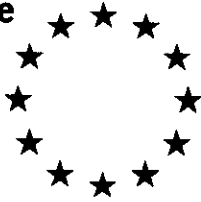
Council of Europe
Conseil de l'Europe



CPT/Inf (96) 12

Final 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) on its visit to the United Kingdom from 15 to 31 May 1994

The United Kingdom Government has requested the publication of the CPT's report on the visit to the United Kingdom from 15 to 31 May 1994 (see CPT/Inf (96) 11) and of its final response. The Government's final response is set out in this document.

Strasbourg, 5 March 1996

FINAL 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) ON ITS VISIT TO THE UNITED KINGDOM

FROM 15 TO 31 MAY 1994

<u>CONTENTS</u>

	Pages
PREFACE	1 - 2
PART I - COOPERATION	3
PART II - ENGLAND	
A. POLICE ESTABLISHMENTS	4 - 13
B. CUSTOMS DETENTION	13
C. PRISONS	13 - 33
D. YOUNG OFFENDER AND REMAND CENTRE FELTHAM	34 - 40
E. ADMINISTRATIVE DETENTION OF FOREIGN NATIONALS	40 - 50
F. RAMPTON SPECIAL HOSPITAL	50 - 56
PART III - SCOTLAND	
A. POLICE ESTABLISHMENTS	57 - 62
B. PRISONS	63 - 73

PREFACE

This is the final response of the United Kingdom Government to the recommendations, comments and requests for information contained in the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the United Kingdom from 15 to 31 May 1994. An interim response to this report was forwarded to the Committee in August 1995.

2. The United Kingdom's response follows the format of the summary of the recommendations, comments and requests prepared by the Committee. Where requested by the Committee, or indicated in the text of the Government's response, supplementary documentation has been supplied. The response relates to the position in England and Wales unless otherwise stated.

3. The Government welcomes the Committee's references to the co-operation the delegation received during its visit.

4. The Government notes the Committee's concerns about the question of access to medical records. However, the Government continues to believe that it is neither possible nor appropriate to override the provisions relating to confidentiality enshrined in law, by making special arrangements for the Committee to have access to medical records. The Government believes that its actions are in keeping with the terms of the Convention.

5. The Government shares the Committee's concerns about allegations of ill-treatment, particularly those relating to the detention of prisoners at the Main Bridewell Police Station. These allegations have been thoroughly investigated and a full account of the results is given in the response. The investigating officer was unable to find substantiating evidence of the allegations of mistreatment. The holding of Prison Service prisoners at all police stations ceased on 15 June 1995. It remains the aim of the Prison Service not to use police cells to accommodate prisoners, however, this is subject to fluctuations in the prison population and the availability of prison accommodation.

6. The Government welcomes the Committee's recognition of the improvement in accommodation standards and prison conditions at prisons previously visited in 1990. Further progress has been made since the CPT's visit. Full details of current work and future plans are included in the response.

7. The Government welcomes the Committee's report of its visit to Rampton hospital as a balanced account of the major areas of concern regarding the hospital. The Government is pleased to note the many positive observations, including, the devotion shown by staff to patient care, the extensive occupational and rehabilitative facilities, the correct use made of medication, the marked reduction in the use of seclusion, the fact that

patients were given appropriate information about their rights to complain, and the positive impression of the Patients' Council. Furthermore, as the Committee recognises, these achievements have been implemented at a time of major change and adjustment for the hospital.

8. The Government welcomes the Committee's report of its visit to HM Prisons, Barlinnie and Peterhead. The Scottish Prison Service (SPS) have reacted in a very constructive manner to the Committee's recommendations. Some of these recommendations were already being addressed prior to the CPT's visits and further progress has been made on the remainder of the recommendations.

I. CO-OPERATION

comments

- **the United Kingdom authorities are requested to take appropriate steps to ensure that the right of the CPT to have access to medical records is formally guaranteed (paragraph 9)**

Under English common law, access to medical records can only be given with the consent of the individual concerned (or the next of kin, in the case of a deceased person) unless there is an overriding public interest in revealing the information or a specific statutory requirement (sections 120(4) and 121(5) of the Mental Health Act 1983 provides for Mental Health Act Commissioners to examine medical records in hospitals and mental health nursing homes in the course of exercising their duties under the Act).

It is the Government's belief that the terms of Article 8(2)(d) do not override the provisions laid down in our domestic law. The Government further believes that the terms of the Convention do not require that signatories should legislate domestically in order to provide the Committee with the information it requires. UK law is designed to protect the individual against breaches of confidentiality. The UK has no wish to obstruct the work of the CPT, nevertheless the Government believes that it is important to protect the individual's right in law that no-one may see his or her personal information without his or her consent.

