1 August 2009, and in the specification produced as part of the tendering process (now complete), the LSC required potential providers to:
- develop clear progression routes from below level 2 (Foundation Learning Tier) and on to Level 2, into Level 3 vocational programmes with embedded key skills; and
  - adhere to a number of broad considerations for learning and skills provision, including maximising opportunities for flexible learning environments, particularly the inclusion of embedded learning within prison industries/vocational workshops, and working with prison operators to embed accredited learning into prison workshops and work areas to support flexible learning and maintain motivation. Also, to make use of the gym, kitchens etc., as a route to learning for embedded key skills delivery.
122. The specification within the LSC's Invitation to Tender noted that Functional Skills form an essential aspect of provision for offenders in custody, noting that there are many ways of delivering such skills, including where they are:
- embedded in a vocational programme, where the learners interest and learning are sustained by the particular vocational activity; and
  - embedded in arts, music and cookery (and similar programmes) where the interest of the learner is captured by the vehicle (art etc), but the skills being taught and assessed are primarily functional skills.

**(Paragraph 40) In all the prisons visited too many prisoners were either not involved in any sort of meaningful activity or were offered minimal opportunities. This was particularly the case at Woodhill Prison where there was very little in the way of vocational activities, and only now were plans being drawn up to construct some workshops on the large unused football pitch. The CPT would like to receive information on the development of the workshops at Woodhill Prison and the activities they will offer.**

**Wandsworth**

123. This function has been transformed over the last 2/3 years. As a result of a comprehensive activities review, most of the old unproductive workshops have closed and new vocational training centres have replaced them. Highlights include:
- Expansion of John Laing Building partnership into new Multi Skills Centre.
  - Partnership with CISCO Systems has opened new Data Cabling Centre.

- New Motor Cycle Maintenance Centre opened, supported by the LSC and Kawasaki
- Toe by Toe - An adult literacy scheme encouraging literate prisoners (mentors) to educate their illiterate peers (mentees) on a one-to-one basis. Prisoners work within their peer group. There is plenty of evidence that Toe by Toe can be a huge asset in the struggle against violence, and a useful tool for those working with offenders. A successful pilot project at Wandsworth Prison, now operating in nearly 100 prisons.
- Radio Wanno – A joint partnership between Radio For Development and Wandsworth Prison. The students on this course spend three months working towards a NCFE qualification in media production and broadcasting, skills that can be readily utilised upon release. Strong links have been made with prospective employers and universities in the community which have already resulted in a number of placements. Upon release, offenders who have successfully completed the course continue to receive support from staff at Radio For Development.
- Brick and Plastering Workshops - A joint initiative between Laings Construction and Wandsworth Prison, providing offenders with much sought after skills and the acquisition of nationally recognised qualifications, including the health and safety certificates, without which work cannot be obtained.
- The prison has utilised the skills gained by some offenders by releasing them on temporary licence to complete projects for the establishment. In the near future we will be providing offenders released on temporary licence and offenders who have been discharged, to local building sites including Battersea Power Station.
- Physical Education (PE) - Delivers employed physical education in the core day, offering open College Network courses in “Taking Part in Sport” qualification. It offers fitness and knowledge training. The Gym is used to deliver YMCA courses that link into employment on release into the fitness industry; good relations have been forged with Greenwich Leisure who offer employment opportunities on release from custody.
- Motorcycle Training Centre - offering 24 learners the opportunity to complete the Level 1 qualification through the Institute Motor Industry. The area will be further expanded to enable to training centre to offer a Level 2 qualification.
- Tailors - This is the last of the prison productions workshops at Wandsworth. Open College Network qualifications are being delivered as well as the opportunity to learn industrial sewing
- Key Skills - These courses are designed for learners to achieve accreditation in Communication and/or Application of Number levels 1 & 2. Students can progress on to this course from Literacy/Numeracy Fast Track. Learners are expected to produce a portfolio on a topic of their choice and to do a certain amount of personal research. In order to achieve a key skills certificate, candidates must have either the Adult Literacy (Communication) or the Adult Numeracy (Application of Number) at the appropriate level.
- Social and Life Skills - The Social and Life Skills programme is accredited through the National Open college and the overall aim is to provide students with the opportunity to improve their level of skills, knowledge, self-esteem and personal awareness. There is

particular emphasis on the social or soft skills required for employment at the same time allowing learners to build a bank of modules on the Progression Awards that lead to certification. Prisoners undertaking employment around the prison can also benefit from this programme.

- Career planning with Job Club - This course works with prisoners who are within 4 weeks of release. In the classroom the tutor guides the earners into Curriculum Vitae writing. Students are also encouraged to investigate the decision making processes, problem solving skills and to devise a plan for improvement. Students will have the opportunity to search for available jobs through the secure internet site, Polaris.
- The Education Department also offers other courses including Peer Mentoring (understanding prejudice and discrimination, demonstrating speaking and listening skills, developing own interpersonal skills, communication), English for Speakers of Other Languages (offered at 5 levels with the main aim of enabling foreign national prisoners to survive and integrate within the prison environment and to equip them with the language skills they need to enter employment), Information Technology, European Computer Driving Licence, Desk Top Publishing, IT & Skills for Life, Business & Communications (Business Studies, Stewardship & Enterprise, Budgeting and Money Management), Radio Journalism (equipping students with the skills to work in broadcasting), Art & Design, Music and Distance Learning (correspondence courses such as Open University). The Education provision has also greatly improved and has moved into new accommodation.

124. PE provision has benefited from the installation of a new all weather playing surface. All day time PE is now vocational.
125. The real progress in this function has been achieved by bringing all of the disparate elements of Learning & Skills together to focus on industry standard qualifications leading to real jobs.
126. The range of vocational training at Wandsworth Prison includes construction trades, motor cycle repairs, hairdressing, radio production and journalism, industrial cleaning, Information Technology (IT) and business studies. Most of these areas are taught by instructors from the prison although some areas are managed by the Offender Learning and Skills Service (OLASS) provider. In addition, Wandsworth offers a range of physical education (PE) courses and runs several community projects.
127. Education and information, advice and guidance (IAG) is subcontracted to external providers. The OLASS provider for education is Kensington and Chelsea College (KCC) who also work with the London Advice Partnership (LAP) to provide IAG. Funding is provided through a range of funding sources. Education programmes are offered in literacy, numeracy, English for speakers of other languages (ESOL), IT, media and art, and key skills.
128. Some of the key skills programmes are delivered through courses such as drama, music and art. A variety of social and life skills courses are also offered. Education is delivered in workshops, healthcare, gym and on the wings. Offenders undertaking distance learning and Open University courses are supported through the education department.

## Woodhill

129. It is accepted that Woodhill has lacked workshop places. The proposed new workshop will be a step towards addressing that problem. However work on the new workshop and classroom activity has unfortunately experienced a delay. A revised commencement date has yet to be identified. However, upon completion this will allow the prison to deliver more vocational activities, providing increased purposeful activity linked to the job market and demand for skills upon release. It is anticipated this will be based around the building sector, although final plans have yet to be decided.

**(Paragraph 41) The CPT recommends that the United Kingdom authorities continue to strive to develop prison regimes by increasing the number of prisoners engaged in purposeful activities.**

130. NOMS is committed to increasing the amount and quality of purposeful activity in prisons, for example:

### Employment / work

131. The expansion and further development of links with private sector employers to increase the range of constructive work and training available to prisoners. Recent examples include:
- Some 500 prisoners are currently working in Prison Retail in workshops supervised by DHL staff to learn skills from an industry leader.
  - Prison Information and Communications Training Academies (PICTA). These are a partnership between Her Majesty's Prison Service and CISCO systems. Currently PICTA has 30 workshops, and three more will be introduced before the end of this financial year. The number of prisoner places will total approximately 800.
  - In June 2008 Travis Perkins opened a tool repair workshop in HMP Stocken. The workshop is branded as a Travis Perkins shop. Prisoners are selected by interview and receive training in a real work environment. A second Travis Perkins workshop opened at HMP Ford during August. The intention is to move this workshop to a larger space pending renovation work. It will eventually employ 50 prisoners.
  - Earlier in 2009 Timpson's opened a training academy for prisoners in HMP Liverpool and we are looking to open another academy at HMP Wandsworth.
  - Prison industries plan to open two new printing workshops at HMP Swaleside and HMP Manchester during 2009/10 employing 30 prisoners at each site, to meet the increasing demand for printing from the wider Ministry of Justice.

### Interventions

132. NOMS delivers a broad range of interventions to address the particular risks and needs of offenders.
133. There are a number of accredited offending behaviour programmes addressing thinking skills, anger management, domestic and other types of violent crime as well as sexual offending. A range of interventions is available for offenders with an alcohol or drug problem.
134. Other activities across prison and probation such as training, education, work, non accredited courses, specialist support and resettlement also have a significant part to play.

135. The responsibility for the commissioning of services including offending behaviour programmes now rests with the Directors of Offender Management. It is for them to commission services that meet the needs of offenders and the requirements of sentencers in their area.
136. To support commissioning NOMS is undertaking:
- a specifications, benchmarking and costings exercise which will provide costings of the interventions delivered.
  - census of non accredited programmes delivered in custody and the community. Following the census there will be a programme of work which will assess the benefits of certain interventions in terms of reforming offenders.
  - a review of the suite of programmes across prisons in 2009/10.

### Education and skills

137. There has been an improvement in the quality of prison education provision. Also, since the new LSC-led delivery arrangements were implemented in 2006, the proportion of prisoners participating in OLASS learning and skills provision rose from 30% to almost 40% in 2007- 8.

**(Paragraph 42) The delegation heard many complaints to the effect that out-of-cell and outdoor exercise entitlements were not respected. Staff confirmed that, on occasion, association and/or outdoor exercise might not be provided due to staff shortages. In particular, the delegation noted that prisoners who did not work or attend educational classes, could be locked in their cells for upwards of 20 hours a day. For example, at Manchester Prison inmates on G Wing (an induction wing where inmates stayed up to four weeks) were not provided with any work, education or gym and were offered 45 minutes or less of outdoor exercise every day; association time was between three and four and a half hours a day but only three hours on weekends; a similar situation prevailed on outer E Wing and on H1 Unit. Prisoners who did not work or attend education on the Heathfield site at Wandsworth Prison were also confined to their cells for up to 20 hours a day (and longer at weekends). Further, outdoor exercise was offered early in the morning while it was still dark in winter (7.45 a.m.), and usually only for 30 minutes. The CPT continues to have misgivings about the very flexible wording of Rule 30 of the Prison Rules 1999. In its response to the CPT's 2003 visit report concerning this matter, the United Kingdom authorities stated inter alia that "current guidance recommends that prisoners should have the opportunity to take at least one hour a day in the open air but that where this is not possible it should not be normally less than half an hour".<sup>4</sup> It would appear that in some establishments, at least, the exception is becoming the rule. The Committee recalls that the basic requirement of at least one hour of outdoor exercise every day is a fundamental safeguard for prisoners. The CPT calls upon the United Kingdom authorities to ensure prisoners are guaranteed this basic requirement of at least one hour of outdoor exercise every day, which is also provided for explicitly in Rule 27 (1) of the European Prison Rules. Further, exercise yards should provide shelter from inclement weather.**

138. The National Offender Management Service notes the CPT's concern regarding access to time in the open air and agrees that wherever possible prisoners should be allowed at least one hour a day. However this may not always be possible due to the different types of regime operating across the prison estate and therefore prison governors need the flexibility to manage prisoners' time effectively. The nature of the regime and the different designs of prisons - for example where buildings are spread over a considerable area - may make it

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<sup>4</sup> See CPT/Inf (2005) 2, paragraph 90

possible and preferable for prisoners to have access to a number of short periods during the day as opposed to one single period. This flexibility also extends to the issue of shelter from inclement weather and the provision of suitable clothing/shelter where necessary. However, governors do ensure the provision of suitable clothing for those prisoners who wish to exercise during inclement weather.

### **Wandsworth**

139. The Committee's information appears to date back to around 2005. Since then the Governor and Senior Management Team have driven forward the decency agenda and specifically the focus on always maintaining the core day. The Core Day for Heathfield includes regular social and domestics, association, purposeful activities of various sorts, visits and exercise (for a minimum of 30 minutes, weather permitting). All residential areas have exercise for at least half an hour Monday to Friday and the induction wing for a full hour. All areas exercise for a full hour at weekends. Exercise on some wings is at 07:45 but this is to enable prisoners to go onto purposeful activity for the rest of the day.
140. In June 2009, Her Majesty's Inspectorate of Prisons carried out an inspection and at that time most prisoners had some kind of purposeful activity. All those prisoners who want to work but have not yet got a job, or who are too old or too ill to work are out on social and domestics all day during the week (as per core day) and for at least one, usually two, social and domestic sessions each weekend; as well as association once or twice per week in the evenings (more if they are enhanced).
141. Those who refuse to work are only out for social and domestics in the mornings and cannot get to be enhanced (if they are sentenced) so they obviously get less time out of cell. Prisoners in this category are a minority and they are there by choice; therefore, no one is locked up for 20 hour stretches, although a very small number may not be out of cell for much more than four hours per day because they refuse to partake in the regime available to all prisoners.

### **Manchester**

142. The regime on G wing at Manchester prison is a modular induction model of five days duration. Prisoners going through the induction process are therefore not available for other work or activity until this induction is complete. The initial induction is a full time activity. The activity is also in part allocated by a risk assessment process that the induction model helps to inform.
143. G wing prisoners on induction have regular access to the gymnasium facility on K wing. All new prisoners receive a Physical Education induction.
144. G wing has a compliment of domestic orderlies. Their duties form a full time activity.
145. Exercise and access to fresh air is scheduled to last a least one hour and is available daily. Depending upon the weather and availability of supervising staff, the period of one hour can be extended.
146. The only prisoners on G wing that could potentially spend long periods "locked up" are those required to do so under prison discipline procedures or through the Incentive and Earned Privileges (IEP) process.



**(Paragraph 42) The CPT also recommends that prisoners who do not work or attend education should be able to enjoy more out-of-cell time and, as far as possible, be offered meaningful activities during association.**

147. The amount of time prisoners are allowed to spend outside their cells to engage in activities (other than work, education, treatment programmes or religious services) or to associate together will vary for individual prisoners within an establishment as well as between different types of prison. The key reason for this is that time out of cell is one of the key earnable privileges under the Incentives and Earned Privileges Scheme (IEPS)<sup>5</sup>. PSO 4000 Incentives and Earned Privileges sets out the national framework from which each prison governor has the authority to devise their own local IEP scheme which will take into account local regime priorities and the needs of prisoners.
148. Every opportunity to provide free association is maximised and statistics on the amount of time out of cell along with purposeful activity support this view. A recent inspection of the prison by HM Chief Inspector of Prisons led to a comment being made on the fact that the vast majority of prisoners spent a total of 11 hours out of their cell.

#### **4. Category A Prisoners**

**(Paragraph 44) At Manchester Prison, the material conditions were, on the whole, adequate but the delegation did hear complaints about poor ventilation, especially in those cells where the windows did not open properly.**

149. Staff at Manchester have received no formal or verbal complaints about the ventilation. The only windows that do not open properly are those that have been accidentally damaged or have been the subject of vandalism. Such faults are reported and repaired within a reasonable time. Time taken to deal with faulty windows is recorded by the Estate department. Window restrictions are in limited use as a means to counter possible threats to health and safety. However, these limitations do not prevent good air flow or ventilation. On occasion the heating is the subject of complaint, especially on warmer days when it is still switched on. When complaints about heating are made the Works Department are notified.

**(Paragraph 45) At Manchester Prison the delegation observed that the security arrangements for the Category A unit impacted adversely upon the regime of the whole prison. Further, prisoners on the unit had an impoverished regime and the restrictions on the inmates concerned were much greater than those in place at Woodhill. To begin with, no inmate could leave the unit to attend education or go to the main gym or to prayers. Those prisoners who had been engaged in studying for a diploma in a Category A dispersal prison could not continue in Manchester, as laptop computers were not permitted on the unit. Moreover, for security reasons, all prisoners on the unit were systematically assigned to a different cell every 28 days. The common sense individual risk assessment approach observed at Woodhill Prison, which meant that Category A inmates could leave the dedicated unit and even potentially be accommodated in other House Blocks, was absent at Manchester Prison. The CPT recommends that efforts be made at Manchester Prison to provide a more meaningful regime for Category A prisoners; the approach followed at Woodhill Prison should be taken as a model. Further, prisoners should be able to continue any educational courses which they may have started in a previous prison.**

150. It is accepted the regime in the Category A unit at Manchester is more restricted than that available in the remainder of the prison. Generally prisoners located on the unit do not leave the area. Designs of individual prisons will be different reflecting in many the period of their construction. Manchester prison was built in Victorian times and therefore is designed accordingly. It was not constructed as a purpose built High Security

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<sup>5</sup> Prison Service Order 4000 Incentives and Earned Privileges sets out current policy.

prison. Within the confines permitted by the available structure it is considered the Category A unit is the most effective way of balancing the need for security with this group of prisoners that require conditions of high security, with a more relaxed regime for the majority that have no need for this.

151. Nevertheless the regime on the Category A unit (E wing inner) does provide more access to the Gymnasium, literacy and numeracy classes, religious services, association all day, and the opportunity to earn money through work (cleaning/painting) and visits. This is because it is able to have independent activity and gymnasium facilities available to those on the wing only. Family days visits are now happening regularly as part of families and relationships pathway work. The aim is for continuous development of this facility.
152. The Category A population at Manchester is generally limited to those being held on remand pending trial or in the process of trial. For that reason they are not at Manchester long enough to commence Open University courses. Where interest towards such courses is indicated by a prisoner they are advised to wait for a transfer to a dispersal prison where a more in depth assessment of needs and choices can be made.
153. Due to Manchester prison being built in the Victorian period and designed accordingly it is not possible to follow arrangements that exist at Woodhill prison. Category A prisoners are managed in accordance with the National Security Framework that states such prisoners are required to change accommodation on a regular basis.

**(Paragraph 46) An Iranian inmate, who had finished his two and a half year sentence for arson in early November 2007.... was still being held in prison. After being refused bail he had apparently tried to run out of the court. This led to his security status being reassessed and to him being placed on an Escape list, which resulted in him being accommodated in the Category A unit. As far as the delegation could ascertain, the placement of this person on an Escape list and in the Category A unit had been done without consideration of the individual's circumstances or of his ability to effect an escape from the prison. The CPT would like to receive the comments of the United Kingdom authorities on this matter.**

154. This prisoner was transferred to another prison outside of the high security estate on 28 January 2009.
155. There is no central policy regarding where E list prisoners are held within a prison. Governors manage these prisoners in a way that is applicable to the individual prison e.g. age, layout and available facilities.
156. Manchester's local policy is to locate all E list prisoners on the Category A unit due to security requirements assessed against the risk of escape. The circumstances that result in a prisoner being placed on the E list, and the risk individuals pose, are assessed on a case by case basis.

**(Paragraph 47) At Manchester Prison, the CPT recommends that steps be taken to ensure that Category A vulnerable and own protection prisoners are not systematically accommodated in the segregation block; further, regardless of their location, they should all be provided with a meaningful regime.**

157. The description given by the Committee was accurate at the time. However, since 7 May 2009 vulnerable Category A prisoners are now held on the Vulnerable Prisoners (VP) unit where they have access to a much broader provision of services and facilities. VP Category A prisoners are no longer held in the Segregation Unit unless there are concerns regarding behaviour, control or safety.

## 5. Prisoners on Indeterminate sentences for Public Protection (IPP)

**(Paragraph 49 (i))...many prisoners said they were in shock when they arrived at the prison after being sentenced, as they were treated as ‘lifers’ with all documents recording their sentence as “99 years” and no mention of a release date. Further, apparently nobody had been able to explain the nature of their sentence to them when they were first admitted.**

158. All new prisoners undergo an induction programme soon after entering a prison. Those new to custody will be introduced to prison life in general, as well as being provided with locally relevant information which will include; amongst others, details of daily routine, expected standards of behaviour, advice on coping in custody. This is to help them integrate into the establishment. Those with previous prison experience will usually only need guidance on the particular rules and procedures at their current location.
159. The benefits both of the induction programme and of moving prisoners through the system are fully recognised. NOMS has put systems and procedures in place to facilitate IPPs’ appropriate progression through the prison system, and will continue to monitor outcomes to ensure further improvements in this area.

**(Paragraph 49 (ii)) ...many IPP prisoners stated that no sentence plan<sup>6</sup> had been drawn up until more than half of their tariff had expired: they claimed that they had difficulties obtaining access to their personal officer or probation officer to discuss the sentence plan, and to find out what courses or programmes they needed to attend. For example, at Manchester Prison the delegation met a man with a three year tariff, who had been sentenced in November 2005 but whose sentence plan was only finalised and agreed upon in March 2008; a date for his Parole Board hearing had yet to be set, at the time of the visit, in November 2008.**

160. In January 2008, a new streamlined process for assessing and managing IPP offenders through the implementation of offender management for IPPs was introduced. Along with revised categorisation and allocation procedures for adult male IPPs, this facilitated quicker progression to the training estate, as well as access to the range of interventions available in training establishments. Moving these offenders away from the previous lifer processes has led to improvements in sentence planning. At the time of CPT’s visit in December 2008, almost 10% of IPPs did not have a sentence plan. The corresponding figure for August 2009 is just under 7%, though most of those prisoners were only sentenced in 2009.
161. Resources were directed towards early assessment and prioritisation of places on offending behaviour programmes. Guidelines have also been issued about the assessment of suitability and prioritisation for programmes. Figures for August 2009 indicate marked improvement in this area, with just under 68% of current IPPs having had access to at least one offending behaviour programme.
162. In addition, the Government committed an additional £3 million specifically to the management of IPP prisoners including interventions in 2007/08 and 2008/09 and this funding will be incorporated into baseline expenditure from this year onwards.
163. Action is also being taken to prioritise indeterminate sentence prisoners particularly with short tariffs, and if necessary move them as quickly as possible to establishments where their offending behaviour needs can be addressed.
164. Sentence plans for those at Manchester are up to date. The timings of parole hearings is a matter for the Parole Board and outside the control of the prison.

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<sup>6</sup> A sentence plan lays out the conduct expected of, and the support to be provided to, a prisoner during his time in prison, with a view to achieving a reduction in risk such that he or she may be released on licence into the community at the end of their tariff. It is the key reference document for the Parole Board.

**(Paragraph 49 (iii)) ...even once the sentence plans were drawn up, the lack of places available on the courses the inmates had to attend resulted in long delays. For example, an inmate at Wandsworth Prison with a two year tariff, which was due to expire in February 2009, could not be enrolled in the Victim Awareness course (6 months duration) before February 2009. Further, not all prisons ran the appropriate courses identified by a sentence plan, which meant that an inmate has to be transferred to a prison where such courses were provided and then apply for the course upon arrival. For example, the prisoner cited above was also supposed to complete the CALM<sup>7</sup> course (also 6 months) after finishing his Victim Awareness course, but Wandsworth Prison did not provide this course. No one could say when his first Parole Board hearing would take place.**

165. Improved arrangements for the management of offenders generally have also been introduced by the Government from 1 April 2009. The responsibility for the commissioning of services including offending behaviour programmes now rests with regional Directors of Offender Management who oversee work with offenders. It is for them to commission services that meet the needs of offenders and the requirements of sentencers in their area.
166. To support commissioning, NOMS is undertaking
- a specifications, benchmarking and costings exercise which will provide information on the cost of interventions delivered and help to utilise resources more effectively.
  - a census of non accredited programmes delivered in custody and the community. Following the census there will be a programme of work which will assess the benefits of certain interventions in terms of reforming offenders.
  - a review of the provision of programmes across prisons in 2009/10.
167. These measures should maximise the provision of interventions for offenders.

