



11 October 2019

**UK NPM RESPONSE TO EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT (CPT) REPORT TO THE UNITED KINGDOM ON THEIR 2018 VISIT TO SCOTLAND**

The UK's National Preventive Mechanism (NPM) is a network of 21 independent monitoring bodies in England, Wales, Scotland and Northern Ireland whose role is to prevent ill-treatment in detention. The NPM was established in 2009 in accordance with the UK's obligations under the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Six NPM members are based in Scotland: Her Majesty's Inspectorate of Prisons for Scotland (HMIPS), Her Majesty's Inspectorate of Constabulary in Scotland (HMICS), the Mental Welfare Commission for Scotland (MWCS), Independent Custody Visiting Scotland (ICVS), the Care Inspectorate (CI), and the Scottish Human Rights Commission (SHRC).

The Council of Europe's Committee for the Prevention of Torture (CPT) is one of two international bodies tasked with a parallel role of preventing ill-treatment through conducting visits to places of detention. The UK NPM work closely with both bodies, the CPT and the United Nations Subcommittee on Prevention of Torture, during their formal visits to the UK and in response to their recommendations and standards for places of detention.

In October 2018 the CPT visited five prisons and five police stations in Scotland and during the visit met with representatives from three NPM members: HMIPS, HMICS and SHRC. The delegation paid attention to: the treatment of women prisoners; segregation units in prison; and the treatment of detainees in police custody. The NPM welcomes the report which has been issued by the CPT today alongside the government's response, and we note in our response the many areas in which the CPT confirm concerns that our members have raised in their own reports which were unfortunately not resolved. We are pleased that the CPT found police custody facilities to be safe environments overall. The CPT also reported that the vast majority of prisoners they spoke to stated that they had been treated correctly by prison officers. However, the Committee did report serious concerns about the inadequate treatment for women with mental health issues, severe over-crowding in prisons and excessive use of force in police custody, among other issues. It is evident from the CPT's report that even in countries committed to providing safe and humane detention conditions, serious problems within detention can still arise.

### *Inadequate treatment for women with mental health issues in prisons*

The NPM are particularly concerned by the CPT's account of the treatment of women in need of urgent psychiatric care in Cornton Vale prison [paragraphs 89-96]. The CPT's report states that they saw at least five women held in the segregation unit in Cornton Vale who they assessed needed urgent psychiatric care [paragraph 95]. Two of the women seen by the CPT had been referred to an outside hospital under the Mental Health Act, but returned under the premise they "suffered from personality disorders and not a psychiatric illness". Another had remained for months in prison despite having been assessed as requiring a hospital bed. These women were being held in segregation units that the CPT found to be "totally inappropriate environments" for addressing their complex needs.<sup>1</sup> The NPM agrees with the CPT on the inappropriateness of this environment. In the NPM's 2017 guidance on isolation in detention we state that segregation should be avoided for vulnerable or mentally ill individuals unless there are exceptional circumstances and all other options have been exhausted.<sup>2</sup>

These findings confirm the concerns of the MWCS about the pathways for women from prison into mental health services. They will follow up the individual cases, and undertake a themed visit to all of Scotland's prisons next year, looking at mental health care and access to specialist psychiatric services.

We welcome the review of forensic mental health services which the Scottish Government has announced, but more urgent action is necessary to address the needs of vulnerable women with severe mental health issues in prison.

### *Overcrowding and isolation in men's prisons*

NPM members share the CPT's concerns around overcrowding in men's prisons in Scotland [paragraphs 37-38].<sup>3</sup> The prison population currently exceeds by over 500 the Scottish prison system's normal operating capacity. According to the CPT if a prison is running at over 95% of its capacity it is difficult, if not impossible, for the prison service to ensure the safety and dignity of prisoners. At the time of their visit, HMP Barlinnie was running at a capacity rate of 132%. Overcrowding leads to a number of human rights concerns, such as the unintentional isolation of prisoners, poor material living conditions such as dirty and cramped cells, and limited access to purposeful activity and time out of cell. HMIPS have noted that single cells are now being used to accommodate two prisoners, contrary to international guidance and best practice around cell sharing and size, and the availability of adapted cells for prisoners with physical disabilities is inadequate. Opportunities for purposeful activity, personal officer time and access to offending behaviour programmes have become significantly constrained.