The Government further considers that the guidance issued to mental health institutions in preparation for the CPT's visit complied with the terms of the Convention. There was no significant difference between the guidance issued by the NHS Executive and that issued by the Prison Service Directorate of Health Care. Both sets of advice stated that medical records were only to be disclosed with the consent of either the individual or the next of kin.

The Government notes the CPT's acknowledgement that, in practice, the Committee encountered no significant problems in gaining access to medical records in any of the establishments visited.

The UK Government does not intend to introduce legislation amending the existing law.

II. ENGLAND

A. Police Establishments

1. Torture and other forms of ill treatment

comments

- **the Committee would like to receive an assurance from the United Kingdom authorities that the Main Bridewell Police Station in Liverpool will not in future be used to hold prisoners on behalf of the Prison Service (paragraph 22)**

The use of the Main Bridewell ceased on 3 June 1994. However, because of local population pressures it became necessary to use the Main Bridewell during March to May 1995. No prisoners were held three to a cell and steps were taken to make exercise facilities available during this time.

requests for information

- **information on any decisions which may have been taken with regard to the rules which should apply to prisoners held on police premises on behalf of the Prison Service (paragraph 13)**

A copy of the latest Instruction to Governors on the use of police cells, issued on 13 April 1995, has been forwarded to the Committee.

- **details of the outcome of the investigation into allegation of ill-treatment of prisoners at the Main Bridewell Police Station (paragraph 13)**

During their visit to the Main Bridewell in Liverpool, the Committee heard a number of allegations of ill treatment of Prison Service detainees by police officers, and these were communicated to the Government on 31 May 1994 under Article 8(5) of the Convention.

The Government informed the Chief Constable of Merseyside Police the same day and he immediately appointed a senior officer to investigate these allegations. In addition, all Prison Service detainees were removed from the Bridewell by 3 June.

The Investigating Officer and his assistant interviewed all six of the Prison Service detainees who spoke to members of the committee during their visit. Of these only three would provide witness statements. The main complaints made in these statements were of a domestic nature, examples being that the cell space was inadequate, cells were too hot and benches too narrow. Where allegations of ill-treatment were made they were anecdotal or could not be supported by independent evidence.

A further eleven detainees held at the time of the Committee's visit under the provisions of the Police and Criminal Evidence

Act, 1984, were identified. Of these, two made statements and a further three were seen by the Investigating Officer but declined to make written statements. The remainder did not co-operate with the Investigating Officer. The only specific complaint arising from this second group of interviews was that one particular male was ill-treated. In order to pursue this allegation the Investigating Officer attempted to trace this person but without success.

Following receipt of the Committee's full report in February 1995, the Investigating Officer attempted to identify the two prisoners referred to in paragraph 20 of that report. The prisoner who alleged ill-treatment on 6 May 1994, was possibly the same male whom the Investigating Officer had unsuccessfully tried to trace earlier to further his investigations.

A possible identification has been made of the second detainee who refers to being detained in Cell 14 on 23 April 1994, and efforts have been made to trace and interview him, without success.

In the light of the Investigating Officer's report, the Merseyside Police could not find any evidence which supported the conclusion reached by the CPT that detainees at the Main Bridewell "ran a not inconsiderable risk of physical ill-treatment". In arriving at this conclusion they considered not only the absence of any substantive complaint but also the general circumstances which surround the regime at the Main Bridewell and other police stations. They noted that disruptive detainees who have to be segregated or removed from cells for any reason are not willing participants. From time to time this will lead to struggles and noise, and police actions will be open to misinterpretation by onlookers. An examination of Lay Visitor's records showed little by way of complaint (other than those domestic matters previously referred to) to have been made by any detainee.

The Committee expressed concern (paragraphs 18 and 21) at the use of cell 14 for segregation purposes. The Merseyside Police consider that regard needed to be given to the number of detainees who pass through the Main Bridewell and the disturbed nature of some of the detainees. Over the first four and a half months of 1994, a total of 4,005 detainees were processed at the Main Bridewell. In this context, the use of Cell 14 on an average of 15/18 occasions per month was not considered excessive. The Merseyside Police considered the use of the cell for short term detention of disruptive detainees to be appropriate.

The Committee also expressed concern about the use of police dogs at the Main Bridewell (paragraph 18). The presence of police dogs at the establishment was normal practice up to the time of the CPT's visit. No detainee has physically suffered from this presence, which was believed to be a deterrent to disorder when large numbers of prisoners were outside their cells. This practice has since been reviewed in the light of recommendations

by the Investigating Officer and discontinued.

The notice commented on by the Committee (paragraph 18), had been removed by the time the Investigating Officer visited the premises. The Merseyside Police considered that the wording of the notice, as described by the Committee, was inappropriate and unprofessional. Instructions were given to the officer in charge of the Main Bridewell to ensure that there is no repetition.