**(Paragraph 49 (iv)) ...inmates who decided to appeal their IPP sentence were considered to be “in denial” and were not deemed eligible to enrol in any courses. As an appellate procedure could last up to two years, these prisoners were unlikely to meet their sentence plan objectives by the time of their Parole Board hearing.**

168. Many courses require offenders to discuss their offending behaviour. However if an offender denies their offence, attendance can be problematic. Some offenders may also not be willing to participate, as they believe that this could affect their appeal. Placing such offenders on courses could be disruptive to other participants. In addition, offenders must be in a position to complete the programme, as research has shown that it can be detrimental to the offender and society if an offender starts but does not complete some programmes.

**(Paragraph 49 (v)) ...it appeared that the Parole Board itself was unable to meet the additional workload that IPP prisoners had generated. The delegation met an inmate at Wandsworth Prison whose tariff had expired in June 2007 and who complained that he still had no Parole Board hearing scheduled; the delegation was subsequently informed that the Parole Board had, after several reminders by the relevant caseworker, scheduled a hearing in February 2009.**

169. The Parole Board takes into account a range of factors when considering release. Attendance on a particular programme is just one factor. The Board focuses on overall risk, and they could still choose to release, if for example they were satisfied that the risk was low and that the rehabilitation could be completed in the community.

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<sup>7</sup> Controlling Anger and Learning how to Manage it.

170. Offending Behaviour Programmes are not the only means of reducing risk for offenders nor are they necessarily the most effective. Training and education, access to employment, healthy relationships, stable accommodation and good health all have a significant part to play in reducing risk and preparing a prisoner for release.

**(Paragraph 51) The CPT considers that more concerted action is required to properly manage IPP prisoners. Persons with an IPP sentence should receive a proper induction as to what their sentence means and what is required of them in order to be eligible for release when their Parole Board meeting is scheduled (in theory, six months prior to the end of the tariff). Further, IPP prisoners should have their sentence plan drawn up rapidly and a schedule for the programmes they must complete laid out, in order for them to be able to map out their time in prison in the lead up to the Parole Board hearing. Such a schedule should equally ensure that IPP prisoners are able to carry out the required courses in prisons as close to their family as possible, and that the prisons have the necessary resources to carry out the required number of courses to meet demand<sup>8</sup>. The CPT recommends that the United Kingdom authorities take the necessary steps to improve the management of prisoners with an IPP sentence, in the light of the above remarks.**

171. The Ministry of Justice is aware of the challenges faced by prison establishments in dealing with increased numbers of indeterminate sentenced prisoners, including a significant proportion serving indeterminate sentences for public protection (IPPs) with short minimum tariffs. Indeed many of the issues highlighted by the Committee had already been recognised and a range of measures implemented to improve the position of indeterminate sentenced prisoners. Further work is also being undertaken to match delivery to identified need.
172. The amendments to the Criminal Justice and Immigration Act 2008 (which were brought into force on 14 July 2008) revise the sentencing framework and ensure IPP sentences are focussed where they can be most effective in protecting the public. The amendments introduced a minimum tariff of two years below which IPP sentences cannot be given except where offenders have committed extremely serious crimes in the past. The amendments also give courts more discretion to impose an appropriate sentence to manage the level of risk presented by the offender. A similar minimum threshold will apply for extended sentences. These changes will ensure better use of all the sentences available to the courts. In turn this will enable NOMS to manage risk more effectively and target resources more effectively.

## **6. Close Supervision Centre in Woodhill Prison**

**(Paragraph 54) It was not clear to the delegation who decided, and based upon what criteria, that a prisoner should be admitted for an assessment period to the Woodhill CSC, as distinct from being accommodated in the segregation unit of a high security prison. The CPT would like to be informed in greater detail about the criteria and decision-making process for admission to the close supervision system.**

173. Criteria

The referral criteria for admission to the close supervision system is as follows:

- Demonstrating violence towards others on a regular basis
- Having carried out, or orchestrated, a single yet extreme or significant act of violence or disorder e.g. hostage taking, murder, serious assault, concerted indiscipline etc

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<sup>8</sup> The delegation received some complaints from life sentenced prisoners that IPP prisoners were given priority in applying for offender behaviour programmes and that they kept being put to the back of the queue.

- Causing significant day-to-day management difficulties by undermining the good order of the establishment i.e. through bullying, coercion, regime disruption. Involvement in such activities may not always be visible but be supported by significant intelligence indicating that individual's involvement
- Threatening and/or intimidating behaviour, directed at staff and/or prisoners
- A long history of disciplinary offences
- Repeated periods of segregation under Prison Rule 45 – Good Order or Discipline
- A continuous period of segregation exceeding six months.

174. Principles of referral

- That the individual has sufficiently exhausted all appropriate options with regard to his management and control under the managing challenging behaviour strategy, both locally and centrally, and that the Close Supervision Centre (CSC) is the final option to reduce the level of risk he poses
- The extent of his dangerous behaviour and risk towards himself, staff and/or other prisoners is clearly documented, and
- Using recent evidence, demonstrate how and why current management and control strategies are insufficient to protect the individual and others from harm.

175. Before referral all attempts to manage the prisoner must have been made using existing management tools i.e. Incentives and Earned Privileges Scheme (IEPs), violence reduction/anti-bullying strategies, segregation, intervention programmes, specialist referrals to clinical teams and management under the Managing Challenging Behaviour Strategy.

176. A prisoner referred to the CSC system would normally be currently demonstrating, threatening to demonstrate, or threatening an escalation of behaviours that are dangerous to others and as such will no longer be considered safe to be managed on normal location or in a segregation environment.

Referral process

177. The Challenging Behaviour Manager at the referring prison will complete a referral by completing a number of forms. These forms are reviewed by the Case Management Group (CMG), who will seek further clarification or information from the referring prison as required. Following that review the reports are disclosed to the prisoner. The case is then discussed at the next CSC Management Committee meeting at which the recommendations will be endorsed or overturned.

178. The CMG is a small team based at Woodhill prison, but working on behalf of the Directorate of High Security. It consists of the CSC Operational Manager (a Governor), a senior Forensic Mental Health Nurse, a Chartered Psychologist and administration manager. The CSC Management Committee is multi-disciplinary with representatives from all eight High Security prisons. This is attended by the CSC Operational manager, a member of the Independent Monitoring Board from the High Security estate, and chaired by a Senior Operational Manager (Governor Grade A).

179. If the CSC Management Committee accepts the referred prisoner into the CSC system for a three month assessment period, arrangements will be made with the holding prison for a transfer to be made. The prisoner will be held under Prison Rule 46 for a 4-month period in order to undergo a thorough 3 month assessment, plus one month to complete reports. The prisoner will be notified of the decision in writing and informed of the assessment process.

180. The Independent Monitoring Board at the establishment where the prisoner is located must be informed within 24 hours of the decision to accept the prisoner into the CSC for assessment. If the prisoner is not accepted for assessment, the CMG will provide recommendations to the referring prison on an appropriate management plan under the Managing Challenging Behaviour Strategy.
181. All decisions taken by the Committee are required to be ratified by the Director of High Security.

**(Paragraph 56) At Woodhill Prison CSC, the regime offered to newly admitted prisoners consisted of little more than one hour of outdoor exercise per day and daily access to a shower and phone. However, depending on their conduct, prisoners could progress rapidly and participate in certain educational activities (e.g. cooking and enhanced thinking skills) and work (e.g. cleaning). For example, the delegation met a prisoner who was offered generous out-of-cell time and who worked as a cleaner and attended education classes. Regrettably, as he was the only prisoner on “level 3” he had no contacts with other prisoners. The other three prisoners in the CSC at the time of the visit were limited to the basic regime described above, and no more than one prisoner would be out of his cell at the same time.**

182. At Woodhill, prisoners are placed on the available levels depending upon their pattern of behaviour. The one prisoner referred to in the report is no longer with the Prison Service having been transferred to a High Secure Hospital.
183. The situation of the other three prisoners is as follows:

Prisoner 1:

Since the visit he has been transferred to Frankland, another High Security prison. He continues to remain a CSC prisoner, although his current level of threat to staff is considered to have reduced.

Prisoner 2:

At the time of the inspection he was on level 1. He later achieved level 3 and has been recommended for the CSC due to a history of very violent and unpredictable behaviour. He will remain in the CSC system for further assessment by mental health experts and psychologists.

Prisoner 3:

Was on level 1 but later achieved level 3. Unfortunately he has since been reduced to level 2. The prisoner has displayed a very volatile and unpredictable pattern of behaviour varying from one extreme to another.

**(Paragraph 56) The CPT recommends that steps be taken to develop the range of activities offered in the CSC at Woodhill Prison, including access to a gym on a regular basis.**

184. Efforts are being made by Woodhill to improve the regime although this has to be within the context of budgetary restraints.
185. Prisoners in the CSC are risk assessed to use a cardio vascular gym suite. The equipment includes a treadmill and a rowing machine. The prison is also waiting for a contractor to move a multi-gym into the CSC wing. Access to the multi-gym will also be subject to a risk assessment.

**(Paragraph 57) One particular prisoner in the CSC was considered a permanent threat to staff and other prisoners. For this reason, every time he was unlocked from his cell, six prison officers in full riot gear, including helmet and shield, would escort him, while handcuffed, to the exercise yard or shower or telephone. While fully acknowledging that special security arrangements might well be justified in this particular case, the CPT is sceptical of prison officers wearing personal protection equipment<sup>9</sup> in their day-to-day contact with an individual prisoner. Such a practice may well foster, rather than attenuate, confrontational attitudes on the part of everyone. The CPT would like to receive the comments of the United Kingdom authorities on this subject. Further, the Committee wishes to be informed whether the above-mentioned prisoner made any progress during his time at Woodhill Prison, where he is currently being held and what is his daily regime (including staff requirements to manage his movements).**

186. The prisoner concerned has been convicted of murder. The arrangements described in respect of Woodhill are correct and followed a careful risk assessment. Since the visit the prisoner has repeatedly refused to engage in any interventions to assist him in progress.
187. While the arrangements may appear severe, Woodhill prison, in common with all other prisons, has a duty of care towards staff as well as prisoners in their care. It is essential for staff to be provided with the appropriate level of protection necessary for their health and safety when dealing with any prisoner likely to pose a threat to their safety. To do otherwise would be to place the prison in breach of its obligations towards the safety of staff. Were the prisoner to show a more positive attitude towards staff and thereby reduce the current level of threat towards them, then the arrangements would be reviewed and modified accordingly.
188. In December 2008 the prisoner transferred to Frankland High Security prison. At the new prison the initial arrangements remained the same as those in place at Woodhill. As at the beginning of September 2009 the prisoner has made some progress, in that he now only requires the presence of four staff when he is unlocked and those staff are not required to wear personal protective equipment when dealing with him. Being in a CSC cell at Frankland does restrict the prisoner's access to work, education and sport. However, he does receive domestic visits.

## **7. Health care**

### **a. introduction**

**(Paragraph 59) Prisoners are not, as a whole, healthy<sup>10</sup>; alcohol and drug misuse and mental illness, together with unstable social arrangements, poor housing and lack of employment, combine to produce high levels of health care needs among those incarcerated. Further, these needs are frequently not met by community services in the immediate period prior to imprisonment resulting in multiple demands placed upon prison health services. The CPT would be interested to learn about what is being done to meet the challenge of establishing mechanisms to deliver continuity of care for prisoners.**

189. The Department of Health (DH) has recently signed a contract to deploy Primary Health Care Systems across the prison estate. The capacity to share clinical information electronically between healthcare professionals working in prison and their colleagues in the community will improve the continuity of care for offenders.
190. Registration with a General Practitioner is also key to ensuring continuity of care. The continuous registration of an offender is often disrupted by imprisonment. The DH are working to deliver options for ensuring

<sup>9</sup> This consists of Riot Helmet, Flame retardant overalls, Gloves, Belt, Side arm baton and holder, Shin guards, Elbow protectors, Boots, Flame retardant balaclava and Shield cover (see PSO 1600 on the Use of Force).

<sup>10</sup> See inter alia Bromley Briefings Prison Fact file of December 2008, published by the Prison Reform Trust, for statistical data on the health of the prison population.



registration processes are more reliable both for prisoners in the system and on resettlement into the community.

**b. health care in general**

**(Paragraph 61) Registered nurses... [and]...a number of “healthcare officers” had access to all medical records and some were authorised to dispense medication; at the same time they also undertook classical prison officer duties. This raises issues of conflict of interest. The delegation learned that all nurses and healthcare officers were members of the Prison Officers Association. ...The CPT considers that for a health care service to be truly independent, all staff assigned to it must be uniquely aligned to health, both administratively and professionally, which is not the case at present. The CPT recommends that the United Kingdom authorities take the necessary steps to ensure the full independence of health care staff working in prisons in light of the above remarks.**

191. The Department of Health are keen to ensure that healthcare staff are both appropriately qualified and experienced in NHS best practice. The transition from a prison lead service to an NHS Service has been successful. Increasing numbers of NHS experienced staff commissioned through Primary Care Trusts are taking up the healthcare posts in prisons. This process will work through the system over time for all healthcare staff working in prison.

**(Paragraph 62) The CPT recommends that all prisoners are medically screened upon arrival, including those transferred from another prison.**

192. All new receptions into prison have an immediate first reception screening focussed on Mental Health, Suicide, and Self –Harming issues. Appropriate Mental Health support services are available when issues are identified. Manchester University have been commissioned to review the reception screening and the Department of Health are looking to put a revised screening in place by 2010.

193. Current guidance to reception staff is that the medical needs of every incoming prisoner must be assessed by an appropriately trained member of the prison’s healthcare team, before the prisoner is locked up for the first night.

194. Prisoners new to custody are assessed to detect immediate physical or mental health problems, significant drug or alcohol abuse issues, and the risk of suicide or self-harm. A further general health assessment should take place during the week following reception.

195. If the prisoner has transferred from another establishment, or returned from court, etc, he or she will be seen by a member of the healthcare team, and be screened for the risk of suicide or self-harm. If any immediate health needs are identified a further assessment will be carried out by a member of the primary care team.

196. A 2<sup>nd</sup> screen is undertaken within 72hrs (this is the target period but local circumstances can cause delay). This screen has a more primary health care focus and looks to initiate care pathways where appropriate.

197. Guidance to prisons is that it is good practice for a doctor to be available, or contactable, for consultation during reception, but prisoners need see a doctor only if necessary. Local arrangements should be in place to deal with those prisoners who are detoxing from drugs or alcohol.

**(Paragraph 62) The delegation met... an inmate ... registered as “blind/serious vision problems” and yet his request for special glasses had been pending for two years, which meant he was unable to work or attend any education or offender behaviour courses, and potentially had an impact on his ability to seek parole. The CPT would like to be informed whether the prisoner being held in Manchester has been provided with the glasses he required in order to cope properly in prison.**

198. The prisoner arrived at Manchester on 18 November 2008. In the past he had operations for a detached retina. An Ophthalmologist at the previous prison stated there was no clinical reason for the reported poor eyesight. Following his arrival at Manchester the prisoner was seen by the optician on two occasions and referred for further opinion. The prisoner has since indicated, in writing, a wish to cease all further appointments with regard to this condition.
199. The question of access to work and education by the prisoner is being affected by his health issues and his decision regarding treatment. The prisoner is not being impeded in applying for release on parole, at the point he becomes eligible for consideration. Decisions regarding possible release on parole are not for the prison but will be taken by the Parole Board. As part of this process the prisoner and/or his legal advisers will be able to submit representations.

**(Paragraph 63) The CPT delegation noted that at Manchester Prison there was no first night centre and that the induction process was less rigorous and more formalistic.**

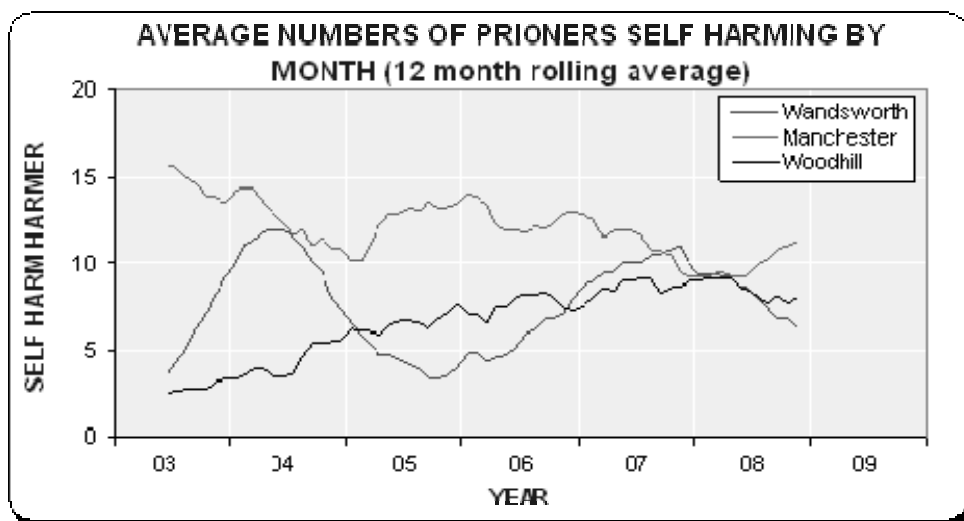
#### **Manchester**

200. Manchester now has an exclusive first night facility on G2 wing. In a recent visit by HM Chief Inspector of Prisons the accommodation was praised.
201. The induction process is balanced between identifying and addressing initial need and ensuring new prisoners have all the relevant information to access all areas of the regime. The process also encompasses checks to ensure prisoners have understood the information given. It is not accepted that the process is formalistic. It is designed to reflect the needs of the prison population at Manchester as well as supporting the strategy of the prison. The needs of Foreign National prisoners are addressed during the process and induction is, as far as possible, tailored to the needs of the individual.

**(Paragraph 63) The CPT recommends that the good practice of the First Night Centre at Wandsworth Prison be replicated across the whole prison estate, with priority given to local prisons.**

202. The early days in custody are well known to be a period of increased risk, with disproportionate numbers of self-inflicted deaths and self harm occurring at this time (see tables below). Some years ago the Safer Custody Programme piloted a number of ideas at six local prisons including HMP Wandsworth. It is pleasing to note that the investment there still appears to be paying off.
203. However, self harm figures for particular prisons should be interpreted with caution. Much of the self harm variation between prisons is explained by the following factors:
- Imported vulnerability
  - Age
  - Gender
  - Time in custody

204. These indicate why self harm risk is unevenly distributed around the prison estate and why the risk changes over time. HMP Wandsworth has older than average prisoners and a lower churn compared with similar local prisons. For these reasons alone less self harm incidents would be expected there in the early days.
205. Numbers of self harm incidents are heavily influenced by the presence or absence of serial self harmers and it has been found useful to consider numbers of individual self harmers as well. The following chart shows the average number of individual prisoners self-harming each month. The fall at Manchester and rise at Woodhill may reflect a redistribution of self harm risk around the Category A prison estate.



206. Taken at face value, and allowing for the age differences, Wandsworth appears to have fewer self harmers/lower self harm. The safer custody investment may account for the difference but the case remains unproven.
207. The following charts show national figures for self inflicted deaths and self inflicted harm during recent years.

Self-inflicted Deaths by Time in Current Prison and Custody										
England and Wales	Number of Deaths									
TIME	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Time in Custody										
All	91	81	73	95	94	95	78	67	92	60
Within 24 hours	3	2	2		1	3		2	1	3
24 hours to 48 hours	10	12	3	9	9	10	11	3	4	4
3 days to one week	14	7	4	14	10	10	2	2	6	3
1 week to 1 month	10	14	18	23	11	16	15	6	10	5
1 month to 3 months	14	14	15	10	18	17	9	10	11	8
3 months to 6 months	19	12	8	11	12	6	12	8	15	8
6months to 1 year	9	8	7	2	7	15	10	11	10	9
Over one year	12	12	16	26	26	18	19	25	35	20

Self harm incidents by Time in Custody					
England and Wales	Number of incidents				
Time since last reception	2004	2005	2006	2007	2008
MALES AND FEMALES					
<b>All</b>	<b>19523</b>	<b>23740</b>	<b>23372</b>	<b>22855</b>	<b>24902</b>
within 24 hours	2841	2653	2376	2584	2352
2 days to 3 days	634	756	692	634	711
4 days to 1 week	1086	1179	1127	1127	1086
1 week to a month	3813	4285	4551	3890	4239
1 month and 3 months	4603	5622	5772	5322	5787
3 months and 6 months	3014	3769	3773	3865	4473
6 months to 1 year	1738	2799	2664	2436	2641
Over 1 year	1794	2677	2417	2997	3613

208. All establishments must ensure the safety and well-being of prisoners, particularly during their first night, including suicide, self-harm, and cell sharing risk assessments. Peer supporters (Listeners and Insiders) are also present in a number of prisons. The accommodation available for the first night varies from prison to prison, according to local circumstances. The services offered by Prison Advice and Care Trust (pact)<sup>11</sup> are currently only provided in Exeter, Holloway and Wandsworth Prisons.
209. The Department of Health supports the use of first night centres but these are not available at all prisons. The NHS will continue to work with local prisons to improve reception screening and the supporting services.
210. A review of the 'Early Days' period of imprisonment (reception, first night and induction) is presently under way. It aims to produce specifications setting out the outcomes establishments need to achieve for prisoners during these important stages of custody. Revised guidance will also be issued on how to reach these outcomes. This is intended to ensure consistency and good practice across the prison estate, while making the best use of our resources. The specifications will include requirements to deal with all prisoners' medical needs, and give priority to safer custody.

**(Paragraph 64) The CPT would like to be informed of the training provided to staff to identify persons at risk of committing acts of self-harm or attempting to commit suicide.**

211. Several training programmes and initiatives exist to assist staff to identify persons at risk of committing acts of self-harm or attempting to commit suicide.
212. Assessment, Care in Custody and Teamwork (ACCT) is supported by 3 training modules (Foundation, Case Manager & Assessor):
- Foundation – ½ day package introducing the ACCT process and documentation and basic suicide/self-harm awareness training. It must be undertaken by all staff working with prisoners. The Foundation module has been, since January 2009, incorporated into the Prisoner Officer Entry Level Training (POELT) course.
  - Case Manager – 1 day package re-enforcing the message of the Foundation package and introducing estimation and management of immediate risk and care planning. This module

<sup>11</sup> The Prison Advice & Care Trust (PACT) is an independent national charity working to support prisoners and their families to make a fresh start and to minimise the harm that imprisonment may cause to offenders, families and communities.

must be undertaken by all managers Senior Officer and above (including Senior Management Team members) before they can take on the role of a case manager.

- Assessor – 4 day package covering the specific role of the assessor, Mental Health awareness, substance dependence and self-injury. Delegates complete the course with a skill based session (supported by visual demonstrations) where they role play the assessment, hand-over and case review process.

213. In addition to the detailed 2 day Mental Health module in the Assessor course Offender Health has commissioned and funded Care Service Improvement Partnership (CSIP) on an area basis, to deliver a further half day package in Mental Health awareness to all staff.