The CPT describe the regime in male segregation as "akin to solitary confinement", which becomes prolonged due to the "carousel" of prisoners in and out of different segregation units in Scotland

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<sup>1</sup> See NPM, [Monitoring places of detention: Eighth Annual Report of the UK's NPM 2016-2017](#) for the NPM's work looking at transitions and pathways between different types of detention.

<sup>2</sup> NPM, [Guidance: Isolation in detention](#) (January 2017)

<sup>3</sup> HM Chief Inspector of Prisons for Scotland, [Annual Report 2018-19](#) (August 2019) and [oral evidence](#) to Justice Committee of the Scottish Parliament, 28 May 2019

[paragraph 64]. We welcome the CPT recommendation that a step-down facility be considered as an alternative to prolonged segregation in Separation and Reintegration Units (SRUs) [paragraph 74] and encourage the government to seek input from HMIPS and the NPM into the 'short life working group' they have set up to review SRU practices and share their results widely. NPM members' concerns about the unintended social isolation of non-office protection and remand prisoners is echoed in the CPT report, which notes that remand prisoners at Barlinnie "had little to do to structure their days and spent around 22 to 23 hours per day in their cells, with nothing to do other than sleep, watch television or read" and non-offence protection prisoners at Edinburgh Prison "had allegedly been locked up for 23 to 24 hours per day."

The CPT also commented on the cupboard-like cubicles, colloquially referred to as "dog-boxes", used for prisoners on transit through the reception area at Barlinnie Prison. The CPT has criticised their use in all four reports of their visits to Scotland since 1994; the CPT's view is that holding people in cells this size could amount to degrading treatment and asked the government to provide a response to its concerns within three months [paragraph 47-48]. It is therefore of particular concern to note that the government response to the CPT published today is exactly the same as the response provided to the CPT in January 2019. A recent inspection by HMIPS confirms that these holding cells remain in use, which remains of deep concern.

#### *Use of force in police custody*

The CPT report highlights worrying instances of excessive use of force in police custody [paragraphs 14-15]. Complaints made to the CPT by detainees include allegations of excessively tight hand-cuffing and physical abuse at the hands of police officers. The CPT met a number of people in police custody who had visible injuries. In some instances, in which detainees' injuries were recorded by custody staff, the CPT noted that there was no follow-up investigation enquiry by police into the cause of the injuries. HMICS has not received reports of excessive use of force during inspections, nor have the organisation witnessed it. They have, however, previously commented on the need for improved governance around use of force, including the need for better collation and monitoring of use of force data. To account for the fact those held in police custody may be reluctant to report excessive use of force while they remain in custody, HMICS has begun to engage with those who have experience of police custody outside the custody environment. HMICS and the NPM will continue to check that force is used only when necessary and proportionately in future inspections.

The CPT referred to several other issues of concern, including the rise in inter-prisoner and prisoner-on-staff violence, gaps in the continuity of medication in detention, and concerns over the effectiveness of investigations into police conduct.

We welcome the CPT's recommendation that UK authorities pay close attention to the NPM's statutory basis, guarantees of independence and resourcing, with a view to ensuring that the NPM meets the requirements of OPCAT. We are disappointed by the government's response that the UK "continues to comply with its international obligations under the OPCAT" which is at odds with the view of the responsible United Nations committee, the Subcommittee on the Prevention of Torture, which in

January 2018 informed us of its unequivocal view that OPCAT requires that the NPM have a “clear legislative underpinning”.<sup>4</sup>

The NPM is committed to preventing torture and ill-treatment in its many forms and the relevant NPM bodies will follow-up on the issues raised in the CPT’s report in their inspection and monitoring work. We ask the Government to respond urgently to the report to create improvements for people in police custody and prisons in Scotland.

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John Wadham, Chair of the National Preventive Mechanism

Care Inspectorate

Her Majesty’s Inspectorate of Constabulary in Scotland

Her Majesty’s Inspectorate of Prisons for Scotland

Independent Custody Visiting Scotland

Mental Welfare Commission for Scotland

Scottish Human Rights Commission

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<sup>4</sup> [Correspondence between the UN Subcommittee on Prevention of Torture and John Wadham, Chair of the UK NPM](#), 29 January 2018