The CPT expressed concern (paragraph 18) that the Prison Service prisoners held in police cells were not subject to Prison Service Rules or those established under the provisions of the Police and Criminal Evidence Act 1984. In the light of the Committee's comments the Merseyside Police have revised their instructions for the supervision of Prison Service prisoners and have introduced a charter for such prisoners (a copy has been forwarded to the Committee). These are applicable throughout the Merseyside Police area.

- **a copy of the full text of the High Court decision referred to in paragraph 16 and an account of any action subsequently taken in the light of that decision (paragraph 16)**

A copy of the text has been forwarded to the Committee.

The Chief Constable of the West Midlands was extremely concerned at the judge's comments in this case and accordingly appointed a senior investigator from the force's Complaints and Discipline Department to conduct a thorough investigation into matters arising out of the judgement, in particular the allegation of torture.

In the course of his investigations, the Investigating Officer examined some 2,500 pages of documents and interviewed a number of witnesses, including other people who were in custody at Bromford Lane Police Station at the time of the alleged incident. The complainant himself declined to co-operate with the investigation.

This investigation was completed and forwarded to the Director of Public Prosecutions (DPP) for consideration as to whether any criminal prosecutions should follow. The DPP, subsequently, decided that there was insufficient evidence to provide a realistic prospect of conviction in respect of any alleged criminal offence and that therefore criminal proceedings should not be instituted.

The matter was also referred by the Chief Constable to the Police Complaints Authority under the terms of Section 89 of the Police and Criminal Evidence Act 1984, with a view to the investigation being supervised by the Authority. After careful consideration the Authority chose not to supervise the enquiry. The reasons for their decision were forwarded to the complainant's legal advisers.

- **as much information as possible on the investigation being carried out into the activities of police officers based at Stoke Newington Police Station, to the extent that they relate to the ill treatment of detainees (paragraph 17)**

In May 1995, there were 30 investigations outstanding at various stages of completion arising from complaints made against police officers based at Stoke Newington. The earliest of these cases was recorded in March 1994 and the most recent in May 1995. 15 of these cases were investigated by the police, 10 were under consideration by the Director of Public Prosecutions or the Police Complaints Authority, and 5 were the subject of legal proceedings. 9 of the cases allege breaches of the PACE Codes as to the treatment in custody, for example not being given food or drink, or that cells were dirty. 17 of the cases allege assault by a police officer. In one of these cases it was alleged that the assault led to the death of the suspect. 4 of the cases allege oppressive conduct or harassment by a police officer.

Of the 15 allegations which were under investigation by the police in May 1995, 2 have been submitted to the Director of Public Prosecutions or the Police Complaints Authority for a decision, 4 remain outstanding, and in one case the disciplinary aspects are currently being considered after a decision was made by the Director of Public Prosecutions not to take criminal action. The remaining 8 cases have been completed. Of these, one was unsubstantiated, one was informally resolved, 2 were withdrawn by the complainants, and the Police Complaints Authority granted dispensations from the requirement to investigate the remaining 4.

Of the 10 allegations being looked at by the Director of Public Prosecutions or the Police Complaints Authority, 9 were unsubstantiated and therefore no action was taken. The Police Complaints Authority granted a dispensation from the requirement to investigate the remaining one.

Of the 5 allegations whose investigation was deferred due to the existence of criminal proceedings against the complainants, 2 are now under investigation and a dispensation was granted by the Police Complaints Authority in respect of another. The remaining 2 were investigated and, in light of this, they were reclassified as not involving the assault or harassment elements which were first suspected.

- **for 1993 and 1994:**

  the number of complaints of ill-treatment lodged against police officers and the number of criminal/disciplinary proceedings initiated as a result of such complaints;

  an account of criminal/disciplinary sanctions imposed following complaints of ill treatment by police officers (paragraph 23)

The independent Police Complaints Authority has responsibility for ensuring that complaints against police officers in England

and Wales are thoroughly investigated. The Authority has the right to supervise the investigation of the most serious complaints against the police and to direct that disciplinary charges are brought against an officer for misconduct, even in cases where the chief officer proposes not to take action.

The CPT asked for statistics for the last two years on complaints of ill-treatment and resulting criminal or disciplinary action. Statistics showing a breakdown of all complaints recorded against the police are given below, together with information on the number of officers who were subject to criminal or disciplinary proceedings. These statistics relate to all complaints against the police and not specifically those relating to persons held in police custody.

Table 1: Outcome of all complaints

	Total Complaints	Substantiated	Unsubstan-tiated	Withdrawn/not proceeded with	Informally resolved
1993	34,894	750	9,734	14,284	10,126
1994	36,521	793	8,797	14,658	12,273

Table 2: Substantiated complaints by reason for complaint

Reason for complaint	1993	1994
Assault	94	82
Oppressive conduct/harassment	41	40
Unlawful/unnecessary arrest/detention	72	61
Racially discriminatory behaviour	5	4
Corrupt/improper practice	65	63
Failures in duty[1]	365	413
Incivility	62	84
Traffic irregularity	8	11
Other	38	35
Total	750	793

[1] Includes infringements of the statutory Codes of Practice for the conduct of searches of persons or property, detention, treatment and questioning of suspects and other irregularities of procedure or neglect of duty.