#### Women & Young People's Group, NOMS HQ

214. A Women Awareness Staff Programme (WASP) training course has been introduced as part of the induction for all staff working with women. It aims to raise awareness and the need for women specific training. The course addresses issues such as:

- Female behaviour in custody and possible reasons for it
- Pro-social modelling
- Conflict resolution
- Security, searching and restraint
- Self-harm
- Relationships
- Abuse

#### Safer Custody and Offender Policy Group, NOMS HQ - General

215. The Safer Custody and Offender Policy Group (SCOP) at NOMS HQ work in partnership with the Samaritans in providing peer support to at-risk prisoners, through Listener schemes. In these schemes, Samaritan trained prisoners offer 24 hour listening services to their peers in prison. However this support is not currently available in the under 18 estate due to child protection and safeguarding issues.
216. Some prisons, also operate Insider schemes, often in tandem with Listener schemes, where selected/volunteer prisoners are trained to provide basic information and reassurance to prisoners new to prison.

#### Learning/Information Sharing

217. Under the partnership agreement with the Samaritans, prison staff, Samaritan staff and Listeners attend an annual conference to debate issues and share experiences.
218. Traditionally SCOP has also hosted an annual Safer Custody conference open to all Prison staff. This year the format is changing and will be delivered in three themed learning days to be delivered in September and November 2009 and February 2010. This will be an opportunity for both SCOP and prison staff to share good practice.
219. SCOP also publish a quarterly broadsheet called Safer Custody News which enables sharing of information with colleagues about safer custody issues.

## Healthcare

220. With regard to healthcare provision in prisons, *Improving Health, Supporting Justice* recognises that despite significant advances in recent years more needs to be done to improve services for prisoners with drug, alcohol or mental health problems. Further progress has been made in prisons in England to implement initiatives around:
- Integrated Drug Treatment System (IDTS), a new *Supply Reduction Good Practice* guide has been launched and all prisons have a nominated drug strategy lead.
  - Progress is being made in prisons to support those with an alcohol problem. Alcohol detoxification is available in all local and remand prisons.
  - Offenders who are sent to prison and are then found to be suffering from serious mental health disorders now benefit from a more speedy system of transfer to the NHS.

**(Paragraph 65) All three of the prisons visited continued to use in-patient beds in the health care centre as accommodation for prisoners with disabilities or for those who were having difficulty coping within the prison, or even as a means of easing crowding in another part of the establishment. The CPT recommends that the United Kingdom authorities ensure that admission to beds in a prison's health care centre is based only on assessment of clinical need.**

221. The current policy on arrangements for the certification and management control of prisoner accommodation is set out in Prison Service Order 1900 Certified Prisoner Accommodation. The management of capacity in any establishment is solely at the discretion of the Governor and his/her staff. The decision on whether or not places in Healthcare Centres are included in the Operational Capacity of respective establishments is at the behest of the Regional Custodial Manager (formerly Area Manager).

## **Wandsworth**

222. There is a waiting list for those prisoners whose clinical needs have been assessed and require a healthcare bed. Healthcare beds are not used to ease overcrowding. Healthcare accommodates prisoners with mental health issues and there are 12 beds available on the unit.
223. At present, Wandsworth does not have an in-patient unit open for those with physical healthcare needs. All prisoners are nursed in cell unless they require outside hospital treatment.

## **Manchester**

224. Following an examination of the records by a CPT doctor the conclusion was reached that a number of beds were not being occupied by prisoners on the basis of clinical need. That conclusion broadly mirrors the findings of an independent review commissioned by the Manchester Primary Care Trust and carried out by the Midlands Care Service Improvement Partnership.
225. Efforts are being made to reduce the admission to the Health Care Centre of those with no clinical need. That change will enable Manchester to offer a more constructive and therapeutic regime to patients that have clinical needs. The position as of September 2009 is that the number of beds have been reduced from 38 to an available 24. The Health Care Centre generally has 17 patients, two cleaners and a Listener employed in this area.

**Woodhill**

226. Improvements have been made at Woodhill. It is the exception now that prisoners are received in the health centre due to pressure in the main establishment. It is proposed shortly to relaunch the admissions and discharge policies to ensure prisoners are received into health care only on clinical need.
227. Woodhill is striving to improve pathways (i.e. plans) of care to include post care discharge with the aim of benefiting the prisoner as a patient. Work had commenced on this but this is now being reviewed again in the light of the Integrated Drug Treatment System and normal discharge procedures within health care in patients. The long term aim is to produce a comprehensive discharge pathway. Healthcare is represented at the weekly prison discharge board with doctors offering discharge advice where a clinical need is identified. This should improve greatly with the adoption of a computerised medical record system for all prisoners which will lead to vastly improved communication between all teams within the establishment.

**(Paragraph 66) The delegation noted that Inmate Medical Records were generally well kept. However, it observed that there was an inability for different prisons using the same electronic record system (EMIS) to transfer records to one another. The result was a discontinuity of clinical records across the prison estate, which impacts on patient care. The CPT would appreciate the comments of the United Kingdom authorities on the transfer of medical records and information across the prison estate and with health care practitioners outside prison.**

228. Problems with sharing Medical Records across the Prison System and with health services in the community are being overcome. Prisons have not previously been able to link into sophisticated National Health Service systems as they have not been physically linked to the secure NHS network. However, a recent programme of work has completed the implementation of NHS network links to all prisons.
229. A national contract has now been agreed for the implementation of standard primary care systems across the prison estate. Implementation will take some 18 months, it will then be possible to easily transfer clinical records both within the prison system and with community healthcare providers.

**c. psychiatric care and substance misuse**

**(Paragraph 67) The CPT considers that [the criteria for referral to a psychiatrist at Wandsworth and Woodhill] are too strict and exclusive. The CPT recommends that assessment criteria for referral to a psychiatrist used by the MHIRTs at Wandsworth and Woodhill Prisons be reviewed in light of the above remarks.**

230. This would be a matter for local clinical judgement based on assessments made by a prison GP and/or mental health in-reach team (MHIRT). This will almost always follow a face to face consultation. The Department of Health supports best practice and promulgates this to local services in a number of ways. Applications to see a psychiatrist would usually be managed in the first instance with an assessment by the prison GP.

**(Paragraph 67)...at Woodhill Prison the assessment of whether a prisoner had a mental health disorder was made only on the basis of consulting the medical files. This is not appropriate. The CPT recommends that at Woodhill Prison, the assessment of prisoners for referral to a psychiatrist not to be based exclusively on existing medical records but should include a face to face interview.**

231. Although it would not be appropriate to comment on an individual case, on the description given by the Committee it is not possible to identify the prisoner being referred to.
232. An interim protocol has been devised which Woodhill is in the process of developing with the Primary Care Mental Health Services, to establish a clear system of criteria for referral to the MHIRT.

**(Paragraph 68) The approach by the MHIRTs appeared focused on prisoners with severe and enduring mental health needs (i.e. cases dealt with by secondary mental health services in the community). However, the bulk of prisoners do not appear to be receiving the necessary mental health support. In this respect, it is essential for health care services in prisons to be given the resources to tackle primary mental health needs; general practitioners should receive specific training to deliver primary mental health care, and be in a position to refer more complex cases to the MHIRTs. Mental health awareness should also be part of every prison officer's further training. The CPT would appreciate the comments of the United Kingdom authorities on the provision of mental health care in prisons, in the light of the above remarks.**

233. A key recommendation in the Bradley Review<sup>12</sup> addresses the need for both Mental Health and Learning Disability awareness training for prison staff. Training already exists but the Delivery Plan will detail how this will be expanded to all staff.
234. The Department of Health's Offender Health division has launched a programme to ensure robust models of Primary Care are developed. This work will be reviewed regularly, particularly with reference to the recommendations of both Lord Bradley and the recommendations of the CPT.
235. The resources required to provide primary mental health care services is an issue for the responsible Primary Care Trust (PCT). This is normally decided after a health needs assessment to establish the level of service needed.
236. As part of the response to the Bradley Review, the Department of Health has considered both referral to and the role of Primary Care services and MHIRT. Good practice will be promulgated to local services as part of the Delivery Plan.

**(Paragraph 69) The MHIRTs in all three prisons experienced difficulties in trying to obtain relevant information from the courts and outside hospitals/general practitioners, with requests being either unanswered or refused for administrative reasons. Further, the transfer of mentally-ill prisoners to a suitable mental health establishment was a common problem, and usually took months rather than weeks to complete. The CPT recommends that prisoners with severe mental disorders who require in-patient treatment to be transferred without delay to an appropriate facility, where they can be kept and cared for. Efforts should also be made to facilitate access by MHIRTs to information they need from outside bodies.**

237. The Government recognises that there is a need to improve the timeliness of access to secure mental health care by prisoners with acute, severe mental illness. Lord Bradley has recommended that a target of 14 days should be set. The National Health and Criminal Justice Programme Board will consider the feasibility of such a target. It will also ensure that where further guidance to the NHS and criminal justice agencies is necessary it

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<sup>12</sup> Lord Bradley's recent report on people with mental health problems or learning disabilities in the criminal justice system (published 30 April 2009) makes it clear that there is a need to have more robust models of primary health care in prison.



will be issued by 2010, so that along with improved commissioning of services and availability of secure health services the goals of improved security and timely access to secure health services by prisoners can be achieved.

238. The Bradley Review highlighted sharing of information as a key area for improvement. Changes to prison primary healthcare IT systems and the further development of Criminal Justice Mental Health teams will facilitate the improvement of information transfer (see paragraph 228).

**(Paragraph 70) It appeared that the rapid reduction in the daily doses of methadone offered to inmates was being done for administrative reasons rather than based on clinical needs, and the reduction was being done without the consent of the patient. Further, prisoners taking methadone were apparently not offered work opportunities, although there is no reason why they should not work. The CPT understands that a new programme, Integrated Drug Treatment Services, will tackle some of these concerns. The CPT recommends that the United Kingdom authorities consider introducing long-term methadone maintenance, and that the new Integrated Drug Treatment Services programme takes into consideration the above remarks.**

239. Long term methadone maintenance is considered on an individual case basis. This follows the guidance and evidence base in the UK clinical guidelines re drug misuse and dependence 2007.

## **8. Other issues**

### **a. discipline**

**(Paragraph 73) At Manchester Prison, there were 10 inmates in the segregation unit, three of whom were Category A vulnerable and own protection prisoners. The material conditions were in need of upgrading; cells were dirty, toilet seats missing and windows broken.**

240. The aim of the Governor and his staff is to ensure all accommodation is of an acceptable standard. Unfortunately the actions taken by some prisoners in respect of the accommodation means that occasionally conditions will fall below that standard.
241. A recent examination of the cells shows that all are in very good decorative order with cleanliness being of a high standard. One of the cells used when a prisoner decided to embark on a dirty protest does have scratches on the wall. Such a condition would normally result in the wall being repainted, however specialist paint is required. A record of cells with broken toilet seats and damaged windows has been made and work is in progress to rectify the problems.

**(Paragraph 73) In addition to prisoners serving a punishment of cellular confinement, prisoners could be placed in the segregation unit for their own protection; it is important that they be offered a more purposeful regime than merely one hour of outdoor exercise, and every effort should be made to return them to mainstream custody. The CPT recommends that the necessary steps be taken, in the light of the above remarks.**

242. Cellular confinement means the removal of a prisoner from mainstream activity and association and the relocation to a cell usually in the Segregation Unit of the prison. This sanction is usually accompanied by the loss of privileges following a disciplinary hearing. Cellular confinement is normally a punishment given in response to a more serious disciplinary offence under Prison Rules. While the cell would normally be single occupancy, this would not be employed if considered to be in conflict with a prisoner's health or well being.

Refusal to return to normal location occurs when a prisoner prefers solitude to life on the wing mixing with other prisoners or as a form of protest.

243. Those serving punishment of cellular confinement are expected to return to mainstream custody (normal location) upon completion of that punishment and in the main most do. Where a prisoner refuses to move, steps will be taken to establish the reason why and address those concerns. However a few prisoners will continue to refuse to move. While the disciplinary system can be used as a means of further punishment for refusing to move, that does not in itself address the underlying problem.
244. Where prisoners are placed in the Segregation Unit for other reasons i.e. Good Order or Discipline or for their own protection, steps will be made to deal with the issues so that the prisoner can be returned to normal location as soon as possible.
245. The regime within a Segregation Unit is more limited than that available to prisoners in normal location. However in addition to exercise, they are able to have education in cell and have access to a radio and reading material and some personal items. Being in the Segregation Unit does not deprive prisoners of being able to maintain contact with family and friends by post or telephone. Additionally they are able to have visits with their families.

**b. staff**

**(Paragraph 75) The CPT encourages the United Kingdom authorities to pursue their efforts to recruit staff from diverse backgrounds.**

Staff diversity

246. The National Offender Management Service (NOMS) is committed to ensuring that its staff should reflect society as a whole, to make best use of the diversity of talents that exists. It aims to make the working environment an inclusive one where all staff are proud to work and feel valued. A range of material to support outreach work has been developed in conjunction with external recruitment advertising specialists, and is aimed at promoting the Service as an inclusive employer across all diversity strands.
247. The proportion of Black and Minority Ethnic (BME) representation in the workforce is one of NOMS's Key Performance Indicators (KPIs). NOMS achieved the target of 6.3% which had been set for 31 March 2009. The target for 31 March 2010 is 6.4%. NOMS has more than doubled the level of BME representation over the last ten years. BME recruitment has continued to be above the local BME economically active population in areas in which we have recruited; a trend that has continued since 1998/99.
248. Female representation has increased steadily. 36% of NOMS staff are female (March 2009). 24% of prison officers are women; up from 16% ten years ago.
249. In 2009, the Prison Service was voted the 16<sup>th</sup> best place to work in Britain for gay, lesbian and bisexual employees.

**(Paragraph 75) The CPT invites the United Kingdom authorities to develop follow-up training for all prison officers.**

Initial development programme

250. Since September 2007, all officer recruits have been required to complete a one-year foundation training programme, leading to the award of a level 3 Custodial Care NVQ. The 8-week initial training course, Prison Officer Entry Level Training, forms the first part of this programme. It provides the underpinning knowledge and core skills needed to complete the NVQ and to work effectively with prisoners. The course develops skills and knowledge across a range of specific areas such as mental health, safer custody and security; and stresses the importance of interpersonal skills and relationships.
251. The NVQ requires the successful completion of ten units of National Occupational Standards (NOS):
- Five mandatory units - including promotion of equality and diversity, maintenance of security and order, and contribution to the prevention and management of inappropriate behaviour
  - Five selected from over 40 optional units – including, for example, contributing to planning and reviewing how to meet individuals’ needs and rights in the custodial environment; supporting individuals in custody to take part in purposeful activities; and supporting them to maintain and develop relationships

Continuing development

252. Further training provided to prison officers is dependent on the training individuals require to enable them to fulfil their role and the needs of the prison they are assigned to.
- a) *Assessing the need for continued development/follow-up training*
253. On completion of the POELT course, trainers complete an end of course report for all new prison officers. This is sent to their prison’s Training Manager and the officer’s line manager to form part of the individual’s Personal Development Plan. Avenues of development are discussed by staff and their line managers during the appraisal process and recorded on the individual’s Staff Performance and Development Review form.
- b) *How NOMS is addressing the issue of follow-up training*
254. NOMS’ recent introduction of the Training Operating Model, supported by a computerised training database, Oracle Learning Management (OLM), has allowed a shift from supply led to demand led learning provision. Line managers create individual “Learning Paths” for their staff. This information is used to generate a Training Plan for each prison, and the Senior Management Team then ensure that training requested is in line with the business needs of their prison.
255. The Service will use the information generated by this system to analyse the provision of internally delivered courses, to support a flexible and a responsive approach to the provision of requested courses and the national procurement of ad hoc or externally delivered courses.
256. There are a variety of learning opportunities to support the continuing development of prison officers, depending on the type of prison they are assigned to, the skills required to fulfil their role and their personal preference. Vocational training ranges from courses covering Security and Offender Management to Technical and Specialist training which includes Catering, Chaplaincy, I.T. and Communications, Physical Education, Construction & Technical and Health & Safety courses.

c) *Follow-up Training available*

257. The following are examples of training currently available:

- A half day Mental Health Awareness training can be accessed by all staff working in a custodial setting. Mental Health Awareness training covers how to identify offenders with possible mental health issues and how to refer them to appropriate healthcare professionals.
- An extremism awareness package (2.5 hours duration) has been developed for delivery to staff in prisoner facing roles.
- Prisons use a system called ACCT (Assessment, Care in Custody and Teamwork) to support the identification and care of prisoners at risk of suicide or self-harm. Training is provided at three levels: ACCT foundation, Case Manager and Assessor, depending on the role of the staff member in their prison.
- Offender Management Training includes courses on OASys, the offender risk assessment system. This is a secure messaging system deployed between the probation and prison services, which identifies and classifies offending related needs. The training incorporates relevant modules on risk of harm (to self and others), interviewing and objective setting, personal officer training and the management of high risk prisoners.
- There is specific training for officers assigned to young people's establishments (Juvenile Awareness Staff Programme) and those working in the women's estate (Women Awareness Staff Programme).
- The Motivational Interviewing learning programme provides staff with the knowledge and skills to work in a motivational way when interacting with prisoners.
- NOMS provides all of its newly promoted first line managers with the opportunity to gain a level 3 award in first line management, Introductory Certificate in Management, accredited through the Institute of Leadership and Management (ILM). In addition, a new e-learning management development tool, "My Leadership Potential" was launched in April 2009 which provides an opportunity for managers to further develop their management and leadership skills and knowledge.

d) *Level of staff take-up*

258. In 2008/09, the average training days per member of NOMS staff was 7.1. NOMS devotes 350,000 days to training each year, demonstrating the Service's commitment to ensure all staff, including officers, have appropriate access to training.

**(Paragraph 76) The Committee heard a number of complaints about a minority of staff members in all the prisons visited, particularly in terms of prison officers provoking inmates. As regards the personal officer scheme, many prisoners complained that either they did not have any contact with their personal officer or that the personal officer had not been helpful in addressing problems they encountered. The CPT invites the United Kingdom authorities to take steps to ensure the effectiveness of the personal officer scheme [in Manchester, Wandsworth and Woodhill Prisons].**

259. The Prison Service will not tolerate staff provocation of inmates. Prison Service staff are expected to meet high standards of professional and personal conduct in order to deliver the Prison Service Vision.<sup>13</sup> All staff are personally responsible for their conduct.
260. Misconduct will not be tolerated and failure to comply with these standards can lead to action which may result in dismissal from the Service. Staff relationships with prisoners must be professional. In particular staff must not provoke, use unnecessary or unlawful force or assault a prisoner.

#### Offender Management Model/Offender Supervisor Role

261. With the implementation of the Offender Management Model, those prisoners in scope have a named Offender Supervisor allocated to them to support them through their sentence plan and addressing their offending behaviour. The role of the Offender Supervisor overlaps considerably with the role previously carried out by a personal officer.
262. It is a central part of the role of all prison officers working on residential wings to engage with prisoners to assist them with any personal issues and also to encourage their participation in offending behaviour work, and allocation of individual personal officers is considered good practice. However, there are no resources available for development of mandatory personal officer schemes in addition to the implementation of the Offender Management Model.

#### **Woodhill**

263. Prisoners at Woodhill have ready access to the complaints procedures. Examination of these has shown a very small number of these complaints are about allegations of provocation by members of staff. Where such a complaint is made, this will be carefully examined in order to assess whether any grounds exist to justify the allegation. In the event that evidence of staff misconduct is identified appropriate action will be taken.
264. To the knowledge of staff at Woodhill, no allegations have been made by prisoners of failure by them to access the Personal Officer. The Governor is satisfied the Personal Officer Scheme ensures a back-up Personal officer is identified for prisoners to contact in the event the specified Personal Officer is absent from the prison on annual leave, rest days, through sickness or for other reasons.
265. The effectiveness of the Personal Officer Scheme at Woodhill is measured by reference to inspections undertaken by HM Chief Inspector of Prisons, the *Measuring the Quality of Prisoners Lives* (MQPL)<sup>14</sup> assessments, prisoner complaints and the Independent Monitoring Board. Woodhill prison has received many

<sup>13</sup> PSO8460 Conduct and Discipline – Professional Standards Statement refers

<sup>14</sup> Measuring the Quality of Prison Life (MQPL) is a questionnaire survey designed to capture prisoners' perceptions of their quality of life in individual establishments. Developed at the Prisons Research Centre, University of Cambridge, through a lengthy and robust process of consulting prisoners and staff, it was formally adopted by the Prison Service in late 2002. The survey helps gauge whether prisons are delivering difficult to define qualities, such as looking after prisoners 'with humanity', and provide a source of operationally useful information about key aspects of life that are important to prisoners and staff alike. It's validity as a measure of differences between prisons is well-established.

“Thank You” cards and letters from prisoners and their families identifying specific officers that have been instrumental in changing a prisoner’s life for the better.

**(Paragraph 77) At the time of the visit, the CPT’s delegation heard from a number of prison officers of various grades about their concern that the proposed new “workforce strategy” would undermine the current career prospective for prison officers and make it more difficult to recruit qualified people to the post of prison officer. The CPT would like to be informed about the nature of the proposed changes in the “workforce strategy” and the impact envisaged.**

266. Throughout 2008, the National Offender Management Service (NOMS) sought to negotiate an agreed programme with trade unions to facilitate change linked to investment in pay and a guaranteed multi-year pay deal. That process failed to reach agreement, despite best endeavours and as a result the Prison Service Pay Review Body process is now under way. The proposals being considered at the time of the visit in November/December are therefore not being implemented in the form that was under discussion at the time. However, changes to some of Service’s workforce structures are still required and these are outlined below.
267. The requirement to deliver efficiency savings from workforce structures within public sector prisons remains essential to the Service being able to live within budget and remain competitive. The Chancellor’s budget statement in April 2009 emphasised the need for restraint in public spending. The Justice Secretary has also set out proposals for building new capacity in the prison system and to introduce greater competition.
268. The overarching aim is to give staff and managers the capability to deliver safe and decent prisons as efficiently as possible and to make the inevitable changes in a safe and controlled way. NOMS is therefore consulting on a package of reform proposals which will move the public sector Prison Service on an incremental basis to a more sustainable pay structure linked to a more efficient and flexible organisational structure. They do not affect the terms and conditions of service of existing staff.

#### Management Changes and Efficiencies

269. To support the move towards streamlined management structures in establishments NOMS has set an initial management benchmark of 19%, to be achieved incrementally over a number of years. NOMS recognises that different prisons may justify different management numbers due to their design, function, role etc. Governors will have flexibility on how they structure their management teams within this benchmark figure, and they will of course be consulting with staff and unions locally on implementation, in line with NOMS policies. To support the reduction in overall management costs, NOMS is preparing guidance on the flexible use of managers and senior managers, and will continue to develop the detail of how to deliver these changes without compromising standards or safety. It will be for Governors to determine the mix of custodial and other specialist managers they need to operate effectively. NOMS recognises that to achieve management reductions it will need to reduce unnecessary burdens currently placed on managers. NOMS has already reduced audit requirements, simplified the grievance and attendance policies, and is committed to streamlining operational policies to reduce unnecessary work.
270. NOMS has too many separate management layers which add unnecessary cost and complexity, and which limit the effectiveness of communication between management and staff. Senior Officers (SOs) will be retained as first line managers in uniform as we will ensure that they are given the necessary support in leadership and management development to operate effectively in this crucial line management role. Existing Principal Officers will continue to operate in their current roles, remaining in uniform on their current terms and conditions, and will continue to be valued in this work and supported, both in being able to be effective in their role and in their development. However, NOMS will no longer appoint to the Principal Officer grade. Governors will be expected to develop plans for ending any existing temporary promotions into the Principal Officer grade within a maximum period of one year.

271. New appointments to management grades above Senior Officer level will be to Manager F through the existing Job Simulation Assessment Centre processes.

### A strategy of harmonising pay and conditions across NOMS

272. NOMS has an objective to move gradually towards greater harmonisation of pay systems and terms and conditions of employment across the Agency. NOMS will respect the opinions of staff expressed through the recent staff ballots and has no plans to make changes to the pay framework or terms and conditions of service for existing staff. Instead, it will make incremental steps towards greater harmonisation through applying modernised terms and conditions to new appointments (either through external recruitment or promotion) with effect from 1 September 2009. Existing grades will be closed to new entrants from this date, with existing staff in their existing grades continuing to work as they do today on the same terms. NOMS will continue to invest in the development of these staff. There will be no changes to their employment framework in their current grades.
273. From 1 September, new terms and conditions will apply to all staff appointed through external recruitment or promotion. NOMS will consult with Trade Unions on the details of these terms. Broadly, they will:
- be based on a 37 hour week (many staff are currently contracted to 39 hours);
  - provide the opportunity for staff to contract up to a 41 hour week (as a permanent change to contract). Hours worked above 37 hours will be non-pensionable;
  - require that pay progression is based on meeting minimum performance standards and attendance;
  - establish an “unsocial hours” allowance to be paid where staff meet criteria. This will be distinct from basic pay and paid where criteria are met based on work requirements of the role; and
  - provide 25 days annual leave on appointment, rising to 30 days annual leave after 10 years service.

### Prison Officer Role

274. For existing prison officers, no changes are proposed to the existing framework and roles that staff can undertake in the grade. Existing terms and conditions will apply. Pay will be based on recommendations from the Pay Review Body. But for new staff appointed into the grade after 1 September 2009, NOMS intend to apply a change to the pay framework to better distinguish between the variety of job weights within the prison officer family.
275. Prisoner management, maintaining security, order and control are the core prison officer duties. The existing high standards of training for this role will be maintained, as will the requirement to reach NVQ level 3 in Custodial care as part of a new officer’s induction. Expected standards of competence will remain unchanged. However, prison officers are required to undertake a range of activities and roles, to a varying degree of difficulty, in different establishments. Some of these activities and roles require a greater level of skill and a higher level of responsibility. This includes offender management supervisor work, handling informants, working with the most difficult prisoners who are segregated, physical education instruction, delivering interventions and prisoner activities and helping to prepare prisoners for release.
276. Moving forward – and for new starters only after 1 September 2009 - NOMS will apply two pay bands within the new prison officer grade to better reflect the nature of the roles individuals undertake. It intends to introduce a JSAC-based gateway between the two prison officer paybands. It will consult on the nature of the

roles that will sit within each of the two paybands emphasising that the core prison officer tasks will be undertaken by all within the grade, to today's standards.

277. NOMS expects the equivalent pay figures within these two pay ranges broadly to fall initially within the existing prison officer pay range. In future, pay for existing staff in the closed grades, and – from 1 April 2010 - new staff in these new grades, will be based on recommendations from the Pay Review Body.
278. These proposals are consistent with NOMS strategy to modernise its employment framework and ensure the public sector can remain competitive. They are based fundamentally on maintaining existing standards in training, with all prison officers continuing to be at a standard at least equivalent to that expected today. They respect the terms and conditions of existing staff.
279. NOMS has commenced consultation with trade unions on the detail of these proposals.

### c. complaints

**(Paragraph 79) There is no way of tracing whether a complaint reached its destination and no record that prisoners actually received a response to their complaint... In several cases at Manchester Prison, no record of the complaint was found in the complaint management unit even though the prisoners themselves possessed a copy of the complaint. Not only was the individual complaint not addressed but the prisoner was prevented from pursuing the complaint, in due course, with the Ombudsman. Further, in a few cases the prisoner's complaint had been upheld but no subsequent action had been taken. For example, at Manchester Prison, an inmate had complained that a religious newspaper should not be counted as a book and should be distributed even if the prisoner possessed the full quota of books permitted. The complaint was upheld but certain prison officers continued to count the newspaper as a book. Many of the prisoners met by the CPT's delegation stated that they did not have faith in the complaints system and so did not make complaints, despite the multitude of formal opportunities that existed. The anecdotal evidence on the wings was that making a complaint achieved nothing. The CPT recommends that the United Kingdom authorities take steps to improve the functioning of the complaints systems, in the light of the above remarks. The CPT considers that statistics on the types of complaints made should be kept as an indicator to management of areas of discontent within the prison.**

280. The current guidance on how staff should respond to complaints from prisoners' is set out in Prison Service Order (PSO) 2510. The purpose of the complaints system is to ensure that prisoners' requests and complaints are dealt with fairly, openly and humanely, and PSO 2510 helps to ensure that the National Offender Management Service meets these obligations.
281. However, guidance on its own cannot produce an effective complaints system which has the confidence of those who use it. Staff should possess the necessary skills to enable them to handle everyday requests, defuse problems before they become complaints and resolve minor complaints in a positive way before they become serious. It is for Prison Governors to take measures to ensure that an effective and consistent complaints procedure is in place within their individual establishments.
282. There is at least one complaints clerk in each establishment, responsible for centrally registering all complaints and logging subsequent stages. Whether an establishment's complaints procedures work properly will depend to a great extent on whether the complaints clerk carries out his or her duties effectively. It is their responsibility to compile a monthly statistics sheet based on the monthly log of complaints and send this information to the establishment's Senior Management Team (SMT). The SMT should use this data to indicate where there are particular problem areas and take appropriate remedial action if required.



## Wandsworth

283. Between December 2008 and July 2009 Wandsworth received 866 complaint forms from prisoners. Wandsworth ensure that the mandatory actions and guidance set out in PSO 2510 are adhered to. The number of complaints are broken down monthly to provide information by prison wing and by subject matter and monitored by Wandsworth's Senior Management Team, again on a monthly basis.

## Manchester

284. Manchester prison has in place a robust system for tracing the progress of complaints once those complaints are submitted by prisoners. This is done by way of a comprehensive log that is both maintained and monitored. Every complaint made by a prisoner receives a unique number to assist in its identification. The complaints log does not only identify progress but will also show when a complaint is responded to.
285. Prisoners at Manchester are not prevented from pursuing complaints. Indeed, were such impediment put in place they would have the opportunity of raising the matter either with the Director of High Security by means of confidential access or by complaining to the Prisons and Probation Ombudsman.
286. Between 1 January 2009 and 31 August 2009, Manchester received 1,956 complaint forms from prisoners. The number of complaint forms received and responded to within timescales is presented to Manchester prison senior management on a monthly basis. A report on complaints made at Manchester prison is submitted to the Director of High Security each month, in line with the procedure followed by all High Security prisons. This is to ensure the prisons concerned meet their expected performance target.
287. The CPT commented on a specific complaint from a prisoner about a religious newspaper. The complaint was upheld and the system has been changed to reflect this. It was agreed with the Imams on 5 May 2009 that the newspaper should not be counted as a book borrowed from the library. Newspapers are shared among prisoners. It only becomes an individual copy should the prisoner pay for it. A staff information notice is being published to this effect.
288. The quality of responses given are monitored, and again subject of examination by the Prisons and Probation Ombudsman should the prisoner take issue with the content of the response.

## Woodhill

289. Woodhill prison also has in place a robust system for tracing the progress of complaints submitted by prisoners. Each complaint receives a unique number and for that reason the progress of a complaint can be traced. Between 1 January 2009 and 31 August 2009, Woodhill received a total of 2,076 complaint forms from prisoners.
290. All complaints received by Woodhill are answered. Regular and effective management attention to this process ensures that the system is adequately monitored. Prisoners are not prevented from making complaints as the number so far received in 2009 highlights.
291. In early 2009 a number of complaints made about the quality and quantity of meals led to a review of meals provided by the kitchen.

**d. access to religion**

**(Paragraph 80) The CPT recommends that the good practice observed at Woodhill Prison of promoting an increased understanding of Islam to be supported and replicated in other prisons.**

292. Prison Service Order 4550 has enshrined, in considerable detail, the means and resources for those prisoners who wish to practice their faith to do so.
293. The good practices identified at HMP Woodhill are already the standard practice at nearly all of the 142 prison establishments. Local measures are in place to ensure Muslim prisoners have warm food to break their fasts during Ramadhan. In addition, most prisons enable Eid ul Fitr to be celebrated, as they do for all major religious festivals of the major faiths. And most Muslim Chaplains run various Islamic classes for prisoners. The National Offender Management Service is in the process of setting up a national syllabus for these classes and a book of Friday sermons as guidance for Muslim Chaplains, helping to fulfil their roles.
294. The excellent Muslim Chaplain at HMP Woodhill, together with the outstanding Chaplaincy team and Coordinator, have done much to put into practice these guidelines, and have demonstrated a robust stance against extremism, by clearly showing harmonious working together of clerics from different faiths.

**e. foreign nationals**

**(Paragraph 82) The delegation met a number of foreign nationals who were being held in prison under the 1971 Immigration Act a considerable time after their sentences had expired. Such persons, if they are unable to be deported at the end of their sentence, should be transferred to a facility designed to provide conditions of detention and a regime in line with the status of immigration detainees.**

295. The UK Border Agency (UKBA) makes every effort to ensure that a foreign national prisoner's removal by deportation coincides, as far as possible, with his or her release from prison on completion of sentence. Where a detainee refuses to cooperate with the removal or deportation process, detention may be prolonged. The Courts have supported this position.
296. Foreign criminals subject to deportation action are detained under Immigration Powers upon the expiry of their criminal sentence pending removal or deportation from the UK. However there may be delays in the deportation process if foreign national prisoners do not fully co-operate with the documentation process. Failing to answer questions or providing false information will prevent or delay the UK Border Agency obtaining a travel document to facilitate their removal.
297. An individual's detention is reviewed on a regular basis by a senior manager at a level appropriate to the length of detention. The majority of those whose detention needs to be maintained post sentence pending their deportation are transferred from prisons to be detained in the UK Border Agency Removal Estate. In some instances, it is necessary for certain individuals to remain in prison (despite their detention under Immigration Act powers). This may be for reasons of security or control and where it is assessed that those concerned are not suitable for the more relaxed regimes provided in immigration removal centres. A protocol agreement between the UK Border Agency and the Ministry of Justice reflects the types of offenders concerned.
298. A breakdown of the time served by foreign national prisoner's in individual prisons is due to be published in response to a Freedom of Information (FOI) request by the Ministry of Justice (MoJ) with Ministers approval. It would be inappropriate to disclose this to the Committee before that information has been put into the public domain.

## C. Young Offender Institutions and the detention of juveniles

### 1. Preliminary remarks

(Paragraph 84) At the outset of the visit, the CPT's delegation was informed about a number of measures contained in the Crime and Justice Act 2008, which aim to increase the use of alternatives and diminish recourse to detention for juveniles. Particular mention was made of the intensive supervision period being increased from three to a maximum of 12 months, thus providing judges with an alternative measure to custody. A further initiative mentioned by several interlocutors, including the Justice Secretary, was an intensive fostering scheme based upon a model used in Oregon, United States of America. Further, local authorities are to shoulder more responsibility for young people through promoting a joined up approach between education, health, welfare and policing to prevent offending on the one hand, and to provide resettlement and after-care for juveniles leaving custody on the other hand. These are positive developments. However, their effectiveness will depend upon the Youth Justice Board being provided with the necessary funds to support these programmes. Public service efficiency savings should not result in these non-custodial programmes being cut back. The CPT recommends that the authorities pursue with vigour their efforts to reduce the number of juveniles being placed into custody. The CPT would like to receive further details of the various initiatives referred to above.

299. The Government strongly believes that young people should only be sent to custody as a last resort, where non-custodial interventions have failed or when a young person is such a persistent or serious offender that the court decides that the public needs protection.
300. The Government is committed to reducing the number of young people in custody and has greatly strengthened and expanded the range of non-custodial sentencing options available to the courts. The current approach to community sentences is underpinned by the belief that if they are to provide a genuine alternative to custody, they must be strong, effective, and command public confidence. They must tackle offending behaviour, address educational and social problems, encourage the young offender to take responsibility for their behaviour, and make reparation to the victim or community where appropriate.
301. The Youth Rehabilitation Order (YRO), legislated for in the Criminal Justice and Immigration Act 2008, will be introduced from autumn 2009. It is designed to combine existing sentences into one generic sentence and will be the standard community sentence used for the majority of young offenders, replacing nine existing community sentences. It will offer practitioners and sentencers greater clarity and flexibility in the community sentencing framework and provide a more risk based approach to community sentencing for young offenders. It will also offer enhanced transparency as the requirements attached to the sentence indicate what the young offender's sentence actually entails. The YRO provides a menu of interventions including programmes, reparation, treatment for mental health and drug or substance misuse, supervision and curfew, which the court can choose from to suit the individual offender taking into account the seriousness of the offence and the needs of the offender.
302. The YRO specifically provides for two high intensity requirements that can only be given as direct alternatives to custody.
303. **The Intensive Supervision and Surveillance requirement (ISS)** is the most rigorous non-custodial intervention available for young offenders. This requirement combines surveillance to disrupt offending behaviour with intensive supervision consisting of highly structured, individual programmes to tackle the causes of offending behaviour – including education and training, inter-personal skills and family support. Surveillance consists of an electronically monitored night time curfew. ISS lasts for six months and combines a high level of community-based surveillance with a comprehensive and sustained focus on tackling factors

that lead to offending. Participants are subject to a minimum of 25 hours a week of supervision for the first three months, with a particular focus on education, offending behaviour programmes and restorative justice. At the moment ISS exists purely as a programme which can be attached to a supervision order or community rehabilitation order; once the YRO comes into effect, ISS can be attached to a YRO as a requirement, therefore placing it on a statutory footing.

304. **Intensive Fostering** provides specialised, highly intensive care for a serious and persistent young offender who might otherwise face custody and whose home environment directly contributes to their offending behaviour.
305. Intensive Fostering is targeted at the most disaffected, disengaged and excluded young people. Professionals work with and support the birth/adoptive family to increase the effectiveness of their parenting skills and to facilitate their return post-placement. Foster carers have been carefully selected and trained to work with young people in a nurturing environment, acting as an advocate and helping to establish and strengthen family relationships.
306. Intensive Fostering can be attached to a supervision order and is being piloted in three areas. Again, once the YRO comes into effect, intensive fostering can be attached to the YRO as a requirement (only where it is available). The pilots began in March 2005 and funding from the Children's Plan is allowing the pilots to be extended over the next three years. This extension is allowing the expansion of the current pilots from 13 to 26 places and the establishment of an additional pilot this year.
307. The Government believes that local authorities should take more responsibility for the prevention of offending and re-offending by young people and we are taking forward a programme of work to strengthen and enhance their role.
308. The Government is working closely with colleagues on the next stages in the development of Children's Trusts and is currently taking forward proposals, in the Apprenticeships, Skills, Children & Learning Bill, to strengthen the statutory basis for Children's Trusts including providing for a statutory children's trust board. These provisions will include extending the ownership of the local Children and Young People's Plan to all relevant partners, including YOTs. This means that YOTs will be able to influence planning for children's services within their local area and will ensure that young offenders and those at risk of offending remain a key priority and are factored into the commissioning of services within the local area. Revised guidance on the role of Children's Trusts, the Children and Young People's Plan and statutory guidance on the role of Lead Members and Directors of Children's Services have all been strengthened to include key Youth Crime Action Plan commitments. In particular these emphasise the role Local Authorities must play in providing effective resettlement services for young people leaving custody.
309. To support this, the Government announced an additional £8.4 million in August 2009 to improve resettlement for young people leaving custody. This funding is being used to assist and develop integrated resettlement support in an additional 54 areas with the highest custody rates and to support the development of regional resettlement consortia. This resource will further help to secure more effective and sustainable local accountability for this group and a more strategic response from local commissioners and providers, particularly in the areas of housing, health and education/training.

310. As part of the Apprenticeships, Skills, Children and Learning Bill the Government is taking forward two other key pieces of legislation which will enhance the accountability of local authorities in addressing youth crime. It is legislating to make local authorities responsible for education and training for children and young people in juvenile custody. This change will bring the education young people receive in custody more in line with the education received by their peers in the mainstream, thereby fostering an improved curriculum offer to better meet young peoples' personal needs, providing greater consistency of provision and support across transitions, and ensuring better quality provision.
311. In the Youth Crime Action Plan (July 2008) the Government consulted on making local authorities responsible for the full cost of Court Ordered Secure Remands. There is a possibility that giving local authorities the responsibility for the custodial budget could encourage them to invest in both alternatives to custody and early prevention activities as these will be more cost effective than a custodial placement. However, the Government recognises that this is a complex issue and the Youth Justice Board is exploring the possibility of devolving custodial budgets for young people to local authorities. This includes a consideration of devolving the costs of Court Ordered Secure Remands as set out in the Youth Crime Action Plan.
312. The Government is also legislating to provide powers to Ministers to intervene in failing YOTs. The Government is clear that there is no room for failure when it comes to protecting the public from crime. If a YOT has serious problems, then the public has a right to expect local councils to take decisive action. However, if the local council fails to take effective action, then the Government will. At present, the Government's ability to intervene is limited; we want to change that for the future should it ever prove necessary to intervene.

**(Paragraph 86) The CPT is concerned by the number of incidents involving inter-juvenile violence, which required use of force by staff to end. The CPT recognises that the population of Huntercombe YOI poses specific challenges. Nevertheless, increased efforts need to be made to enable staff to foresee potential flash points and to take the necessary pre-emptive action. For example, one juvenile who was involved in a fight in a classroom with another juvenile was able to carry on his dispute the following day when the two young persons met during association. In the intervening period no discussion with the two juveniles had taken place about the first incident or to ascertain whether the dispute was over. The CPT would appreciate the comments of the United Kingdom authorities on inter-juvenile violence at Huntercombe YOI, in light of the remarks above.**

313. Huntercombe staff make every effort to resolve disputes between young people as quickly as possible and, when necessary, to ensure contact between antagonists is minimised as much as the environment realistically allows.
314. Huntercombe's Violence Reduction Coordinator uses a raft of measures to constantly monitor incidents, including the time and place of occurrence, for any emerging trends and to ensure actions can be taken to minimise further events. This data forms part of a violence reduction report which is reviewed and discussed at the monthly violence reduction committee meetings.
315. Bids have been submitted to further increase the coverage of CCTV equipment, including external areas. Huntercombe is awaiting the result of this process.
316. Following the Independent Review of Restraint<sup>15</sup> the National Offender Management Service is taking forward a number of work streams to consider how best current behaviour management techniques can be built upon. This includes:

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<sup>15</sup> The Review examined the policy and practice surrounding the use of restraint across young offender institutions, secure training centres and secure children's homes.

- examining the suitability of a number of behaviour management systems which focus on conflict resolution and restraint minimisation for use in the Young People's estate;
- consulting with Cornell University, who own the intellectual property rights to therapeutic crisis intervention, to examine the suitability of a behavioural management/restorative justice approach that is already being used in a Secure Training Centre, and;
- consulting a range of professionals and practitioners with experience of working with young people including a child and adolescent focused psychiatrist who works within a young persons secure unit.

## 2. Material conditions

**(Paragraph 87) Ventilation [in the cells] was somewhat restricted and the cells were rather cramped (7m<sup>2</sup>), especially bearing in mind that a juvenile could spend a considerable period of the day locked in one, especially between Friday afternoon and Monday morning. Further, it would be desirable for the toilet and sink to be equipped with a partition.**

317. Prison Service Order 1900 sets out the current space and privacy requirements for both crowded and uncrowded conditions. These have been implemented through a long-term programme to install modesty screens in multi-occupancy cells.
318. A feasibility study on the installation of privacy screens in single cells has been carried out and the recommendations are currently being considered. All cells on the Mountbatten wings at Huntercombe already have privacy screens installed.

**(Paragraph 88) The CPT was very concerned to learn that outdoor exercise had not been offered on a regular basis for several months. Further, the current (theoretical) provision of 30 minutes per day is totally inadequate. The CPT recommends that all young persons at Huntercombe YOI be offered a minimum of one hour of outdoor exercise every day and, preferably, considerably more. Further, provision should be made to enable outdoor exercise to take place during inclement weather.**

319. A full purposeful regime is provided to young people at Huntercombe. Although it is not possible to guarantee delivery of one hour of outdoor exercise every day, staff remain committed to increasing opportunities for time in the fresh air, and to this end are currently undertaking risk assessments to allow exercise yards to be used during periods of association, including during times of inclement weather.
320. The young people who need to go off the wings to attend their morning and afternoon activities do spend approximately 30 minutes in the fresh air. The existing core day does not allow formal exercise periods. This matter has been addressed in the revised staff profiles and shift patterns which are planned to be introduced before the end of 2009.
321. The Physical Education (PE) programme at Huntercombe enables young people to attend a range of recreational, competitive, individual and team activities for between 5-7 hours per week on average, including outdoor pursuits such as walking, climbing, camping and canoeing. Introductory classes for non-gym users are available most evenings and the majority of participants join normal PE activities after 2 sessions. There are also specific classes scheduled for young people with healthy lifestyle and/or substance misuse issues.
322. An extensive range of progressive education/vocational and sports skill improvement courses are available including GCSE PE, and the establishment regularly enjoys successful outcomes in Duke of Edinburgh delivery with students achieving the full Bronze Award. Team building sessions are also delivered in conjunction with the establishment's offending behaviour programmes.

323. The PE timetable at Huntercombe is integrated with the education timetable to ensure all young people on the education timetable have a minimum of 3 daytime PE sessions per week. Evening PE sessions are linked to the Incentives and Earned Privileges (IEP) scheme to enable young people on enhanced status to be given priority to attend, and the remaining spaces are allocated to others on a rota system.
324. A PE Review, completed in October 2008, recommended an increase in PE activity hours. This has been implemented and has resulted in even greater use of the all weather artificial pitch, with activities arranged for every weekday. All young people also have the opportunity to participate in outside football on one of 6 weekend sessions. The Review's recommendation to increase the variety and range of PE activities has also been implemented. All young people now have the opportunity to attend evening squad sessions for Basketball, Volleyball and Football, thus allowing them to attend a 6-week rolling programme to learn and develop skills regardless of ability, aptitude or experience. A variety of organised team sports activities are also offered to young people attending as part of the daytime education timetable, and Bank Holiday team sport competitions are a regular feature.

**(Paragraph 89) The CPT's delegation received many complaints concerning both the quantity and the quality of the food. Most of the complaints were directed towards the breakfast pack and the baguette lunch. The CPT recommends that the breakfast packs and baguette lunches be reviewed as to their sufficiency. Staff shortages meant that young persons usually collected their meals from the servery and ate alone in their cells. Efforts should be made to install a regular practice of communal evening meals.**

325. A nutritionist has been appointed at Huntercombe YOI and significant improvements have been achieved in both the quality and quantity of food available, including the addition of healthy options such as fruit and home made soup.
326. Over 80 percent of evening meals now take place communally following an increase in staffing levels.