Table 3: Substantiated complaints (non-traffic) by type of proceedings that resulted

Type of proceedings	1993	1994
Both criminal and disciplinary proceedings	8	3
Criminal proceedings only	11	3
Disciplinary proceedings only	118	88
Dealt with by other means[2]	446	536

Table 4: Police officers against whom disciplinary charges were brought and completed

Result of proceedings	1993	1994
One or more charges found proved (of which arising from a complaint)	485 (149)	390 (96)

Table 5: Punishments awarded as a result of disciplinary proceedings (all offences including those originating from a complaint)

Most serious punishment	1993	1994
Dismissed	47	27
Required to resign	55	67
Reduction in rank	20	21
Reduction in pay	24	38
Fine	184	114
Reprimand	117	88
Caution	38	35

Table 6: Police officers convicted of criminal offences (non-traffic)

1993	1994
49	35

2. Conditions of detention

recommendations

- **urgent steps to be taken to bring a permanent end to the practice of holding Prison Service prisoners in police cells (paragraph 29)**

[2] i.e. by advice/informal means

The use of police cells for holding Prison Service prisoners ended on 15 June 1995. Subject to there being no unforeseen increase in the prison population and unexpected losses of capacity, resort to the use of police cells should be avoidable. It is hoped to maintain this position.

- **the use of police stations to hold Immigration act detainees to be reviewed in the light of the CPT's remarks in paragraphs 31 to 34 (paragraph 34)**

The custody facilities at Gatwick Airport were planned and built before the passing of the Police and Criminal Evidence Act 1984 (PACE). The accommodation has been adapted as far as possible to meet the requirements of this legislation. It is accepted that present provision is not ideal and work has been undertaken to address the situation. Costed plans have been worked up for structural alterations to the custody suite to meet the legislative requirements. This matter was progressed during the current financial year, when the Divisional Commander entered into negotiations with Gatwick Airport Limited (GAL) for the finance to carry out the necessary works. The policing costs of Gatwick Airport are fully funded by GAL. Contracts for this building work are currently being awarded.

For some time the Gatwick Division of the Sussex Police and the Immigration Service have operated a local arrangement. In essence this ensures that as many Immigration detainees as possible are held in the immigration detention facility at Gatwick Airport. Only detainees who are violent, or in custody for criminal offences, are routinely held at the Police Station. Periodically, Gatwick Police Station acts as an overflow facility when the Immigration Service accommodation is at capacity. Such periods of detention are kept to a minimum and detainees are taken back into Immigration Service accommodation at the earliest opportunity.

When immigration detainees are held at Gatwick Airport Police Station for a long period of time, every effort is made to meet their welfare requirements. In the context of exercise this extends to periods out of the cells in the custody suite corridor, use of the exercise area (referred to in the report), and occasionally exercise in the rear yard of the Police Station. Clearly, this opportunity cannot be provided to all immigration detainees due to security considerations, as well as the volume of other activity within the custody area. In these circumstances it would be unusual for an immigration detainee to be held for more than five days.

It is expected that the need to hold immigration detainees at the police station will be reduced when a new Immigration Service detention facility at Gatwick, Tinsley House, is opened in April 1996. The need to use police cells is likely to be reduced more generally as new Immigration Service detention facilities become more available but there will always be a need for immigration offenders arrested in this country to be detained initially in police cells. Overstayers, those found working in breach of

their conditions and illegal entrants who are detected after entry may be taken to a police station for a tape-recorded interview in accordance with the provisions of the Police and Criminal Evidence Act 1984. This may result in their detention in police cells initially while more suitable detention accommodation is arranged. However, the need to limit to the absolute minimum the period spent in police cells is accepted.

- **washing facilities for PACE detainees at Paddington Green Police Station to be improved (paragraph 35)**

A refurbishment programme which includes male and female showers has now been scheduled for March 1996. It is intended that the custody suite will be closed and completely rebuilt. During the building works, which are expected to take several months, detainees will be held at Harrow Road Police Station, which has proper shower facilities for prisoners.

In addition, the police have negotiated an arrangement with the Immigration Service, who have undertaken, normally, to remove their detainees within 48 hours. This is subject to the overall demands placed upon the Service.

requests for information

- **information on the outdoor exercise arrangements at Paddington Green Police Station for PACE and PTA detainees held for extended periods (paragraph 35)**

The Metropolitan Police do arrange supervised walks in the station yard, but they acknowledge that this is not fully satisfactory. The Metropolitan Police accept that police cells are inappropriate for the detention of long term prisoners.