**(Paragraph 89) The CPT would also like to be informed whether a nutritionist has now been recruited at Huntercombe YOI.**

327. As mentioned above, a nutritionist has been appointed at Huntercombe YOI.

### 3. Regime

**(Paragraph 90) The reduction of the core week to four and a half days across the prison estate is particularly detrimental for juvenile inmates. Instead of being engaged in purposeful activity, juvenile inmates now spend most of their time between Friday midday and Monday morning locked in their cells. From the delegation's observations at Huntercombe YOI, such a regime is not conducive to the well-being of the inmates. The CPT recommends that the United Kingdom authorities reinstate the five day core week in juvenile establishments.**

328. The introduction of the standard core day does not apply to staff working with young people. With the introduction of the new education contract, a full regime now operates on a Friday afternoon. A regime of daytime activities such as on wing association/domestics, domestic visits, religious services and gym sessions takes place over the weekend. Evening activities, as per guidelines, do not take place at the weekend, only midweek.

**(Paragraph 91)...there were too few courses which resulted in a certificate. Nevertheless, it should be noted that most of the young persons had previously been excluded from school at some time, and many had poor reading and writing abilities. Some attempts were made to combine literacy and numeracy learning with practical courses in order to provide a more stimulating learning environment. However, many young persons were not interested in class work and behaviour in class could rapidly deteriorate once the boys became bored. Young persons attending classes in their residential units were particularly critical. Efforts should be made to ensure young people do not spend most of their day confined to their unit but instead are offered activities on a daily basis outside the unit. The authorities are also encouraged to pursue their attempts to provide a more stimulating learning environment for the profile of young persons held in Huntercombe YOI.**

329. Every effort is made to provide an appropriate regime to meet the individual needs of all young people at Huntercombe. In December 2008, a report by the Chief Inspector of Prisons & OFSTED said *"The provision of vocational education and training had increased by 28% since the previous inspection and accreditation achieved by young people had also increased significantly. Young people gained qualifications in a range of subjects and had achieved over 50 GCSE passes, some at higher grades. The curriculum was well planned and provided an appropriate mix of academic, practical and vocational subjects."*

330. The new education contract has reduced the number of classes that have to be undertaken in the residential units. It has not been possible to move all classes to the education facility as there is insufficient space. Safeguarding issues also mean that some young people prefer or are required to receive lessons in their residential unit. All young people are offered regular access to the gym which requires them to go off-wing.

331. Literacy and numeracy are taught as specific classes as well as being integrated into vocational training courses. Huntercombe and its education provider are aware of the importance of providing this to young people.

332. All CfBT courses are now accredited. Accreditation is currently offered in Waste Management and Gardens. Other accreditations are currently being developed.



**(Paragraph 92) In terms of physical activities, young persons could go to the gym once a week as part of the educational programme and on two evenings a week for one and a half hours; evening gym was a privilege which could be stopped as part of a disciplinary punishment. There was also a football pitch; however, it was rarely used and, more generally, it appeared that there were limited organised team sports activities. The CPT recommends that inmates at Huntercombe YOI be provided with more opportunities for physical activities; for example, through greater use of the outdoor exercise yard and the organisation of more team sports.**

333. Huntercombe recognise there is scope for increased use of the outside exercise yards and are examining ways to incorporate this into daily activity schedules. A Physical Education (PE) Review, completed in October 2008, recommended an increase in PE activity hours. This has been implemented and has resulted in even greater use of the all weather artificial pitch, with activities arranged for every weekday. All young people also have the opportunity to participate in outside football and tennis sessions.
334. The Review's recommendation to increase the variety and range of PE activities has also been implemented. All young people now have the opportunity to attend evening squad sessions for Basketball, Volleyball and Football, thus allowing them to attend a 6-week rolling programme to learn and develop skills regardless of ability, aptitude or experience. A variety of organised team sports activities are also offered to young people attending as part of the daytime education timetable, and Bank Holiday team sport competitions are a regular feature.
335. The PE timetable at Huntercombe is integrated to ensure all young people have a minimum of 3 daytime PE sessions per week. Evening PE sessions are linked to the Incentives and Earned Privileges (IEP) scheme to enable young people on enhanced status to be given priority to attend, and the remaining spaces are allocated to others on a rota system. Introductory classes for non-gym users are available most evenings and the majority of participants join normal PE activities after 2 sessions. There are also specific classes scheduled for young people with healthy lifestyle and/or substance misuse issues.
336. An extensive range of progressive education/vocational and sports skill improvement courses are available including GCSE PE, and the establishment regularly enjoys successful outcomes in Duke of Edinburgh delivery with students achieving the full Bronze Award. Team building sessions are also delivered in conjunction with the establishment's offending behaviour programmes.

**(Paragraph 93) The CPT encourages the United Kingdom authorities to seek ways of offering young persons more purposeful activities during their association periods.**

337. Prison Service Instruction 28/2009 'The care and Management of Young People' states that 'The establishment must offer opportunities for each young person to develop social skills and interests by providing a range of recreational opportunities, including association (constructive leisure) suitable for the age group which are appropriately led, supervised and structured'. All young people at Huntercombe are offered frequent access to the gym, and outside activities such as football and tennis are regularly available.
338. On the residential units during association periods, young people can watch TV as well as play table tennis, table football and air hockey. The outside residential unit exercise areas will also come into use with the introduction of the new staff profiles in 2009.

#### 4. Staffing issues

**(Paragraph 94) At Huntercombe YOI, the staff shortages were inevitably having a negative impact on the regime. Further, the shortages were no doubt a contributing factor to the overly security-oriented approach towards the young persons. The CPT recommends that all necessary steps be taken to ensure that staffing levels at Huntercombe YOI are sufficient to provide a full regime.**

339. Staffing levels at Huntercombe have increased and there are now only a few officer grade vacancies. As a result, a full regime can be provided each day and during the majority of evenings.

**(Paragraph 95) ...the seven-day Juvenile Awareness Staff Programme (JASP) would not appear to be sufficient to prepare staff for working in such an environment. The delegation was also informed that not all staff completed the JASP and that there were no follow-up or refresher courses. The CPT recommends that the United Kingdom authorities take the necessary steps to ensure that a rigorous selection and training programme is in place for all staff allocated to a Juvenile YOI; JASP should be reviewed and all staff should be offered follow-up and refresher training.**

340. The Juvenile Awareness Staff Programme (JASP) is a modular programme designed specifically for staff working directly with young people for 50% or more of their time. The Youth Justice Board have assessed JASP as fit for purpose and are currently revising the core modules on behaviour management and mental health.

341. As part of the Government's response to the Independent Review of Restraint, all staff working with young people will be trained in JASP. Staff assigned to young people's establishments participate as early as possible in JASP following completion of their Prison Officer Entry Level Training (POELT). In addition to POELT and JASP, staff within young people's establishments may have the opportunity to obtain a national vocational qualification in custodial care and/or one or more of a range of effective practice awards.

342. In addition, NOMS recognises the need to develop a selection and training strategy for staff working with young people. In taking this forward NOMS has:

- established an internal working group to consider how best to attract, recruit, train and support staff;
- set up a joint NOMS/Youth Justice Board (YJB) workforce development steering group;
- designed a job simulation assessment centre which will identify suitable candidates to work with young people;
- commenced work to develop an induction programme for all governors and senior managers who will work within the young people's estate.

343. Huntercombe is on target to achieve its agreed training targets for staff trained in the JASP and JASP 2 courses.

344. In addition, following the publication of the independent review of restraint in juvenile secure settings in December 2008, Ministers have approved the introduction of conflict resolution training for all officers working in young people establishments. It is anticipated that this may involve an initial eight days training for all staff with regular annual refreshers.

**(Paragraph 96) The CPT...concurs with the recommendation made by the Independent Review of Restraint in Juvenile Secure Settings that: “YOIs should be designated a specialist system within the Prison Service with their management a discrete specialism. Career opportunities should be created for managers and staff which reward their expertise in working with young people.” The CPT would like to be informed about the concrete steps being taken to implement this recommendation.**

345. A dedicated Young People’s Estate within Young Offender Institutions, commissioned by the Youth Justice Board, provides regimes tailored to the needs of young people between the ages of 15 and 18. The setting up of a separate secure estate in which young people do not mix with older prisoners has been a significant achievement and put the United Kingdom in a position to withdraw the reservation against Article 37 (c) of the United Nations Convention on the Rights of the Child, which it entered when it ratified the Convention in 1991. The ethos of Young Offender Institutions, and the skills of the staff who work in them, are specifically focused on young people’s needs.
346. NOMS is also aware of the Government’s 2020 Children and Young People’s Workforce Strategy and is considering how these requirements can be suitably achieved. In completing this work NOMS will be mindful of the next steps identified in the Department for Children, Schools and Families publication ‘Building Brighter Futures’.
347. Specialist Staff will be considered as part of the joint NOMS/Youth Justice Board (YJB) Workforce Development Programme. Nevertheless, NOMS aims to ensure that all staff who work within the under 18 estate have skills specifically focused on addressing young people’s needs. The prison service is developing a workforce strategy, in conjunction with the YJB, to ensure recruitment processes identify the most suitable staff for working with young people. A campaign will seek to attract people with the qualities needed to carry out this challenging but rewarding role.
348. NOMS is working closely with the Children’s Workforce Development Council to continue to develop recruitment procedures for staff working with children and young people. NOMS is developing a workforce strategy in conjunction with YJB to ensure recruitment processes identify the most suitable staff to work with young people. A campaign will seek to attract people with the qualities need to carry out this challenging but rewarding role.

## **5. Health care**

**(Paragraph 98) The delegation noted that members of the health care staff appeared regularly to carry out custodial officer tasks; for example, taking part in strip searches when juveniles were admitted to the establishment. This is not appropriate... the health care service should be a discrete, independent service.**

349. Healthcare staff should not be directly involved in strip searches and would only attend if there was a Healthcare reason for this attendance.

**(Paragraph 100) At Huntercombe YOI, all young persons were seen by a nurse and/or doctor upon admission to the establishment. A second health care check-up was scheduled two weeks after admission but did not always take place. The delegation noted that hepatitis immunisation status was recorded upon admission at Huntercombe YOI but that there was no guaranteed follow-up of the required vaccination. These deficiencies should be remedied.**

350. All children receive a reception health screen on admission to an establishment, if any health issues are identified that require follow up then a secondary Healthcare follow up will be arranged. Due to

the high turnover of children in custody it is not always possible to ensure they receive any follow up vaccination, this would form part of their discharge letter.

## **6. Contact with the outside world**

**(Paragraph 102)...the entitlement was for a two-hour visit twice every four weeks. However, the conditions under which visits took place were not ideal. The visitor's centre was in need of refurbishment and did not provide much in the way of a welcome to families who had travelled extensive distances to make a visit. Visitors often had to wait for extended periods in the cold and rain outside the main gate before being let into the establishment. Further, they were provided with no privacy during the searching procedures. The visiting room itself was acceptable, if a little shabby. Requiring juvenile inmates taking part in a visit to wear a fluorescent sash was unnecessary, especially as they were allocated to a different coloured chair to that of their visitors. Also, the existence of a canteen as opposed to merely a refreshment machine would have contributed to a more animated and less sterile environment, as well as met the needs of those families that had travelled a fair distance. The CPT invites the United Kingdom authorities to take the necessary steps to improve the facilities and arrangements for visits, in light of the above remarks.**

351. Prison Service Order (PSO) 4410 requires the location for visits to be in reasonable decorative order and, wherever possible, provision to be made for the purchase of refreshments in or immediately adjacent to this area. Although there is room for improvement, the current arrangements at Huntercombe meet this need. Any future improvements will be subject to available funding. The education department is currently exploring ways to brighten up the visits room with displays of young people's work.
352. Huntercombe is looking at various options to improve the searching procedures and visitors facilities.
353. The vending machines were introduced following a number of incidents of conflict between voluntary canteen staff and visitors. The coloured sashes were introduced as a security measure but this policy is currently being reviewed.

**(Paragraph 103) The delegation was concerned about the pre-release preparations for providing care in the community. For example, they met a young person who had been in and out of secure children's institutions for several years. He did not mix with other young persons, self-harmed and had recently attempted to commit suicide. He also refused to take his anti-psychotic and anti-depressant medicine, but expressed a wish to see a psychiatrist when he left prison. His release was upcoming and as he was homeless with no support on the outside, he had requested to go and live in Leicester. The CPT's delegation was told that the local social services would find him accommodation (bed and breakfast) but he had no information about what awaited him upon release. The CPT would appreciate the comments of the United Kingdom authorities on this matter.**

354. The Government recognises that young people leaving custody are some of the most vulnerable young people in our society. Many have complex and wide ranging problems which require intensive support and access to services which can directly address their offending behavior and help break the cycle of offending. The provision of effective resettlement services requires the co-operation of a range of local agencies who can provide the on-going access to services. Access to suitable and sustainable accommodation is a pivotal part of the resettlement process and is critical to reducing re-offending.

355. Local authorities already have responsibility to ensure accommodation for children in need under Sections 17 and 20 of the Children's Act 1989. For children under the age of 16, there is a statutory obligation on the part of local authorities with social services responsibilities to provide accommodation and related support for those unable to live in the family home or with relatives. For 16 and 17 year olds, the situation is more complex, and depends on status. This means that statutory responsibility for eligible and relevant children, as defined by the Children (Leaving Care) Act 2000, lies with social services, as it does for young people who are deemed vulnerable and in need under section 17 and section 20 of the Children Act 1989. However, for young people aged 16 and 17 who do not meet these criteria, and are homeless through no fault of their own, the local housing authority has a duty to ensure that accommodation is available. The Government has set out how children's services and housing services should work together to ensure that suitable accommodation is in place for all 16 and 17 year olds. The Government is ensuring that all assessments of children in custody consider the family need and the support required to enable the child to return to their family on release and is also working to promote housing authority representation on the Youth Offending Team (YOT) management board and provide clear guidance on their role to improve young offenders' access to accommodation.
356. The Youth Justice Board (YJB) has been piloting the Resettlement and Aftercare Programme (RAP) for a number of years. The programme is based around a tailored plan targeting the needs of the individual. The primary aim of RAP is to assist and support those young people on the scheme to tackle their accommodation, education, training and employment needs. There are now 59 YOTs which have a RAP scheme in place, providing intensive support for over 2,000 young people each year leaving custody and on community sentences. The core RAP provision provides up to 25 hours of planned support and activities each week on a voluntary basis, including ongoing access to substance misuse and mental health treatment, support to access accommodation, education and employment. Part of the RAP objectives also includes peer and family support work.
357. The Youth Crime Action Plan (published in summer 2008) set out extra funding to develop and expand resettlement services building on the lessons learned from the YJB's existing RAP schemes. Additional funding of £8.4m is being provided in the next two years which will be used to assist and develop integrated resettlement support in local areas with the highest custody rates and will almost double the number of local areas in England and Wales with dedicated resettlement resourcing. In conjunction with Local Authorities, YOTs have developed local resettlement plans which focus on ensuring the provision of key practical priorities such as education, training and suitable accommodation. The Government recognises that Local Authorities must play a key role in the prevention of youth offending and re-offending, and our aim as part of this additional funding is that this support will be mainstreamed within LAs, ensuring a sustainable and effective approach to resettlement in the longer term. As detailed above wider work to strengthen the role of local authorities also includes a specific focus on the responsibilities of young offenders leaving custody.
358. The Government is also using some of this funding to establish and facilitate two regional resettlement consortia in the North West and South West of England. The consortia will promote closer working between custodial establishments, Youth Offending Teams, and across LA boundaries. This will enable enhanced information sharing about individual young offenders who cross LA boundaries, and provide the opportunity for joint planning and commissioning of resettlement services. We are providing expert support for the consortia, along with funding research to identify and evaluate the learning from this new approach, so that it can be shared with other parts of the country.

359. The Youth Justice Board is helping to support the development of a pilot resettlement unit at Feltham Young Offenders Institution in London, as part of the Mayor of London's reducing reoffending programme. The 30-bed unit will accommodate 15-18 year old offenders from six pilot London boroughs who must have shown some motivation to change, and have particular resettlement needs. The unit will have a discrete staff group working solely in the unit. They will act as mentors to the young people, with a particular focus on reducing re-offending through providing an enhanced level of support that will focus on effective resettlement. This will be delivered by introducing a higher than normal staff ratio. A dedicated resettlement broker service commissioned by the London Development Agency (drawing on the European Social Fund) working in partnership with YOTs, based in the community but working alongside staff in the unit has been established. It will ensure that there is continuity of services beyond custody and that local authorities are able to meet their statutory responsibilities. The programme commenced on 29 September 2009.
360. In Wales, the Youth Justice Board, together with the Welsh Assembly Government, is taking forward work to encourage the expansion of resettlement programmes to every youth offending service area in Wales. In addition, Resettlement Support Panels are being piloted in 6 of the highest custody YOTs in Wales, taking a panel-led, multi-agency approach to resettlement planning. Lessons learned from the pilot will be used to inform wider roll out in Wales and further development of resettlement services in England.
361. The Youth Crime Action Plan also aims to reinforce the role of children's services in overseeing resettlement provision as part of their ongoing responsibility for assessing and meeting all children's needs. This will ensure that adequate plans are in place prior to young people's release from custody. It should also include having a nominated senior officer in every local authority to ensure that there is continuity of provision through targeted youth support and mainstream services.

## 7. Good order and discipline

**(Paragraph 105) From the information gathered by the CPT's delegation, the regime in the Intensive Support Unit did not provide much in the way of intensive support – 20 minutes of outdoor exercise and access to the gym for 30 minutes (if well-behaved) were offered every day. The CPT recommends that the necessary resources be allocated to ensure that the ISU can live up to its name and provide a more developed regime to assist juveniles reintegrate rapidly onto mainstream accommodation units.**

362. The ISU runs a typical segregation unit regime that provides, dependent on each individual's behaviour, fresh air exercise on a daily basis, telephone access, some in-cell education and one-to-one work with teachers (although the amount offered is dependent on the number of young people on the ISU given the limited time available for it). Young people are also visited by the usual range of people<sup>16</sup> every day, and their personal caseworker and wing manager from their parent wing maintain frequent contact with them. Plans for their return to mainstream accommodation generally take the form of behavioural compacts with progressively improving regime entitlements, and are reviewed every Friday by a multi-disciplinary team.
363. Although the ISU currently operates more in line with a normal segregation unit, the ISU staff have an excellent record of working with difficult and challenging young people and returning them to mainstream location as quickly as possible. The ISU by design provides a basic regime as detailed above, and individual plans are put in place for each young person to address their specific needs and provide a strategy for their return to normal location.

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<sup>16</sup> This refers to prison staff, Barnardos advocates, Independent Monitoring Board members ect who would be in and around all parts of the prison.

**(Paragraph 106) The CPT considers that the routine practice of strip-searching of juveniles is a disproportionate measure, which could be considered as degrading. The CPT recommends that the United Kingdom authorities amend the relevant Prison Service regulations in order to end this routine practice of strip-searching and to introduce a strict policy of risk-assessed strip searches only.**

364. The Government does not consider the routine practice of strip-searching of juveniles to be a disproportionate measure. It is used to safeguard individuals, other young people and staff in these establishments.
365. Full searches are conducted by staff members of the same sex, out of view of both other staff members and other young people. The Youth Justice Board is currently looking at the practice of full searches in the under-18 secure estate in order to ensure that practice is proportionate and appropriate, and intends to take forward a number of actions following the conclusion of the full review of current policy and practice.
366. Currently, most establishments search a young person on reception and discharge. However, wherever possible, the use of full searches are determined by identified risks. These include:
- after visits;
  - following a room search;
  - following release on temporary licence; and,
  - on discharge.
367. It is for establishments to review levels and use of full searches and to identify areas for potential reduction.
368. There are no current plans to revise Prison Service regulations on strip-searching in the under-18 secure estate.

## **8. Use of restraint**

**(Paragraph 107) The CPT does not share the conclusion of the authors of [the independent Review of Restraint in Juvenile Secure Settings] that the use of manual restraint based upon pain-complaint techniques should be retained in juvenile establishments. The CPT recommends that the United Kingdom authorities discontinue the use in juvenile establishments of manual restraint based upon pain compliant methods.**

369. The behaviour of some young people in custody is extremely challenging and can put the safety of other young people and staff at serious risk. The use of physical restraint in juvenile establishments is only to be used as a last resort where all other options have not succeeded or could not succeed. This is made clear in the Youth Justice Board's code of practice *Managing the Behaviour of Children and Young People in the Secure Estate* and in relevant legislation, such as the Secure Training Centre Rules.
370. In July 2007, the Government commissioned a review into the use of restraint in the under-18 secure estate which reported to Ministers in June 2008 and was published along with the Government's response on 15 December 2008. The review looked at all of the options for managing the behaviour of young people in custody. They concluded – reluctantly – that in certain situations, pain-compliant techniques were the safest option for the young person and staff involved. Therefore, they recommended that such techniques should be available as a last resort, but they also recommended a series of safeguards to keep their use to a minimum. These include:
- improved training arrangements;
  - a new system for recording and reporting use of restraint;
  - mandatory accreditation of all restraint techniques used in the under-18 secure estate (as well as of training and trainers);

- the adoption of an overall behaviour management system to ensure that, wherever possible, situations of tension and potential conflict are defused without the need for restraint;
- greater use of closed-circuit television;
- the availability of independent advocates to assist young people in debrief interviews following a restraint incident; and
- greater involvement of Local Safeguarding Children Boards.

371. A new system of restraint for use in young offender institutions and secure training centres is currently being developed. The Government has asked the co-chairs of the review to act as external monitors of progress in implementing their recommendations and they have agreed to do that.

**(Paragraph 108) The delegation met a number of juveniles who had been restrained and they all complained of the painful techniques employed; particular mention was made of a nose grip whereby the nose was pulled back and a finger rubbed hard across the base of the nostrils. Any force used to bring juveniles under control should be the minimum required in the circumstances and should in no way be an occasion for deliberately inflicting pain. The CPT recommends that the United Kingdom authorities ensure that all custodial officers abide by this precept more particularly; the use of the nose grip should be discontinued.**

372. The Youth Justice Board's code of practice, *Managing Children and Young People's Behaviour in the Secure Estate*, makes it clear that physical restraint is only to be used as a last resort, where all other options have not succeeded or could not succeed.

373. The nose distraction technique is used to distract the attention of a young person while staff use approved holds, or in order to rescue a third party. It involves the application of pressure at the base of the nose in a forty-five degree angle toward the back of the young person's head in a short sharp burst. The young person's head is secured throughout the application of the nose distraction and pressure released whether or not it has been successful. The co-chairs of the independent review of restraint in juvenile secure settings recommended that the nose distraction technique should be withdrawn from use in young offender institutions and the Government has accepted that recommendation.

374. Since December 2008, the nose distraction technique has been suspended in secure training centres.

**(Paragraph 109) Documentation on each use of force was generally satisfactory, but it was not always evident as to why force was used. Given the necessity of ensuring comprehensive safeguards around the use of force, it would be beneficial that management review a sizeable proportion of the use of force paperwork each month. Further, monthly, quarterly and six-monthly reports on use of force should include the reasons why staff have used force, whether force has been used on a young person more than once and whether it has been deployed by a member of staff more than once. The CPT would appreciate the comments of the United Kingdom authorities on the above.**

375. A new restraint method is currently being developed for use in Secure Training Centres and Young Offender Institutions. This includes revision of the current Use of Force forms. The recommendations made by the CPT will be considered as part of this new restraint method and monitoring system.



**(Paragraph 109) The CPT would like to be informed whether there is a comparative analysis of the use of force in similar juvenile YOIs, relating to the frequency of the use of force, the reasons for its use, injuries sustained, whether its use was applied to a young person more than once ect..**

376. The Youth Justice Board is currently in the process of conducting a study entitled *Young People, Interventions and the Secure Estate*. The research focuses on a cohort leaving custody over a period of a year and includes a follow-up element. It will explore outcomes for young people in SCHs, YOIs and STCs. It will identify what types of interventions young offenders receive within SCHs, YOIs and STCs, describe the extent to which interventions are matched to young offenders' identified needs. It will describe the association between interventions received and positive outcomes or reconviction, elicit and describe young people's experiences within the secure estate, and assess the qualifications and expertise of staff within the secure estate. The detailed methodology for this project has been approved by Offender Management and Sentencing Analytical Services and the research is being carried out by the Institute for Criminal Policy Research (ICPR) and Ipsos MORI. The complete findings from this study are due to be published in 2012.

## **9. Complaints procedures**

**(Paragraph 110) The CPT invites the United Kingdom authorities to examine different ways for young persons to express any grievances they might have other than through the formal complaints system. At the same time, efforts should be made to encourage young persons to take advantage of the complaints system.**

377. The Youth Justice Board (YJB) has contracts with two national children's charities to provide advocacy services to children and young people being held in secure training centres and young offender institutions. These services are child-led and confidential, and intended to assist young people in accessing available services and resolving any issues affecting their care, through the appropriate use of existing procedures.

378. Advocates are encouraged to resolve issues at the lowest level. If a young person wishes to make a complaint, the expectation is that the advocate will direct the young person to the complaints process at the establishment.

379. The YJB is currently undertaking a review of the complaints system across the under-18 secure estate, and will ensure that this recommendation is considered as part of the review.

## **10. Transport of juvenile offenders.**

**(Paragraph 111) Many of the young persons met by the delegation explained that they too had spent many hours in escort vans, during which they were not offered any refreshments or given an opportunity to go to the toilet. It also appeared that young persons were often transported in the same vans as adult prisoners, and that the priority was to deliver them to prison before the young persons. This is not a new problem and has been documented in a number of HM Prison Inspectorate reports and raised frequently by both the establishment's management and its Independent Monitoring Board. The CPT recommends that concerted action be taken to remedy the unacceptable situation of juveniles spending long hours travelling in transport vehicles between prison and court.**

380. The Government recognises that young people sentenced or remanded to custody should be escorted safely, on time and separately from adult prisoners. The vast majority of young people are delivered to and from custodial establishments on time and in separate vehicles from any adult prisoners.

381. Under-18s being transported to YOIs may only be escorted in the same vehicle as adults in exceptional circumstances, for example when waiting for a separate vehicle would result in the young person arriving very

late at their destination. When this happens a young person is transported in a cellular vehicle ensuring segregation throughout the journey. The Youth Justice Board (YJB) has established clear minimum standards for transporting young people who have been sentenced to custody. Those standards were developed in 2003 following a review of transport arrangements and are child-centred.

382. These standards include the scheduling of comfort breaks into the journey plan for any journey of 2.5 hours or longer. The standards also require escort providers to have procedures in place for providing comfort breaks when required during any journey, regardless of length.
383. In 2008, the YJB commissioned a review of the escorting provision for young people and in conjunction with Prisoner Escorts Management and the private contractors who escort young people, the YJB is taking forward an action plan developed from the review which will also address some of the concerns raised by the CPT.

## **D. Immigration detainees (Harmondsworth Immigration Removal Centre)**

### **1. Preliminary remarks**

**(Paragraph 113) The average length of stay was 29 days but four persons had been in the centre for longer than 100 days, the longest stay at the time of the visit being 204 days; the delegation noted that recently one person had spent more than a year in Harmondsworth IRC.**

384. The UK Border Agency does not wish to detain anyone for longer than is necessary and is making every effort to ensure that detainees are returned to their country of origin within a reasonable period of time.
385. Although UKBA makes every effort to keep detention periods to a minimum, there can be delays in the deportation process, e.g. last minute legal barriers, difficulties in obtaining travel documents and the non-compliance of the detainees themselves. Where there are difficulties in obtaining documentation, these issues are taken up directly with the respective Embassy or High Commission.
386. The UK has now established safe routes and re-documentation arrangements with a significant number of countries to support our ability to return prisoners and other people at an improving pace. Those detained the longest are generally always prioritised in any removal exercises.
387. In all cases, detention will last only for as long as is reasonably necessary and whilst there remains a realistic prospect of removal within a reasonable period of time. What is considered reasonable would vary from case to case depending on the particular circumstances of each case.

**(Paragraph 114) The Centre is managed by Kalyx Services, a private contractor, on behalf of the UKBA. The delegation was informed that the contract had been re-tendered in 2008 and that a new company would take over the management of Harmondsworth IRC in July 2009. The CPT would like to be informed about the practical implications of this transfer of management in relation to staff and the regime and care afforded to detainees.**

388. Negotiations had been conducted for some months between the outgoing contractor, Kalyx, and the new contractor GEO.
389. GEO duly took over responsibility for running the centre on 28 June 2009. After a short period, members of staff who were no longer required were identified and their employment was terminated. Those who remained were either employed in their previous capacity or assigned new roles and responsibilities.
390. Full and comprehensive details of the regime expected under GEO have been received by UKBA, and meet the criteria laid down by UKBA. These may be summarised as follows:
- Educational - Art & crafts; ICT/basic skills, use of internet and e-mail; driving simulators; ESOL; personal fitness and exercise; food hygiene and first aid – all available every weekday, excluding bank holidays, 50 weeks of the year;
  - Sports & Recreation – PE (available throughout the unlock period every day of the year), sports and fitness activities, games, clubs (chess, drafts, dominoes etc), pool and table tennis, internet cafes, recreational library facilities, exercise periods in the open air, games consoles and discussion groups; and
  - Voluntary paid work activities.
391. The transfer from Kalyx to GEO has not affected the care afforded to detainees. A doctor conducts clinics on site and a nurse is on duty at all times. Detainees receive medical screening within two hours of their arrival at

the centre. Other services include: access to audiology services, mental health and psychiatric services, x-ray service, chiropody services, physiotherapy services, genito-urinary medicine services, counselling services, dental treatment and a visiting optician.

**(Paragraph 115) The Committee is aware that there have been a number of allegations of ill-treatment of immigration detainees by escort personnel, apparently during the deportation process<sup>17</sup>. Details of a number of these cases were brought to the attention of the Home Secretary in July 2008, who appointed Dame Nuala O'Loan to conduct an investigation into these allegations. The CPT would like to receive a copy of the final report and to be informed of any subsequent action taken by the United Kingdom authorities.**

392. The Home Secretary asked Dame Nuala O'Loan to review the investigations conducted in relation to allegations made in the *Outsourcing Abuse* dossier. Her report is expected by the end of 2009.

### **3. Health care**

**(Paragraph 119) No blood tests for transmissible diseases (blood borne viruses, sexually transmitted diseases, ect.) were carried out as part of the screening. In the interests of both detainees and staff, and also as a preventive public health measure, the CPT recommends that medical screening include testing for transmissible diseases.**

393. The medical screening documents used in removal centres are currently being reviewed. However, centres can and do provide screening for transmissible diseases and those identified as positive or those who are aware they are HIV positive are referred to a genito-urinary clinic. The unknown length of detention makes follow-up counselling difficult but centres would highlight this to anyone requesting a tests and ask them to consider the consequences of a positive HIV tests.

**(Paragraph 119) Harmondsworth IRC could benefit from the presence of a mental health nurse to follow-up on the treatment and care of detainees, especially those being treated by the psychiatrist. The CPT recommends that steps be taken to recruit a mental health nurse at Harmondsworth IRC.**

394. GEO employes one registered Mental Health Nurse. He visits the centre 3 days a week..

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<sup>17</sup> See *Outsourcing Abuse* – a report by Birnberg, Peirce & Partners, Medical Justice and the National Coalition of Anti-deportation Campaigns July 2008.

#### 4. Other issues

**(Paragraph 122) Refractory or violent detainees could be placed in temporary confinement in one of four cells in the care and separation unit (CASU) on the ground floor of Dove wing. Each cell contained a bed, toilet and sink; there was adequate access to natural light and artificial lighting and ventilation was sufficient. However, the size of the cells in the CASU (5.6m<sup>2</sup>) is scarcely adequate for periods longer than a few hours. The CPT recommends that steps be taken to enlarge the cells.**

395. The size of accommodation in new centres is larger than that at Harmondworth are larger. However, it is not practicable to enlarge the rooms in Harmondworth now. Use of the four rooms is rare and detainees held there are not considered to be unreasonably affected.

**(Paragraph 123) The delegation noted that nine detainees had alternated for 24 hours each time between the WASU and CSU over the course of several days, thereby avoiding the necessity to obtain the permission of the Secretary of State for prolonging their segregation. The CPT recommends that alternately placing detainees for 24 hours between the Care and Separation Unit and the Welfare and Support Unit, thereby avoiding the necessity to obtain the Secretary of State's permission for prolonging segregation, is to cease immediately.**

396. Alternating detainees between the Care and Separation Unit (CASU) and the Welfare and Support Unit (WASU) does not happen as a matter of course. It would only have happened on occasions where a detainee who has been placed in CASU due to his behaviour later became compliant and was downgraded to WASU. He may then subsequently have become refractory again. This does not result in an avoidance of authority. Each move in either direction is authorised in accordance with the statutory Detention Centre Rules 2001.

**(Paragraph 125) The UKBA informed the CPT that on 1 December 2008 there were 215 detainees, all of whom were former foreign national prisoners, who had been detained between 12 and 24 months in one or more IRCs. However, the CPT was told that the UKBA did not hold central management information in relation to the overall length of detention of detainees. Consequently, it may be possible for detainees to spend longer than two years in detention awaiting deportation.**

397. The UK Border Agency is making every effort to ensure that foreign national prisoner's removal by deportation coincides, as far as possible, with release from prison on completion of sentence. Each case is considered under its own merits and although UKBA endeavours to make a decision as soon as possible, some cases will take longer than others due to issues relating to refugee status, consideration of compassionate circumstances and further representations.

398. An individual's detention is reviewed on a regular basis by a senior manager at a level appropriate to the length of detention, to ensure that detention only lasts as long as it remains necessary. Those who are detained have always been able to apply to an independent immigration judge for bail.

**(Paragraph 125) One person at Harmondsworth told the delegation he had been in immigration detention for 30 months. This particular detainee was an Iraqi Kurd, who claimed that while he was willing to be deported back to Kirkup (northern Iraq), he refused to be sent back to Iraq via Baghdad.**

399. There is no part of Iraq to which the UK Border Agency does not remove. As a matter of policy, for purely practical reasons, UK Border Agency had until recently not enforced return to Baghdad.

400. Since 2005, the Agency has returned Iraqi nationals to the Kurdistan Regional Government (KRG) area. However, the authorities in the KRG only accept the return of people who originate from there. Kirkuk is not within the KRG area and people from that city can only be returned via Baghdad.

**(Paragraph 125) The CPT is concerned by the rise in the number of persons being detained for lengthy periods in IRCs; in certain cases, it would appear that there was little prospect of the persons concerned being sent back to their countries of origin. Continuing to hold a person in immigration detention in such circumstances would appear to be a disproportionate measure<sup>18</sup>, and the indefinite nature of detention could lead to deterioration in mental health. The CPT would appreciate the comments of the United Kingdom authorities on the rise in the number of persons being detained for lengthy periods in Immigration Removal Centres.**

401. The UK Border Agency does not wish to detain anyone for longer than is necessary and is making every effort to ensure that a foreign national prisoner's removal by deportation coincides, as far as possible, with release from prison on completion of sentence. There can however be some delays in the deportation process, e.g. last minute legal barriers, difficulties in obtaining travel documents and the non-compliance of the detainees themselves. Where there are difficulties in obtaining documentation, these issues are taken up directly with the respective Embassy or High Commission.
402. The UK has now established safe routes and re-documentation arrangements with a significant number of countries to support our ability to return prisoners and other people at an improving pace. Those detained the longest are always prioritised in any removal exercises. In all cases, detention will last only for as long as is reasonably necessary and whilst there remains a realistic prospect of removal within a reasonable period of time. What is considered reasonable would vary from case to case depending on the particular circumstances of each case.

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<sup>18</sup> The European Court of Human Rights held in *Chahal v. the United Kingdom* (judgment of 15 November 1996) that (§ 113) “any deprivation of liberty under Article 5 § 1(f) will be justified only for as long as deportation proceedings are in progress. If such proceedings are not prosecuted with due diligence, the detention will cease to be permissible ...”

## Northern Ireland

### A. Introduction

**(Paragraph 126) The CPT would like to receive further details regarding the process of devolution of responsibilities for criminal justice.**

403. The St Andrews Agreement of October 2006 set out the Government's view that it should be possible, through the full implementation of that Agreement, to build the necessary community confidence for the Assembly to request the devolution of criminal justice and policing by May 2008. In the event, the Northern Ireland political parties were unable to reach an agreement on devolution by that date. However, in November 2008 the First and deputy First Ministers announced an agreed process, the completion of which would see policing and justice powers transfer to the Northern Ireland Assembly. Since that time good progress has been made towards that goal, with the Northern Ireland Act 2009 providing the necessary legislative framework for the Assembly to move the process forward.
404. The next steps in the process are for the Assembly to legislate to create the new Department of Justice; a cross community vote in the Assembly seeking the transfer of powers; followed by Westminster approval of the legislation which will give effect to devolution. The UK Government believes that the benefits to Northern Ireland of locally accountable politicians assuming responsibility for policing and justice matters mean that the transfer should take place as soon as is practicable but decisions on the timing of devolution remain for the Northern Ireland Assembly.

### B. Police establishments

#### 1. Preliminary remarks

**(Paragraph 128) The PACE (NI) also includes a provision stipulating that any person attending on a voluntary basis a police station is always free to leave, unless he/she has been arrested. The CPT trusts that persons voluntarily going to a police station are informed that they are free to leave at any time.**

405. The PACE (NI) Code of Practice C paragraph 3.16 states that anybody attending a police station voluntarily to assist with an investigation may leave at will unless arrested. All persons attending police stations voluntarily are informed that they can leave at any time. This information is also confirmed in writing on form PACE 10 (Voluntary Attendance form). Every person attending voluntarily signs the form acknowledging that they have been informed of this fact and whether they have or have not requested legal advice. The person is provided with a copy of form PACE 10. Interpreter and appropriate adult services are available when required.

**(Paragraph 129) The 2007 Justice and Security (Northern Ireland) Act... also empowers members of the Armed Forces to stop, arrest and detain, for a maximum of four hours, persons<sup>19</sup> suspected of involvement in any offence, not just terrorism-related offences. The delegation was told that, to date, the Armed Forces had not made use of these powers, and it did not meet any person claiming to have been subjected to them. Nevertheless, in general, the CPT prefers law enforcement tasks to be carried out by well trained and properly equipped civilians rather than by members of the Armed Forces. The CPT would like to be informed of the reasons for giving such law enforcement powers to the Armed Forces, as well as the arrangements currently in place in this respect.**

406. These powers are *in extremis* powers which remain unused to date. The powers are designed to be used sparingly, enabling the military to effectively support the police, when required. The police remain primarily responsible for law enforcement tasks in Northern Ireland.

## **2. Ill-treatment**

**(Paragraph 132) The CPT considers that the criteria for any use of electro-shock weapons by police officers should at least closely correspond those governing the use of firearms; their use must therefore be thoroughly regulated and monitored. Furthermore, only specially selected and trained<sup>20</sup> police officers should be allowed to use such electro-shock weapons, and all necessary precautions should be taken when such weapons are used. The CPT recommends that the United Kingdom authorities take due account of the above criteria in their guidance on the use of Tasers.**

407. The current Association of Chief Police Officers (ACPO) Policy and Operational Guidance for police officers using Tasers is available at:  
<http://www.westmercia.police.uk/publications/acpoarmedpolicing.htm>

408. The very rigorous selection procedure for officers is fully set out in the guidance. Selected officers are trained in line with principles set out in the document *Operational Use of Taser by Authorised Firearms Officers*. These are that Tasers can only be used by specially trained units where officers face violence or threats of violence of such severity that they would need to use force to protect the public, themselves, or the person using or threatening violence.

409. Tasers will only be issued to specially trained officers who have successfully completed the approved ACPO training in the use of the device. The minimum time for initial training is 18 hours. A minimum of 6 hours refresher training is required each year. Detailed instruction on the characteristics, operation and use of Tasers is provided in the training module.

410. The Home Office Scientific Development Branch (HOSDB) monitors use of Tasers by all police forces – both by specially-trained units and firearms officers – to judge operational effectiveness and any potential medical implications. Every use of Taser is recorded and figures are published quarterly on the HOSDB website. The latest figures were issued on 17 August 2009 and can be found at:  
<http://police.homeoffice.gov.uk/operational-policing/firearms/taser/> In addition, within Northern Ireland, each use of a Taser is referred to the Police Ombudsman for Northern Ireland for investigation as he deems appropriate.

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<sup>19</sup> See Article 22 Justice and Security (Northern Ireland) Act 2007.

<sup>20</sup> Such training should include instruction in first aid.



### 3. Conditions of detention

**(Paragraph 135) The padded walls of the security cell at the Londonderry Police Station were in such a poor state that they represented a danger to persons placed in this cell. The CPT recommends that the security cell at Londonderry Police Station be refurbished and until the refurbishment is completed, detained persons should not be placed in this cell.**

411. The cell was assessed by the Police Service of Northern Ireland (PSNI) as suitable for use following the CPT visit. Both the Senior Forensic Medical Officer and a representative from the PSNI Health & Safety Unit were of the view that the cell posed no risk to detained persons. It is considered that the protected cell remains by far the safest option for detained persons and custody staff alike when dealing with a violent or self harming detained person (DP).

**(Paragraph 136) With the exception of Belfast Strandtown Police Station and the Antrim Police Station Serious Crime Suite none of the police stations were equipped with an outdoor exercise yard. The absence of such a facility renders these stations unsuitable for detaining persons longer than 24 hours [Musgrave, Ballymena, Coleraine, Limavady and Londonderry]. The CPT recommends that all persons have access to daily outdoor exercise after 24 hours of police detention.**

412. PACE (NI) Codes of Practice C and H state that *brief outdoor exercise shall be offered daily if practicable*. Although the Association of Chief Police Officers (ACPO) and Home Office guidance on the Safer Detention and Handling of Persons in Police Custody (SDHP) recommending that exercise yards should be available, it acknowledges that most police stations do not have the available space to accommodate one. The SDHP recommends that external exercise yards should be provided in all new build custody suites and, where practicable, in alterations to existing custody areas.

413. PSNI has only one custody suite (Antrim) that allows detained persons access to an exercise area. Exercise areas are not available in the other custody suites due to restrictions on available space. For the period 2006-2008 only 9% of detainees were held in police custody for over 20 hours. It is the view of the PSNI that its custody suites fully comply with the requirements of the Human Rights Act 1998. The PSNI is satisfied that the treatment of the small percentage of detainees who are held for more than 24 hours without outdoor exercise does not amount to torture or inhuman or degrading treatment and does not, in the view of the PSNI, render their custody suites unsuitable.

414. The Government, in liaison with the PSNI, is currently exploring the feasibility of improvements to the exercise facilities at Antrim to address longer term detention issues associated with the holding of terrorist suspects. A new build under way at Musgrave Street, which will deal with the vast majority of detainees in the Greater Belfast area, will have exercise areas. The recommendation of the SDHP, for the provision of exercise yards, will be considered for future new builds and, where possible, they will be made available in alterations to existing custody areas.

**(Paragraph 137) In the CPT's view, police stations are, by their very nature, not suitable for holding immigration detainees. The CPT recommends that the United Kingdom authorities provide appropriate facilities for the detention of irregular migrants.**

415. Under the current Immigration (Places of Detention) Direction, a police station may be used to detain a person held under immigration legislation. The PSNI accepts that police cells are not ideal for this purpose. However, that is currently the only option, as no suitable alternative is available at present. Such detainees are provided with all the conditions of detention and treatment as contained in PACE Code of Practice C. The time spent in police cells is kept to an absolute minimum and for the period 2006-2008 the average time spent in police custody by immigration detainees was 1.5 days.

416. Discussions are ongoing between the PSNI and the United Kingdom Borders Agency (UKBA) to identify more suitable accommodation for immigration detainees pending their transfer from Northern Ireland. A feasibility study for a short-term holding facility in Northern Ireland is under way, but funding is currently not available.

#### 4. Safeguards against ill-treatment

**(Paragraph 140) The CPT is aware that video recording has been introduced for certain categories of detained persons. However, in the police stations visited video recording of interviews was not yet an option, except for in one interview room at Antrim Police Station. The CPT would like to receive up-to-date information on this subject and on any plans to extend such recording to all police interviews.**

417. The PSNI complies with the statutory requirement to visually record police interviews of terrorist detainees. There are no plans at present to make visual recording with sound of PACE interviews a statutory requirement. The PSNI will continue to roll out visual recording of interview rooms in all custody suites.

**(Paragraph 140) The CPT would be interested to receive information on any evaluations of the audio taping of police interviews with detained persons.**

418. The procedures for audio recording have recently been reviewed and re-issued. No audit has been carried out on audio recording of interviews.

**(Paragraph 140) In some police stations visited, a brochure explaining the rights of detained persons was available; however, some detained persons claimed that they had not received it. The CPT recommends that written information on their rights be given to all detained persons.**

419. It is a requirement of the PACE Codes of Practice that following the decision of the custody officer to authorise detention every detainee is provided with forms 12/1 (Notice to detained person), 12/2 (Legal advice in criminal cases) and 12/4 (Notice to suspected persons). These forms are also available in 12 different languages. The issue of these forms to detainees is recorded on the custody record.

**(Paragraph 141) The CPT acknowledges that persons are, in general, only detained in police stations for short periods and that many of them may require ongoing observation due to their physical or mental state at the time of detention. The CPT commented that CCTV should never replace direct human contact and the matter of a right to privacy needs to be taken into account.**

420. CCTV was introduced into PSNI custody suites to create a safe environment for officers, detainees and all individuals in the custody suite, to provide evidence to substantiate or rebut any allegations made in relation to offences either within or outside the custody suite, and for the improvement of performance and quality of service.

421. CCTV is seen as complementing levels of observation as considered necessary for each individual as outlined in the Association of Chief Police Officers (ACPO) and Home Office guidance on the Safer Detention and Handling of Persons in Police Custody (SDHP) and the PACE Codes of Practice. CCTV is not used as a replacement for direct contact checks on detained persons.

422. The privacy of the detainee is paramount and strict guidelines exist to ensure that only those with an operational or legislative requirement are permitted to view either live or recorded footage.

## 5. Inspection and complaints procedures

**(Paragraph 143) The CPT would like to receive information as to the outcome of the proceedings concerning police officers charged in 2007 with a criminal offence involving allegations of work-related ill-treatment and would like to receive similar information for 2008.**

423. The reference (at paragraph 143 of the Committee's report) to the year in which 19 police officers were charged with a criminal offence should read 2008 and not 2007. Court proceedings in all 19 cases are still pending and therefore it would be inappropriate to comment at present. Should the CPT wish to obtain the outcome of charges against individual officers they should write formally to the Police Service of Northern Ireland requesting the information.