<u>Walworth Police Station</u> (paragraph 32)

The Metropolitan Police have advised that the small exercise yard at this Station has had its security improved and it is now available for use. There are reasonable shower facilities for both male and female prisoners, but no other out of cell activity is practical.

3. Safeguards against ill-treatment

recommendations

- **the right of a detainee to have access to another lawyer when access to a specific solicitor is delayed to be the subject of a legally binding provision (paragraph 40)**

In the follow up report on the first periodic visit (CPT/Inf (93) 9, paragraph 97), the United Kingdom Government explained the provision relating to access to a lawyer in Note for Guidance B4 to Annex B of the PACE Code of Practice C. The reply stated "In such circumstances" ie where access to a specific solicitor is delayed "the detainee should <u>normally</u> be offered access to a solicitor on the Duty Solicitor Scheme." The CPT expressed the view that the matter was too important to be dealt with merely in a Note for Guidance as such notes are not legally binding on the police.

The wording in Note for Guidance B4 is "In these circumstances the officer should offer the detained person access to a solicitor (who is not the specific solicitor referred to above) on the Duty Solicitor Scheme." This wording makes it clear what should happen. The earlier UK reply contained in the follow up report was misleading in referring to what should "normally" happen.

The CPT's recommendation to upgrade the provision contained in Note for Guidance B4 of Code C to make it a full provision of the Codes, will be taken into account at the next revision of the Codes.

requests for information

- **the views of the United Kingdom authorities on ways of ensuring that detained persons have in all cases the right to request a medical examination by a doctor other than one chosen by the police (paragraph 42)**

The PACE Codes of Practice have been revised and the paragraphs in Code C dealing with "medical treatment" have been strengthened to clarify when medical attention must be sought. It is stressed in several places that if there is any doubt medical treatment must be arranged.

The United Kingdom authorities are not aware of any problem in allowing access to a doctor of the detainee's choice, if this is requested. The Government are to review arrangements for police surgeons, following a recommendation of the Royal Commission on Criminal Justice and this proposal will be considered as a part of that review.

- **information on the outcome of the trial of audio-tape recording of interviews with terrorist suspects in England and Wales (paragraph 44)**

The results of the tape-recording trials are currently being evaluated in order to decide whether tape-recording should apply permanently to all interviews with terrorist suspects at police stations in England and Wales. The CPT will be informed, in due course, of the conclusion reached in this respect.

B. Customs Detention

recommendations

- **the use made of the longer term customs detention zone at Gatwick Airport to be reviewed in the light of the Committee's remarks in paragraph 47 (paragraph 47)**

The building currently used will be demolished and a new detention facility will, in due course, be built on-site at the airport. This building will comply with the latest Home Office specifications with facilities for exercise and to allow natural light.

requests for information

- **clarification of the reasons for the existence of the power provided for in section 152 of the Criminal Justice Act 988, to remand a person to customs detention for a period of up to 8 days (paragraph 48)**

The Criminal Justice Act 1988, s152, provides a magistrate's court with the power to grant remands back to customs custody for periods of up to 8 days.

The remand provision of s152 was constructed for use when dealing with offences involving suspected internal concealments within the body of the detainee where there is sufficient evidence to bring charges and drugs are expected to be produced, excreted or otherwise recovered after charge (stuffers and swallowers). This allows them to remain in Customs special facilities until it is apparent that no drugs remained concealed internally. This is preferable to having them remanded in either prison or police detention where specialist knowledge and equipment are not usually to be found. Section 152 is also used to invite the courts to remand co-operating couriers back to customs custody so that they might assist in the arrest of their accomplices.

C. Prisons

1. Torture and other forms of ill treatment

requests for information

- **for 1993 and 1994:**

  the number of complaints of ill-treatment lodged against prison officers and the number of criminal/disciplinary

proceedings initiated as a result of such complaints;

an account of criminal/disciplinary sanctions imposed following complaints of ill treatment by prison officers (paragraph 52)

- regularly updated information on complaints of ill treatment lodged against prison officers and on subsequent criminal/disciplinary proceedings (paragraph 52).

Figures on the number of complaints lodged against officers are not held centrally. The requests and complaints procedure is designed to ensure that complaints are dealt with as informally as possible and at the lowest possible level with responsibility to take decisions. Many complaints are therefore only recorded at establishment level.

Responsibility for the discipline of prison officers was devolved to establishments in July 1993 when the new Code of Discipline was introduced. Under the old Code only the most serious cases were recorded centrally. It is possible that there is still some under recording under the new system. The available information relating to sanctions imposed following complaints is as follows:

DISCIPLINARY OUTCOME	1993	1994	1995**
Dismissed		2	
Not Guilty	5	2	1
Oral Warning/Admonition*	1		
Written Warning/Reprimand*	1	2	1
Final Written Warning/ Severe Reprimand*		1 / 1	2
Severe reprimand and loss of increment for 3 months*	1		
Final written warning and loss of promotion for 3 years	1		
Final written warning for 3 years and loss of 1 increment		1	1

* Discipline sanctions only available under the old code
** Provisional figures only

Updated, available information can be supplied to the Committee on request.