**(Paragraph 145) As far as the CPT could ascertain, the legislation in force does not explicitly provide for the right of members of lay visiting committees to interview detained persons in private. The CPT would like to receive confirmation that lay visiting committees have the right to speak to detained persons in private.**

424. Guidance on the role of custody visitors is contained within a *Custody Visitor Handbook*, a *Code of Practice for Custody Visitors* and a *Volunteer Agreement for Custody Visitors* (Appendix A) – all of which are produced by the Northern Ireland Policing Board. Independent custody visitors may speak to detainees but only with their consent. Discussions between detainees and custody visitors must normally take place in sight, but out of hearing of the escorting officer where that is practical. Discussions must focus on checking whether detainees have been offered their rights and entitlements under PACE/TACT and confirming whether the conditions of detention are adequate. Custody visitors must remain impartial and must not seek to involve themselves in any way in the process of investigation.

## 6. Medical care and medical confidentiality

**(Paragraph 146) The CPT's delegation found medical records stored in the personal files of detained persons and therefore accessible to non-medical staff. 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.**

425. The PSNI acknowledge that it is important to respect a person's right to privacy and that information about their health must be kept confidential and only disclosed with their consent or in accordance with clinical advice when it is necessary to protect the detainee's health or that of others who come into contact with them. Medical notes are only made available to custody staff in compliance with this. This is considered the least intrusive and proportionate method.

426. Medical notes, which contain confidential information or observations unrelated to the person's detention, are recorded separately and retained by the Doctor.

**(Paragraph 147) At Ballymena Police Station, the delegation was told that detained persons on suicide watch were woken up every 30 minutes, which serves no purpose in most cases. The CPT recommends that the practice of waking detained persons on suicide watch every 30 minutes to be discontinued; such a measure should be applied on a case-by-case basis only.**

427. The PSNI is unable to substantiate the claims made to the CPT during their visit to Ballymena Police Station.

428. Current PSNI procedures do not require a detainee assessed as either likely or at high risk of self-harm to be woken every 30 minutes. The only detainees who would be visited and roused every 30 minutes, subject to any clinical directions given by the forensic medical officer, are those suspected of being intoxicated through drink or drugs or having swallowed drugs, or whose level of consciousness causes concern.
429. Levels of observation as outlined in the Association of Chief Police Officers (ACPO) and Home Office guidance on the Safer Detention and Handling of Persons in Police Custody (SDHP) require positive engagement with the detainee at frequent and irregular intervals.
430. Some detainees may show signs of both risk of self-harm and drink/drugs/levels of consciousness causing concern. Each detainee receives an individual risk assessment however some risks will require a combination of the levels of observation.

**(Paragraph 148) The CPT also has concerns with respect to the availability of appropriate psychiatric care for persons detained by the police. More than once, members of the CPT's delegation were told that the behaviour of some detained persons became so erratic that custody officers considered it necessary to tie them naked to a chair in order to prevent any acts of self-harm. Such treatment is clearly unacceptable and should be stopped immediately. In such cases police officers should immediately call a doctor and act in accordance with his instructions. Further, detained persons who display severe psychiatric disorders should be transferred without delay to a mental health facility. The CPT recommends that immediate steps be taken to ensure that detained persons with mental health disorders, held in police stations, are provided with appropriate care and treatment, until they are transferred to a mental health facility.**

431. The PSNI is unable to substantiate the claims made to the CPT during their visit that some detained persons had been tied naked to a chair to prevent self-harm. The PSNI acknowledge that a police cell is not an appropriate setting for a person detained under Article 130 of the Mental Health (Northern Ireland) Order 1986. The reality is that police often encounter difficulty in finding an appropriate psychiatric facility willing to receive a person in crisis. It is hoped that this situation will improve with the agreement of local protocols between Districts and local mental health services (as per direction PSNI Service Procedure 32/08 – Operational Procedure and Guidance for Dealing with Persons with a Mental Disorder implemented on 25 July 2008.)
432. Where a police station is used as a place of safety, immediate contact is made with local social services and the appropriate doctor, to ensure that an assessment is conducted effectively and quickly, and transfer to a more appropriate location, where necessary, is arranged at the earliest opportunity. Police acknowledge the expertise and advice of Mental Health Practitioners in this matter. Some persons with mental health disorders have to be detained in a police station because they have been arrested on suspicion of committing a serious criminal offence. As with persons arrested under Article 130 Mental Health (Northern Ireland) Order 1986 they are treated in accordance with the PACE Codes of Practice and the additional guidance as contained in Service Procedure 32/08. Musgrave Street custody suite has two full time psychiatric nurses who assess detainees suspected of having a mental health disorder and offer referrals to appropriate organisations. The nurses are available to all four Belfast custody suites.
433. PSNI Policy Directive 07/07 Public Order and the Use of Force has recently been updated to include directions on the use of limb restraints which have been introduced to the service. The purpose of the limb restraints is to gain control of a violent person as quickly as possible with minimum risk of injury to all involved and to assist the restrained person into a safe position. The use of limb restraints must be lawful and include consideration of the individual's human rights. All custody staff will be trained in the use of the limb restraints which will be available to them in the custody suite. The introduction of limb restraints will give custody staff a further tactical option to consider when dealing with violent detainees or detainees who are intent on physically harming themselves.

## **C. Prison establishments**

### **1. Preliminary remarks**

**(Paragraph 151) Expanding the prison estate is one of the measures being undertaken by the authorities, but, as the CPT has consistently emphasised, it needs to be accompanied by other measures if overcrowding is to be avoided. In this respect, the efforts of the authorities to reduce the high numbers of inmates on remand (approximately 35% as opposed to 16% in England and Wales) through, inter alia, improving the quality of police investigations and reducing the time taken by courts to process cases, especially those involving juveniles, are to be welcomed. Further, the use of alternative measures to imprisonment should be expanded.**

434. In respect of the comments made by CPT in this paragraph, the Northern Ireland Prison Service (NIPS) views it as unfortunate that this paragraph is included within Section C, which is headed "Prison Establishment". Largely, NIPS cannot influence the number of remand prisoners held in custody. Rather this is a matter for the wider Criminal Justice system. The Criminal Justice Board, which oversees and directs the strategic objectives of the criminal justice system, and includes the Director of the Prison Service, has appointed a Delay Action Team to look at the management of criminal cases to reduce delays. Targets have been set to reduce the time to trial for criminal cases in Northern Ireland, and these are being closely monitored.
435. The introduction of electronic monitoring in April 2009 was also the first step in a planned programme of work to provide alternatives to custody and provides the judiciary with the ability to bail individuals, subject to an electronically monitored curfew, where they might otherwise remand them into custody. Further work is proposed to explore avenues for enhancing and promoting existing non-custodial sentences and, where appropriate, to consider the introduction of additional disposals which could provide sentencers with further alternatives to immediate custody.

**(Paragraph 151) The CPT encourages the United Kingdom authorities to pursue their efforts to prevent prison overcrowding becoming a permanent feature of Northern Ireland's prison system.**

436. NIPS is pleased that the CPT recognises the significant work it has embarked on to address the problem of overcrowding. For example, NIPS has undertaken a comprehensive review of the adult male estate. This culminated in the publication of the Options Appraisal in December 2007 which, based on a 15 year planning horizon, considered the long term accommodation needs for the adult male estate within Northern Ireland. This led to the announcement by the Security Minister, Paul Goggins MP in December 2007 that a long term presence would be retained at Magilligan with the sequential development of a new 800 place facility.
437. In support of this, additional capacity has recently been introduced:
- a. Magilligan - Alpha (50)
  - b. Magilligan – Halward (60)
  - c. Maghaberry – Braid (120)
438. In addition, a further 120 spaces are currently being planned at Maghaberry (making a total of 240 new spaces), to be built by 2011. A Special Protection Unit is also planned to include accommodation for 20.
439. A review of the long term needs of the Women's estate has been undertaken and these are being considered by the Minister. NIPS are also bringing forward the development of a Special Protection Unit in Maghaberry.

## 2. Ill-treatment

(Paragraph 154) At *Maghaberry Prison* ...several prisoners interviewed claimed to have been recently physically ill-treated by staff. The alleged ill-treatment consisted of punches or kicks by members of the Stand-by Search Team (SST)<sup>21</sup>. Similar allegations were received from former inmates of Maghaberry Prison, whom the delegation met during its visits to police stations or at Magilligan Prison. Moreover, on more than one occasion, members of staff at Maghaberry Prison told the delegation that incidents of ill-treatment of inmates by SST-members had indeed occurred. In certain cases, the delegation gathered medical findings consistent with the allegations of physical ill-treatment; for example:

- One prisoner alleged that, approximately three weeks before the CPT's visit, members of the SST had inflicted blows with batons and fists to various parts of the body, in the course of a cell search. His medical file recorded that he had alleged to prison health care staff that he had been assaulted by prison officers and contained the following entry: "some bruising and redness noted on arms, upper torso and knees".
- Another prisoner alleged that in December 2007, two members of the SST had assaulted him in his cell. The prisoner claimed to have been punched and to have received blows from a baton to his left cheek, left arm, left leg and on his neck. The man complained that the incident has left him with a pain in the neck. The information in the medical file of this prisoner in relation to the incident was cursory and, at times, difficult to decipher (including for the medical staff present). Nevertheless, the following notes were found: 'Pain both wrists'; 'Alleges bite right hand', 'Abrasion forehead + scalp'; 'Laceration inside mouth'; 'Scratches left elbow region'.

440. While NIPS understands that the CPT operates a system of confidentiality in respect of allegations made by prisoners, this puts NIPS in the difficult position of being unable to follow up on the allegations.

441. NIPS takes all allegations of ill-treatment extremely seriously and *never* ignores any complaint made about treatment. Prisoners have access to a wide-range of bodies via which they can raise allegations of ill-treatment. For example, prisoners have recourse to legal channels with unfettered access to their solicitors, through whom they can challenge in court any action of NIPS. They can complain to the Prisoner Ombudsman, or to other organisations such as the Northern Ireland Human Rights Commission. They have access to inspection bodies such as the Criminal Justice Inspectorate, and to members of the Independent Monitoring Board who frequently visit Maghaberry, and who make a point of speaking to all prisoners being held in the Special Supervision Unit. Moreover, the prisoners also interact with people working for bodies outside NIPS such as probation staff.

442. It is therefore extremely likely that the specific complaints made to the CPT have already been made either directly to prison staff or to any of the people mentioned above, and will have been fully investigated by NIPS and, depending on the circumstances, by the police.

443. Any incident where force is applied to a prisoner is governed by the NIPS Use of Force policy which has been published and complies with human rights standards. In relation to injuries which prisoners may receive as a result of Control and Restraint, the injuries recounted above are not necessarily indicative of improper use of Control and Restraint techniques or gratuitous violence. Violent and refractory inmates can sustain injury when their behaviour is being brought under control. Once under control the risks of injury are greatly reduced

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<sup>21</sup> The Stand-by Search Team (SST) is a group of approximately 40 prison officers tasked with carrying out cell and full body searches, interventions during incidents and the escort of prisoners to the Special Supervision Unit (SSU).

and the techniques used are “pain compliance” through the application of wrist locks. The level of force used is directly proportional to the level of non-compliance. There is usually a direct relationship with the level of violence offered by the prisoner and the location of the incident. For example if a struggle were to take place in a prisoner’s cell the presence of fixed furniture and other property items provide areas where both staff and prisoners could damage themselves inadvertently in the course of a struggle. Hence some of the injuries observed and reported could have been received as part of the initial struggle.

444. Where prisoners report and are observed having pain or redness to their wrists, this is consistent with either the application of handcuffs or the use of Control & Restraint wristlocks. Once the prisoner is under control there is de-escalation in the force applied. This process should occur when the prisoner ceases to be violent and aggressive and results in him being either close escorted in handcuffs or walked with the staff ‘blanketing’ his arms at the bicep and wrist on each side, to another location.

445. Any prisoner who has been injured is seen by Healthcare and the information is recorded.

**(Paragraph 155) The Committee is aware that the management of Maghaberry Prison has taken certain measures to prevent both violence by prisoners against staff and ill-treatment of prisoners by prison officers; for example, most of the prison’s units are under CCTV surveillance and pre-planned interventions by the SST are video-recorded. However, there is no video-recording of ad hoc interventions or of cell searches by the SST, and there is no CCTV cover in the Special Supervision Unit-staircase or, understandably, in cells. Further, the CPT noted that cell searches are carried out without wing staff being present on the landing.**

446. NIPS is pleased that CPT recognises the proactive steps being taken by Maghaberry to increase CCTV coverage and record pre-planned interventions to protect both staff and prisoners. In addition to the measures outlined in this paragraph, management at Maghaberry have also put in place procedures to ensure the Governor is advised immediately of any instance where Healthcare become aware of a prisoner with injuries which would raise concerns that they may have been subject to use of force, whether by staff or other prisoners. These revised procedures should ensure that the Governor is aware immediately of any concerns that a prisoner may have been subject to assault and provide an opportunity for immediate investigation of the circumstances.

447. Ad hoc interventions are by their nature not pre-planned and are usually in response to incidents which occur instantaneously, making video recording impracticable.

**(Paragraph 156) The CPT’s delegation was told that all complaints concerning ill-treatment of prisoners by staff were investigated following a procedure laid down in a protocol, which includes the alleged victim being interviewed by a police officer based in Maghaberry Prison<sup>22</sup>. Subsequently, all investigation reports were sent to the Northern Ireland Prosecution Service; apparently, to date, no investigation had ever led to prosecution. However, the CPT’s delegation was told that an investigation into the origin of the injuries in the first case mentioned in paragraph 154 above was not carried out, despite visible injuries having been observed by health care staff when the prisoner arrived in the SSU. Apparently, this was due to the absence of a formal complaint submitted by the prisoner; it should be noted that the prisoner in question was illiterate. It is essential that an investigation be carried out whenever there are grounds (e.g. visible injuries) to believe that ill-treatment of a prisoner by staff may have occurred, irrespective of whether the prisoner concerned has lodged a formal complaint. The CPT recommends that steps be taken to ensure that an investigation is carried out whenever there are grounds (e.g. visible injuries) to believe that ill-treatment of a prisoner by staff may have occurred, irrespective of whether a formal complaint has been lodged.**

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<sup>22</sup> See ‘Standard Operating Procedures/ allegations of physical or sexual assault’

448. Maghaberry and NIPS management fully agree with the CPT's view that any unexplained injuries received by a prisoner should be immediately investigated regardless of whether or not the prisoner makes a formal complaint. Procedures have been put in place to ensure that the Governor is advised immediately of any instance where a prisoner has injuries that would raise concerns.
449. The police are called every time a prisoner alleges that he has been assaulted. Decisions not to prosecute are solely a police matter.

**(Paragraph 157)The delegation received complaints from many prisoners at Maghaberry Prison that, on occasion, full body searches were carried out in an inappropriate manner...Prisoners met at Maghaberry Prison complained about staff inserting fingers into their body cavities, being placed in a degrading position or being fully undressed. One prisoner said that he had been forced to lie on the floor on his back wearing only a T-shirt, with his legs tucked up to his chest, and having to rock back and forth – in this way, it was presumed that any hidden contraband would be expelled. These allegations concerned almost exclusively members of the SST.**

450. These allegations are totally refuted by NIPS. In the absence of specific information from CPT, NIPS is unable to refer to an investigation of these complaints. In the past two years, 11 allegations have been made to the police of inappropriate touching during searches by the SST but to date, but none have been upheld.
451. There is no doubt that the full body searching of prisoners is always a potentially stressful exercise for both the staff and the prisoner. The manner in which such searches are carried out is heavily regulated and as such, they have an air of formality. This, coupled with the presence of two staff in each search area and occasionally a Senior Officer, can be daunting for prisoners.
452. From the NIPS perspective it is preferable that the SST conduct the majority of full body searches within Maghaberry as the standard is uniform irrespective of the staff involved. This in turn reduces the number of potential flash points where prisoners can, quite rightly, complain about a lack of uniformity in the conduct of full body searches. From an historical perspective, it was the lack of an effective and consistent approach in this area that resulted in the formation of specialist search teams in the first instance.
453. High value items such as mobile phones and drugs tend to be relatively small and therefore easily concealed especially if the individual is subjected to a cursory rubdown search. The main location for smuggling items into Maghaberry is the visiting areas through contact between visitors and prisoners. Although these areas have CCTV coverage the speed of transfer frequently escapes the officer monitoring the area, especially if the visiting room is full. From analysis of staff reports it can be seen that during the full body search process the staff, who do not touch the prisoner's body but subject it to a visual inspection, report seeing items 'clenched between a prisoner's buttocks'. It can be when the prisoner is ordered to remove it that a flash point occurs and he is restrained. In many instances the offending item is found on the floor following the subsequent struggle.
454. Again the information, where it is available (subject to restrictions of medical confidentiality) from the medical reports show an absence of bruising or marking in the area of a prisoner's genitalia or rectum that would indicate that the search officers used unapproved search techniques. Moreover, while it is dangerous to generalise that these complaints are all without foundation, the absence of medical evidence to the contrary and the fact that they are in many instances preceded by a find of contraband would suggest that they are made to deflect from the original incident and the fact that the prisoners had been caught with items that they should not have had.



455. The use of intrusive search techniques is not allowed within NIPS policy. Furthermore, the use of metal detectors and passive drug dogs to indicate that a prisoner may have secreted an item or items internally has superseded the requirement that there is any requirement for intrusive body cavity searching. NIPS policy is that where individuals give a positive indication that would suggest that they are in possession of contraband they can be placed on Rule 32 which provides for their removal from association with other prisoners and for the purposes of good order and discipline until the original indication can be explained, an item recovered, or further tests prove negative.

**(Paragraph 157) The CPT recommends that the United Kingdom authorities ensure that all full body searches at Maghaberry Prison are carried out in accordance with the relevant rules and guidelines, and respect the dignity of the prisoner concerned.**

456. The procedure for staff managing full body searches is clearly laid down in policy in the Security Manual. Staff are required to adhere to the procedures outlined. The lawful authority to carry out full body searches of prisoners is derived from The Prisons (Northern Ireland) Act 1953 and The Prison and Young Offenders Centres Rules (Northern Ireland) 1995 (Rule 16). The search policy and guidance is contained in Chapters 19 & 20 of the security manual.
457. These state that a full body search of a prisoner requires two officers of the same sex as the prisoner to be present; normally no more than two officers will conduct the search. A senior officer may supervise the search but must not take part in it. The search must take place in privacy out of sight of other prisoners or any member of the opposite sex.
458. A mat or similar item must be provided for the prisoner to stand on while footwear is being searched. The prisoner will never be completely naked at any time during the search; the top half clothing will be removed and searched and returned to the prisoner before the bottom half clothing is removed and searched. The authority does not permit the search of a body cavity, but a prisoner may be required to open their mouth to permit a visual inspection.
459. NIPS is confident that staff comply with this authority when conducting a full search. However, a notice will be issued to staff reminding them of the search procedures to be followed, in light of the CPT's recommendation.

**(Paragraph 158) From the evidence gathered by its delegation, the CPT considers that there are sufficient grounds for the Northern Ireland authorities to review the operating practices of the SST, and for management to monitor more closely their actions. It would appear from various reports on Maghaberry Prison<sup>23</sup> that the excessive use of force by members of the SST is a persistent phenomenon.**

460. Given its central role in carrying out searches and responding to incidents, the SST concentrates on the security aspect of imprisonment. The nature of their role means that they are not viewed in a positive light by prisoners as they are required to search, respond and where necessary use force. They are also the one group of staff that the prisoners do not know particularly well and where there is little daily interaction, and so the SST will always be vulnerable to accusations of ill-treatment. NIPS has therefore conducted a review on the scope and nature of the current role of the SST. Following the recent publication of the Pearson Review, which was carried out by a former Deputy Director General of HMPS and published on 9 June 2009, there has been a

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<sup>23</sup> See for instance, the Report on an announced inspection of Maghaberry Prison by HM Chief Inspector of Prisons and the Chief Inspector of Criminal Justice in Northern Ireland, 10-14 October 2005 (in particular Section 6, paragraphs 6.1 and 6.5) as well as CPT/Inf (2001) 6, paragraphs 65 and 68.

change in the Senior Management Team at Maghaberry. The role of the SST is one of the issues the new Management Team will be considering.

**(Paragraph 158) The CPT recommends that appropriate action is taken to ensure that members of the Maghaberry Stand-by Search Team (SST) do not abuse their powers and that they act in accordance with relevant prison regulations.**

461. NIPS denies the allegations made in relation to the ill treatment of prisoners.
462. NIPS takes all allegations of assault extremely seriously, and, if there were to be any basis for suspecting officers of abuse, the officers concerned would be immediately suspended and the police called in and given any evidence NIPS had. As the police operate to a high standard of proof (allegations must be proved beyond a reasonable doubt), if the police do not have sufficient evidence to arrest and prosecute the officers, NIPS would initiate its own investigation and, if appropriate, start disciplinary proceedings against the officers.
463. In May 2009, following receipt of a letter from the Prisoner Ombudsman, and taking account of the CPT report, NIPS launched a further investigation of the alleged assaults by staff reported to police in the last two years (none of which were upheld by the police). The investigation was completed to the lower standard of proof (balance of probabilities) and took into account medical evidence, use of force report forms, staff management reports and list of 'finds' of illegal property. No evidence was uncovered to raise any concerns of staff abuse of force.
464. There have been 52 complaints made about prison staff in Maghaberry in the past two years, 30 of which involved the SST and none of which were upheld by the police. In 11 of these 30 SST-related cases the prisoner's claim was preceded by a find of varying quantities of drugs and / or a mobile phone. It is important to recognise that, in this two year period, the SST denied prisoners access to more than 300 items of contraband, including large quantities of illicit drugs, mobile phones, and homemade weapons. Given the volume of material uncovered and the reported prices being charged by unscrupulous 'dealers' within the Prison it is little wonder that the SST finds little favour among prisoners.

**(Paragraph 159) The CPT's delegation was informed about several incidents of inter-prisoner violence at Maghaberry Prison. For instance, on the eve of the CPT's visit to that prison, several Chinese prisoners were assaulted with billiard cues and other makeshift weapons in the association room of Lagan House. This assault was apparently one of 13 incidents involving violence against Chinese prisoners, which generally took place during association: eight incidents had taken place in Lagan House and five in Foyle House. The delegation was told that, for security reasons, prison officers at Maghaberry Prison withdrew physically from the association room when a large group of prisoners was present and, instead, monitored them through CCTV from a control room. The CPT has some misgiving about this approach, in particular given the above mentioned incidents. The CPT recommends that concerted measures be taken to reduce the incidence of inter-prisoner violence at Maghaberry Prison, including through ensuring the physical presence of prison officers in the association room.**

465. The issue of inter-prisoner violence is something which NIPS takes extremely seriously. Challenging targets for minimising incidents of inter-prisoner violence are set every year, and the Prison Service Management Board receives updated reports on progress against Key Performance Indicators every month. These are communicated to the Minister quarterly. As a result, NIPS has very low incidents of inter-prisoner assaults. This is despite the fact that NIPS does not have the prisoner dispersal options which other prison services have, in that Maghaberry is the only high-security male prison in Northern Ireland and also the only adult male remand prison. Therefore, it is not possible to separate prisoners by moving them to different prisons. However, NIPS acknowledges that all areas where prisoners are in association should be supervised by staff

on duty in the area. To put it into its historical context, the decision to remove staff from areas where prisoners associate was taken in response to physical attacks on staff. The reversal of this is something which NIPS is seeking to achieve.

466. The CCTV coverage in the association and exercise rooms in Maghaberry has recently been upgraded. The CCTV cameras are not just a means of identifying perpetrators after an attack takes place. The cameras are constantly monitored by dedicated officers in a control room, who raise the alarm if an incident occurs. NIPS will immediately deploy staff to the area.
467. NIPS is also taking positive measures to try to reduce incidents of inter-prisoner violence, particularly those of a racial character, by educating prisoners on the different cultures represented in Maghaberry. One way in which this is being done is the planned introduction of an hour long diversity section into the induction programme which will offer prisoners an insight into the different cultures within the prison.

### 3. Material conditions of detention

**(Paragraph 160) ...a considerable number of remand prisoners at Maghaberry continued to be doubled up in cells designed for single occupancy (measuring approximately 7m<sup>2</sup>. The CPT recommends that the 7m<sup>2</sup> cells at Maghaberry Prison are never occupied by more than one prisoner. Further, the toilet facilities in every cell should be at least partially partitioned.**

468. Operational requirements necessitate that managed crowding of inmates in Maghaberry continues where the actual numbers of inmates exceeds the individual number of physical single cell spaces. For these reasons NIPS does not accept this recommendation.
469. Current standard UK cells typically have a floor area of 6.8m<sup>2</sup> (Prison Design Briefing System 1994 Rev 3). Improvements to cell design within the new accommodation (Braid House) provide a dedicated enclosed cubicle (an additional 1m<sup>2</sup>), creating a larger cell capable of housing two people.
470. However, NIPS fully acknowledge that the cells at Maghaberry are not designed to accommodate two prisoners. New accommodation will be built with larger cells and separate toilet facilities in cell to facilitate cell sharing. NIPS are in the process of installing toilet partitions in each of the cells to screen the toilet and provide increased privacy. This screening has been completed in three houses (Bush, Roe and Foyle) and the work will be completed in the remaining residential houses by the end of this financial year.

**(Paragraph 161) The CPT understands that the Northern Ireland authorities have decided to construct a new prison with a capacity of approximately 800 prisoners on the Magilligan site in 2011. The CPT trusts that the necessary measures will be taken to ensure that prisoners held in the new prison on the Magilligan site have ready access to a toilet at all times (including at night).**

471. In cell sanitation will be a key part of the design of a modern new prison at Magilligan. The replacement facilities at Magilligan will build upon the positive improvements brought by the new cell design within Halward House, which opened in November 2008. The new cells represent a minimum standard which will be further developed during the design phase for the new prison and will include cells equivalent to 9m<sup>2</sup> with separate toilet facilities built within the cell.

**(Paragraph 162) The CPT's delegation also visited the "protection room" in the health care unit at Maghaberry Prison; it was not fit for the segregation of mentally ill prisoners due to the hard walls and floors. The CPT recommends that the "protection room" in the health care unit at Maghaberry Prison to be adequately refurbished.**

472. It is planned that the Healthcare facility at Maghaberry, including the protection room, will be completely refurbished during the current business year 09/10. This work began in August 2009.

#### **4. Regime**

**(Paragraph 165) ...at Maghaberry Prison, prisoners complained that their courses were regularly cancelled due to staff shortages.**

473. On occasion, the regime at Maghaberry is restricted due to staff shortages. Every effort is made to minimise disruption to the delivery of programmes including Education, Vocational Training and Offender Behaviour Programmes. The staffing problems can be exacerbated by staff industrial action.

**(Paragraph 165) ...the delegation noted that a large number of prisoners had not been allocated work at Maghaberry Prison. The prison's overpopulation had a negative impact on the proportion of prisoners with work; only half of the sentenced prisoners were offered work, while for remand prisoners no work opportunities existed at all. In compensation for the lack of work, prisoners were given up to eight hours of association daily, with the exception of recently arrived remand prisoners in the Committal Units, who spent up to 21 hours locked up in their cells.**

474. The prison infrastructure was not designed to cope with the current population of over 800 prisoners. In particular, work is not available for the majority of remand prisoners (approximately 400). With the implementation of the Criminal Justice (Northern Ireland) Order 2008 significant investment is being made in 2009 -10 and 2010 -11 to improve educational and programme facilities in Maghaberry. This will include a range of new classrooms and activity areas which will provide increased work and recreational activities.

475. Remand prisoners in the Committal Unit are not locked up in their cells for 21 hours per day. The Committal Unit in Maghaberry is split into two with one landing being dedicated to induction. The aim is for prisoners to spend 3-4 days on the initial Committal Landing before moving to the Induction Landing. On the committal landing there is free association from 9.30 to 11.40 and from 12.15 to 14.30. New committals will also have interviews with, for example, healthcare, probation and the prison chaplains. Prisoners on the landing are also out of their cells on an ad hoc basis for showers, cleaning, laundry and visits. Prisoners on the induction landing have induction activities in the morning and free association from 15.45 to 18.30.

**(Paragraph 165) The CPT recommends that concerted efforts be made to provide a meaningful regime, including work, education and recreation, for all prisoners at Maghaberry Prison.**

476. NIPS agrees that every prisoner should have the opportunity for increased time out of cell and opportunity to participate in constructive activity. However, the reality is that Maghaberry was originally built with an infrastructure to accommodate 450 prisoners. Now, with almost double that population, access to facilities is limited, particularly for remand prisoners. NIPS is in the process of planning for a new and enhanced education facility which will hopefully improve current provision. In addition, classrooms will be built into all new future residential accommodation.

**(Paragraph 166) During the visit to Maghaberry Prison, the CPT's delegation observed that Rule 7 was applied for approximately 24 hours in respect of Lagan House after an attack upon Chinese prisoners on 14 November; besides one hour of outdoor exercise, all 141 prisoners accommodated at Lagan House had to remain in their cells for the full day. The CPT understands that the daily regime of prisoners may have to be adapted in case of exceptional circumstances. However, it is essential for Rule 7 to be applied in a proportional and, as far as possible, targeted manner; otherwise, it could easily be perceived by prisoners as a form of collective punishment. The CPT would like to receive the comments of the United Kingdom authorities on this matter.**

477. Prison Rule 7 is only approved by Prison Service Headquarters, on behalf of the Secretary of State, in exceptional circumstances and usually to preserve good order and discipline within the prison. The seriousness with which the invocation of Rule 7 is viewed can be seen from the fact that it has been used only 11 times in 5 years. Imposing Rule 7 is necessary on occasions when prisoners act in concert to undermine safety and control. Isolated incidents involving individual prisoners can be managed with the individuals usually being removed from the situation. However, where there is a potential for a large number of prisoners to become involved in an incident, it is helpful to have a cooling off period with prisoners remaining in their cells, which was the case in this incident. NIPS does not believe that the circumstances and incidents in which it invokes Rule 7 are unreasonable. The report refers to the suspension of Prison Rules lasting from between a few hours to approximately 17 days. The latter is very, very exceptional and unusual. The variation between the lengths of time for which Rule 7 is invoked shows that NIPS considers each event on an individual basis and ends the use of Rule 7 as soon as it is safe to do so.

**(Paragraph 167) At Maghaberry a generic security regime is applied to all prisoners; there are no units with a lower level of security. In addition, inmates at Maghaberry Prison are not allowed to move around the prison unescorted, but are accompanied by at least three staff members. In the same way as other bodies, such as the Northern Irish Criminal Justice Inspectorate<sup>24</sup>, the CPT considers that the current generic security regime is unduly restrictive for prisoners with a low risk profile. The CPT recommends that a differentiated security regime be introduced at Maghaberry Prison.**

478. NIPS fully agrees that there should be increased differentiation between prisoners in the different security categories at Maghaberry, and has completed a reclassification of all prisoners to facilitate this. However, a major constraint on NIPS is the absence of sufficient accommodation to allow for increased categorisation and the absence of a dispersal system. All prisoners on remand, separated paramilitary prisoners and long-term and life-sentenced prisoners are all accommodated at Maghaberry. This mix makes it extremely difficult to operate a security system where discrete accommodation is allocated to different categories of prisoners. Change is being hampered by overcrowding, but options being considered include separating Category A prisoners to facilitate a lower security regime elsewhere. Maghaberry is also exploring options to introduce free movement for all but Category A prisoners.

## **5. Separated prisoners**

**(Paragraph 170) All separated prisoners are either on standard regime or on enhanced regime with some additional restrictions included in Part XIII A of the Prison Rules. These restrictions mainly concern the absence of work for separated prisoners due to the requirement that they not mix with the general prison population. Instead, separated prisoners are given additional education and sports opportunities.**

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<sup>24</sup> Report on an announced inspection of Maghaberry Prison by HM Chief Inspector of Prisons and the Chief Inspector of Criminal Justice in Northern Ireland, 10-14 October 2005; Section 6: Good order.

479. This is not quite correct. Separated prisoners are not subject to the normal Progressive Regimes and Earned Privileges (PREPS) system; rather they have access to a progressive system specifically designed for separated prisoners which is the first and second tier system which to a large extent mirrors the PREPS standard and enhanced regimes. It is again designed to provide an incentive regime, including regular drug-testing.

## 6. Health care

### a. staffing issues

**(Paragraph 173) The CPT recommends that a doctor be present at Magilligan Prison on a full-time basis during the week and that the presence of a psychiatrist be increased. Further, it will be necessary to review the medical staff complement at Magilligan Prison in the event of any significant increase in the establishment's inmate population.**

480. Responsibility for healthcare with prisons in Northern Ireland was transferred in April 2008 to the South Eastern Health and Social Care Trust (SET). SET have carefully considered both recommendations. The direction of travel for prison healthcare is to provide greater integration with the wider Health and Social Care system. Healthcare in the prison is provided by full-time professionally qualified Nursing Staff. Medical Services are provided under a contract by General Practitioners who work in the Community. A new contract with these GPs will secure a greater commitment from them in the time they make available to the prison. For these reasons, SET do not accept the CPT's recommendation in relation to the provision of a doctor based full-time at the prison. SET are currently working to secure additional Psychiatric Services for the Prison Service as a whole.

**(Paragraph 174) The CPT recommends that both Maghaberry Prison and Magilligan Prison recruit a qualified clinical psychologist to be involved in care for prisoners suffering from mental disorders.**

481. The South Eastern Trust has reviewed the need for clinical psychology services and the availability of these services to the prison population. As a result of this review, discussions have taken place with the Trust's Commissioner, and the development of clinical psychology services will be included in the prison healthcare strategy which will issue before the end of the year.

### b. psychiatric care provided in the prisons visited

**(Paragraph 175) ...the severity of the disorders of some of the inmates requires more care than the prison health care service is able to provide. The CPT would like to receive detailed information about the initiatives being taken to improve the care afforded to prisoners suffering from a mental disorder.**

482. Following a needs assessment, SET has secured additional resources to improve mental health care services to prisoners. This allows SET to introduce additional psychiatric sessions, and to recruit additional services nurses and discharge coordinators. SET with NIPS have also recruited healthcare assistants to free up capacity in the psychiatric nursing workforce, which will allow psychiatric nurses to concentrate on mental health issues.

## 7. Other issues of relevance to the CPT's mandate

### a. discipline and segregation

**(Paragraph 178) Rule 41(2) indicates that a medical officer will examine whether a prisoner is fit to undergo the disciplinary sanction of cellular confinement. The CPT recommends that existing legal arrangements and practice concerning the role of prison doctors in relation to disciplinary matters be reviewed. In so doing, regard should be had to the Revised European Prison Rules and the comments made by the CPT in paragraph 53 of its 15th General Report (CPT/Inf (2005) 17).**

483. NIPS is currently revising Prison Rules as they relate to the role of the Medical Officer in public consultation. However, NIPS would be extremely concerned if the doctor had no opportunity to comment on a prisoner's fitness to undergo any form of cellular confinement. The need to maintain medical confidentiality can make it difficult for staff, other than Healthcare staff to identify whether a prisoner has underlying mental health or other problems which would preclude them from spending periods in a cell confined. NIPS would argue that the current arrangement is necessary to protect it from criticism, but more particularly to protect individual prisoners.

**(Paragraph 179) ... at Maghaberry Prison, some prisoners stated that not all nurses would actually enter the cell, the contact with the prisoner taking place through the hatch in the door; further, certain other nurses, who did enter the cell, were always accompanied by prison officers. The CPT considers that, in principle, all health evaluations should be carried out in direct contact with the prisoner concerned, and be conducted out of the hearing and - unless the health care staff member concerned requests otherwise in a given case - out of the sight of prison officers. The CPT recommends that the manner in which the daily visit by a nurse to prisoners undergoing cellular confinement is carried out be reviewed at Maghaberry Prison.**

484. A review of this process has been undertaken and arrangements are being made for prisoners to have one to one access to nursing staff on request.

**(Paragraph 180) The Rule 32 procedure still does not include a hearing with the prisoner and a possibility to appeal to a higher authority. The CPT recommends that both a hearing of the prisoner and the possibility of appeal be introduced into the procedure regarding the application of Rule 32 of the Northern Ireland Prison Rules.**

485. The very nature of Rule 32 means that substantive evidence is not available to charge the prisoner under Prison Rules. Rather, Rule 32 is used in circumstances where prisoners are either required to be separated from other prisoners for good order and discipline, or for their own protection. On most occasions for reasons of good order and discipline, NIPS relies on intelligence from a range of sources. When extensions to Rule 32 are being considered, the Secretary of State's representatives will consider all available information and will interview the prisoner to discuss the details, insofar as this does not compromise the source of the information. In addition, a case conference will be convened prior to the request for the extension. The Case conference will be attended by the IMB who provide external independent scrutiny of the decision-making process. The prisoner also has recourse to legal remedies and can complain about the decision to the Prisoner Ombudsman, should he wish to do so.

**(Paragraph 180) Under the Northern Ireland Prison Rules, the governor must inform the Independent Monitoring Board whenever Rule 32 is applied, and a written record should be maintained of this contact. However, in neither prison was there any trace of such records. The CPT recommends that all contacts with the Independent Monitoring Board concerning the application of Rule 32 are diligently kept and available for consultation and inspection at all times.**

486. The procedures for the management of prisoners subject to Rule 32 clearly lay down the requirement that the IMB should be involved in the case conference and should independently scrutinise decisions being taken in relation to a prisoner being placed on Rule 32. At Maghaberry a list of all the prisoners currently on Rule 32 is sent to the Secretariat of the IMB every Monday morning. As such, this recommendation is already carried out. These lists are kept by the Head of Management Support Services at Maghaberry, and are available for consultation at any time, and go back five years. As noted above, IMB are notified of case conferences when extension requests are being considered.

**(Paragraph 181) The CPT finds that the distinction between segregation under Rule 32 and cellular confinement under Rule 39 is not clear. In the CPT's view, segregation measures and disciplinary sanctions serve distinct purposes and should therefore not be confused. A segregation measure is imposed in the interest of the institution and its inmates and staff, and thus aims at protection and prevention, while a disciplinary sanction is intended to correct a prisoner's behaviour after a breach of the Prison Rules, and thus has a certain pedagogical objective. The CPT recommends that operational guidelines be drafted to ensure that there is a clear distinction between the application of a segregation measure and a disciplinary sanction.**

487. NIPS does not accept that there is any confusion over the operation of the adjudication procedures and the Rule 32 procedures – they are two very separate procedures. Both are clearly provided for in specific policies. The Adjudication Manual provides guidance on the operation of the adjudication procedures. The two procedures provide a clear distinction between the application of a policy of segregation and a disciplinary sanction.

**(Paragraph 182) In both prisons, cellular confinement and segregation was applied in the Special Supervision Unit (SSU), without any distinction in respect of regime or detention conditions<sup>25</sup>. Prisoners of both categories remained locked in their cells for the whole day, with the exception of one hour of daily outdoor exercise, and were not offered work or education; nor could they participate in religious services or have access to the tuck shop. The CPT considers that accommodating Rule 32 prisoners under the same conditions as disciplined prisoners is inappropriate. In particular, prisoners segregated for their own protection should, as far as possible, enjoy a normal regime, with the inevitable limitations on association being compensated by an enhanced access to outdoor exercise, education, the library etc. The CPT recommends that the policy of accommodating "own protection" prisoners under Rule 32 in conditions akin to cellular confinement be reconsidered.**

488. NIPS acknowledges the unacceptability of keeping Rule 32 prisoners in the same accommodation as prisoners under punishment. However, NIPS does not have the flexibility in the accommodation available to provide separate discrete accommodation for prisoners held for their own protection. Every effort is made to ensure that prisoners held for their own protection are accommodated, where possible, in vulnerable prisoner or other special accommodation. However, in reality, this is not always achievable. In these instances, NIPS seeks to proactively ensure that prisoners spend as short a time as possible in the SSU before being moved. If a prisoner has to remain in the SSU for any significant length of time, NIPS will initiate a regime plan which includes, for example, access to a dedicated gymnasium and to the association room. At the time of writing, there were no prisoners held in the SSU for their own protection.

**(Paragraph 183) The CPT observed that the SSU registers were in many cases not complete, with dates when prisoners left the unit not recorded, or forms indicating authorisation from the Secretary**

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<sup>25</sup> For example, at the time of the visit, the SSU at Maghaberry prison held 12 prisoners under Rule 39 and seven segregated under Rule 32.



**of State in the case of a placement under Rule 32<sup>26</sup> missing. The CPT recommends that steps should be taken to ensure that all relevant facts are diligently recorded in the SSU registers.**

489. In Maghaberry a journal is kept in the SSU detailing all relevant facts about the prisoners. An instruction has been issued to relevant line managers reminding them of their obligation to ensure that rules regarding completion of the journal are enforced.
490. Staff in Magilligan have been advised of the necessity to record all relevant facts at all times. Governors have been instructed to continue checks of the SSU journals on daily visits.

#### **b. complaints system**

**(Paragraph 184) The operation of the complaints system was troublesome, particularly at Maghaberry Prison, where the delegation found that complaint forms were not always readily available to prisoners. Some prisoners accommodated in the SSU even claimed that in order to obtain a complaint form, they first had to file a request under Rule 74. Further, the CPT is concerned that the central role afforded to the prison officer on the landing on which the prisoner is located may undermine the effectiveness of the complaints system itself. Indeed, the delegation received several complaints to this effect; some prisoners claimed that they had been threatened with repercussions should they file or pursue complaints<sup>27</sup>. More generally, many prisoners expressed a profound lack of confidence in the complaints system. This issue needs to be addressed urgently, as a well-functioning complaints system is in the interest of all parties. The delegation was informed that the complaints system is currently under review. The CPT recommends that the necessary steps be taken to ensure that the complaints procedure offers appropriate guarantees of independence, impartiality and thoroughness, taking into consideration the above remarks. Further, the Committee considers that statistics on the types of complaints made should be kept as an indicator to management of areas of discontent within the prison.**

491. NIPS fully acknowledges that complaints forms should be generally available for prisoners to complete without them having to formally request one.
492. A review of the Internal Complaints Procedure has been completed. Following consideration of the findings, enhancements which will improve the thoroughness and confidentiality of complaint management have been agreed. These will be incorporated into the revised complaints procedure, which reduces the number of stages in the process from three to two and which will be operational in late 2009. The 2 stage system will be particularly targeted to ensure managers speak with the prisoner and explore the issues being complained about.
493. Complaint Co-ordinators have been selected in each prison. Their remit includes the requirement to ensure Complaint Forms are available on landings.
494. A business objects report has been set up on the prisoner records information system to provide statistical detail on the trends and patterns of complaints. A Governor based in Prison Service Headquarters, in conjunction with establishment Complaint Co-ordinators, will analyse complaint statistics on a bi-monthly basis for trends, problem areas and timeliness of response. Any areas of discontent indicated are highlighted and investigated to determine whether there are any service improvement opportunities which can be taken.

<sup>26</sup> Rule 32 (2), Prison and Young Offenders Centre Rules (Northern Ireland) 1995

<sup>27</sup> The CPT's delegation was told that in order for complaints not to be filtered by prison staff, the Prison Ombudsman opened a free telephone line from all NI prisons.

495. In addition, NIPS will also consider introducing a procedure to ensure that the prisoner can lodge a complaint without having to submit the complaint through residential staff. The operation of the complaints procedure is continuously under review and where NIPS falls short in the standard required in handling a complaint this will undoubtedly be raised by the Prisoner Ombudsman who will ultimately have responsibility for resolving the complaint.

**(Paragraph 186) The role of the Prison Ombudsman in investigating complaints is rightly recognised as an essential component in the proper functioning of the Northern Ireland Prison Service and the CPT also welcomes the practice that has developed of the Prison Ombudsman investigating *ex officio* certain incidents, such as deaths in prison. However, it has been argued that the tasks and powers of the Prison Ombudsman require a statutory basis higher than the Prison Rules if they are to be exercised effectively<sup>28</sup>. The CPT would like to receive the comments of the United Kingdom authorities on giving the Prison Ombudsman a statutory basis higher than the Prison Rules.**

496. The UK Government had intended to place both the Prisons and Probation Ombudsman and Northern Ireland Prisoner Ombudsman on a statutory footing using the Criminal Justice & Immigration Act 2008. However, the Government withdrew the relevant parts of the Bill in early 2008 when it became clear that consensus among interested parties was not going to be achieved in the time available. The Ministry of Justice is currently leading a scoping exercise on how best to move the statutory footing issue forward although a suitable legislative vehicle has yet to be identified. By the time conclusions are reached prisons matters may have been devolved to the NI administration. In those circumstances the status of the office of the NI Prisoner Ombudsman would be a matter for the new Northern Ireland Minister of Justice.

**(Paragraph 186) In order for the Prison Ombudsman to carry out his/her tasks professionally, independently and comprehensively, sufficient resources must be allocated to this body. The CPT would like to be informed about the resources currently allocated to the Prison Ombudsman.**

497. The resources allocated to the Prisoner Ombudsman are £598,000 in 2009-2010 and £612,000 in 2010-2011. The Ombudsman has recently been given an additional £90,000 of in-year funding to support investigations into deaths in custody and to address a work backlog. A proportion of this funding will be consolidated in the Prisoner Ombudsman's funding baseline from 2010-11, to resource the continued appointment of an additional investigator and associated costs.

### **c. inspection and monitoring**

**(Paragraph 187) In both prisons, prisoners complained that requests to meet with the members of the Independent Monitoring Board were at times filtered by prison officers. The CPT recommends that appropriate means be established to enable prisoners to have confidential access to both the Independent Monitoring Board of the establishment where they are held and the Northern Irish Criminal Justice Inspectorate.**

498. Procedures are in place in each establishment to allow a prisoner to make a confidential request to see a member of the IMB or to lodge a letter to the IMB. Specific IMB boxes are available on the landings, for example, at Hydebank Wood for this purpose. IMB members routinely walk the landings in all establishments and prisoners can approach them directly on a confidential basis without having their conversations or representations filtered by prison staff.

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<sup>28</sup> The CPT's delegation was told that there is no further legislation concerning the Prison Ombudsman, apart from Part VIII of the Prison and Young Offenders Centre Rules (Northern Ireland) 1995.

499. The Criminal Justice Inspectorate does not have a specific role within establishments to investigate individual prisoner requests or complaints. Prisoners do not have routine access to inspectors other than when they are undertaking specific inspections within establishments.
500. However, Prisoners do have direct access to the Prisoner Ombudsman's office and freephone telephone numbers are available for use by prisoners to facilitate any approach directly to the Ombudsman.