2. Conditions of detention

recommendations

- **cells in J wing at Liverpool Prison to revert to single occupancy on completion of the transfer of the patients held there to the new hospital unit (paragraph 72)**

It has been necessary on occasion to allocate two prisoners to the cells in this wing. Due to the increase in the prison population, especially in the Liverpool area, it has become increasingly difficult to use this accommodation without resorting to doubling in cells. Furthermore, the integral sanitation programme for K wing has resulted in accommodation being taken out of action and has meant the continuation of double occupancy of cells in J wing.

- **the regimes to be implemented in local prisons to aim at ensuring that prisoners on remand are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature (paragraph 74)**

The Model Regime for Local Prisons and Remand Centres provided a framework for planning balanced and integrated regimes at these establishments. This was largely based on the needs of unconvicted prisoners and reflected their special status and requirements.

The Model Regime and the general Prison Service Operating Standards provide that prisoners should be unlocked for a total of at least 12 hours each day and have access to a reasonable choice of structured and unstructured activities. In moving towards fulfilment of these aims the Prison Service has adopted as key performance indicators (KPIs):

(i) the number of hours which, on average, prisoners spend in purposeful activity and

(ii) the proportion of prisoners held in establishments where prisoners are unlocked on weekdays for a total of at least 12 hours.

Each year the Prison Service Business Plan includes specific targets based on these KPIs. Convicted prisoners are required, and unconvicted prisoners actively encouraged, to spend a full working week engaged in constructive and purposeful activities centred on work, education and training. However, separate statistics for unconvicted prisoners are not maintained in respect of these KPI targets.

Until recently a significant obstacle to participation by unconvicted prisoners in work, education and training activities was the requirement in Prison Rules that they should be kept out of contact with convicted prisoners as far as this could be reasonably done. Although some mixing of convicted and

unconvicted prisoners for activities was authorised, this was limited and dependent upon close supervision. On 25 April 1995 the Rule was relaxed, in line with European Prison Rule 11.3, so that unconvicted prisoners who wish to do so may now mix with convicted prisoners for any activity without restriction. This change should give unconvicted prisoners access to a wider range of regime activities than hitherto and consequently opportunities for more time out of their cells engaged in purposeful activity.

- **a very high priority to continue to be given to measures designed to bring about a permanent end to overcrowding, taking into account the Committee's remarks in paragraph 79 (paragraph 79)**

The Prison Service continues to give a high priority to reducing overcrowding.

On 15 November 1995, the prison population stood at 52,404, with no prisoners in police cells.

The Prison Service assumes that the prison population will continue to rise throughout the 1990's. There is, therefore, a vigorous building programme to meet the rising demand. The biggest prison building programme this century has created 11,635 places since 1985 and is planned to continue with a further six new prisons in Merseyside and South Wales, will come into use by 1997/98. A further 2,500 places will be provided by 1997/98 by building houseblocks at existing prisons and rebuilding and reopening Lowdham Grange prison.

The Prison population is currently projected to average 54,300 by the year 2000/01. By that date the Prison Service plans to provide sufficient accommodation to hold this number of prisoners without the need to overcrowd.

Training prisons are generally not overcrowded. Nationally, at the end of October 1995, training prisons were occupied to 93.21% of their uncrowded capacity. Overcrowding is concentrated in local prisons and remand centres. This is because of the need to hold unsentenced prisoners close to the courts even when there are places available elsewhere in the estate. On 31 October 1995, of the 134 prison establishments in England and Wales, 47 had a population in excess of their Certified Normal Accommodation available for use. Thirty-three of these were either local prisons or remand centres.

The Government's strategy on crime is certainly not exclusively centred on the use of prison. The approach is comprehensive and is designed to prevent crime, enable the police to catch more criminals, to make it easier for the courts to convict the guilty, and to provide them with the powers they need to punish appropriately those convicted. Decisions about sentencing in individual cases are for the courts alone. It is for them to decide whether, in all the circumstances, a custodial sentence is the appropriate response to a particular offence and, if so, how long that sentence should be.

The framework for sentencing set out in the Criminal Justice Act 1991 reserves custody for those offences which are so serious that custody can be the only appropriate response, or for those violent or sexual offenders who pose a risk of serious harm to the public.

In 1993, only 4% of those sentenced by the courts were sent to prison.

- **wherever practicable "3 cells into 2" rather than "simple" sanitation to be installed in cells (paragraph 80)**

"3 cells into 2" is the preferred method of providing access to sanitation wherever practical, and where cost and timescale allow. "Simple" sanitation, however, is considered to be an acceptable alternative as endorsed by the independent Chief Inspector of Prisons in his 1989 publication - "Prison Sanitation: proposals for the ending of slopping out".

- **in the context of the renovation of the prison estate, a very high priority be given to the provision of additional facilities for association (paragraph 81)**

As part of the Prison Service Operating Standards, each prison is obliged to have sufficient space to allow for prisoner association. Where improvements are identified as necessary, efforts will be made to ensure these improvements are given the correct degree of priority within refurbishment programmes.

comments

- **the activities which it is planned to offer to prisoners in E wing at Leeds Prison correspond to the kind of regime which should be offered to all prisoners in local prisons (paragraph 60)**

One of the Prison Service's published goals is to provide positive regimes which help prisoners address their offending behaviour and allow them as full and responsible a life as possible. The Prison Service therefore requires prisoners to participate in a rigorous, demanding and constructive regime, which equips them to lead a law-abiding life after release.

Programmes of work, training and education are co-ordinated so that prisoners can learn, apply and further develop their skills in a planned way. In 1994-95, each prisoner spent on average 26.2 hours a week on constructive regime activities, which represented an 11% increase on 1992-93. There is a particular emphasis on productive work, since having a job is likely to be one of the key factors reducing the risk of re-offending.

The Service also aims to challenge prisoners to address their offending behaviour, and to work with them to reduce the likelihood of re-offending. Courses have been developed which target areas such as anger control, cognitive skills, and sex

offender treatment. Most prisons now run prison officer-led Prisoner Development and Pre-Release (IDPR) courses which will help them overcome the more serious resettlement problems such as housing and benefits. The courses also cover a number of other important areas such as social skills, communication, self-presentation and various aspects of self-analysis. All establishments are expected to have IDPR courses in place and running by 1996.

By February 1995, 72 establishments were operating prisoner compact schemes.

- **initiatives such as the NACRO work area for remand prisoners at Wandsworth Prison are to be encouraged (paragraph 69)**

Productive work is at the core of regimes for adult prisoners and also plays an important part in the regime for young offender's and remand prisoners (although the latter group cannot be forced to work). Responsibility for the provision of work has now been devolved to establishments who are free to source work independently provided it meets the quality criteria and is cost effective.

- **UK authorities are invited to expand the educational activities available at Liverpool Prison taking account of the demand for places from prisoners (paragraph 73)**

Educational activities at Liverpool prison have been expanded since the Committee's visit with an extra 20 places becoming available.

- **the CPT trusts that everything will be done to ensure that the new target date for the end of slopping out is respected (paragraph 80)**

The Prison Service is committed to ending slopping out and is on course to achieve this by the February 1996 target date.

requests for information

- **clarification as to whether the renovation work to be undertaken in A and B wings at Wandsworth Prison will involve the installation of "three cells into two" rather than "simple " sanitation (paragraph 63)**

The refurbishment of A and B Wings at Wandsworth was due to begin in March 1996. However, the level of public funding of major capital schemes in 1996/97 has been much reduced and this scheme, which included the installation of sanitary facilities such as lavatories and wash basins with hot and cold water, on the "three into two" scheme, has had to be stopped. A and B wings at Wandsworth will be taken out of use from the end of February and it is hoped that there will be sufficient funding available to implement a simple sanitation scheme in 1997/98 rather than the

"three into two" scheme.

- **further information about the rolling programme of renovations for A, H and K wings at Liverpool Prison, including an indication of the target date for the ending of the practice of slopping out in the establishment (paragraph 71)**

It is anticipated that by February 1996, all but H wing will have been refurbished and integral sanitation provided in the cells. To meet operational requirements, the rolling programme of refurbishment has taken one wing at a time out of use. To meet the current deadline for completion of this work, H wing will be taken out of use at the end of February 1996. It is possible, however, that an increase in the prison population in the future may delay this work.

- **clarification of the notion of a more "austere" regime (paragraph 82)**

The Government has called for prisons to be "decent but austere" but not necessarily more austere, except where privileges are currently, or have been, excessive or are not earned. Prisons are not meant to inflict additional punishment by imposing degrading and inhumane conditions for prisoners. Conditions must therefore be decent. At the same time prison conditions are not intended to be luxurious. There have been instances when privileges and facilities were in excess of what might reasonably be expected and were available to all prisoners regardless of behaviour. Prison are expected to act as a deterrent to future offending and prisoners are therefore expected to take part in rigorous and challenging regimes. Increasingly the granting of privileges will be linked to good behaviour on the part of the prisoner.

- **further information on the tendency to redefine the "entitlements" of prisoners as "privileges" which they must "earn", including in particular;**
    - **a list of entitlements which it is proposed should become privileges;**
    - **an account of the ways in which prisoners will be expected to "earn" privileges;**
    - **a description of the regime which will be applied to a prisoner who has not (yet) earned privileges;**
    - **an explanation of the procedures which will be applied if it is thought necessary to deprive a prisoner of privileges which he has earned, including an account of the safe guards (right to be informed of reasons; right to a hearing; right of appeal) which will apply in such cases (paragraph 82)**

The Prison Service introduced in 1995 a national framework for incentives and earned privileges in all establishments in England and Wales. The emphasis is on prisoners' earning levels of privileges through assessed behaviour and participation in work or other constructive activity.

Between July and October 1995, 32 "first phase" establishments began implementing approved incentives and earned privileges schemes. By the end of 1995 all establishments had approved local schemes in place and the majority had started to implement them.

The elements of the national framework will be:

a clear set of national aims;

a list of key earnable privileges and instructions on their use;

criteria and process for earning and losing the key and other, locally chosen privileges, and on the relationship with the disciplinary system;

privilege and regime levels and good practice incentive approaches; and

effective monitoring and auditing.

In addition to providing that privileges generally are earned by prisoners through good behaviour and performance and participation in work and other constructive activities, the policy aims to encourage responsibility and provide a safer and better controlled environment for both prisoners and staff.

There will be a list of several key privileges which if available must be earned:

opportunities for additional visits over and above the minimum in improved conditions

access to private cash above a set minima

eligibility to participate in enhanced earning schemes

earned community visits for low security category prisoners and female prisoners and young offenders suitable for outside activities

There will also be two key earnable privileges which will normally operate when all prisoners in a particular part of a prison have the same level of privilege. They are :

own clothes for convicted male prisoners

extra time out of cell in association

Within the framework, establishments may decide which additional privileges will operate in their schemes depending on local circumstances.

The national framework will not affect prisoners' legal entitlements; even those who are on a "minimum" or basic level of privileges because they have failed to meet local criteria for higher levels of privileges will be subject to a regime which will comply with natural justice, including legitimate expectation derived from local or national published guidance, and provide other facilities to which they are legally entitled regardless of behaviour and performance. All prisoners will have the opportunity to participate in available work, education and programmes.

Proved specific instances of offending might lead to forfeiture of specified privileges. However, establishments' schemes (which must be approved by Prison Service Headquarters at area manager level) will operate independently of the disciplinary system, by administrative action with patterns of poor behaviour and/or performance judged against an establishment's published criteria for the earning and retention of particular privileges. The process whereby prisoners lose privileges will include consideration of assessments and reports from key members of staff by a separate institutional board, and arrangements for informing prisoners of decisions and the avenues of appeal against decisions not to grant, or to remove, an available privilege.

Incentives and earned privileges policy was announced on 9 June 1995 in answer to a written Parliamentary question.

3. Other issues related to the CPT's mandate

recommendations

- **a high priority to continue to be given to increasing the number of qualified nurses working in prisons and to providing health care officers with the opportunity to gain a recognised nursing qualification (paragraph 85)**

Since October 1992 the Directorate of Health Care has been working to reach a balanced workforce comprising 50% officers (25% with registered nurse qualification, 25% service trained to work in health care with National Vocational Qualifications) and 50% nursing grades (civilian), thereby creating a 75% registered nurse qualified staff. This compares with a mix of approximately 60% trained, 40% untrained in the National Health Service. The provision of nursing services to prisoners is currently under review.

In March 1995 the numbers of nurses and health care officers were as follows:

Staff in post		
	- all grades	1,637
	- health care officers	1,026
	- nursing grades	611

56% of the total figure now have a professional nursing qualification.

We are continuing to second six health care officers per year to train for three years for the registered nurse qualification.

- **steps to be taken to ensure that, in all prisons in England and Wales, newly-arrived prisoners are seen without delay by a member of the establishment's health care service and that, in cases where that initial interview is not carried out by a doctor, it is performed by a fully qualified nurse who reports to a doctor (paragraph 88)**

The current procedure in establishments with full time medical officer complement is that a doctor should be in attendance (i.e. within the prison) during normal reception hours.

Health Care Standard 1 states that induction screening will be carried out on the day of reception by an appropriately trained health care worker, and that all prisoners will receive a physical and mental health assessment by a doctor within 24 hours.

As the transition from hospital officer to nursing-trained staff progresses to a state whereby 75% of all health care staff will be nurse trained by 1998, so it follows that by that time, prison practice will very nearly approximate to the Committee's recommendation that the initial (rather than the medical) interview will be conducted by a fully qualified nurse.

- **steps to be taken to ensure that all prisoners at Wandsworth Prison are offered at least one hour of outdoor exercise every day (paragraph 94)**

Existing arrangements allow Governors to vary the amount of outdoor exercise offered to prisoners in certain circumstances and provided that there is access to other outdoor activity (eg. work), indoor exercise facilities, or periods of association, as an alternative. All prisoners, other than vulnerable prisoners at Wandsworth prison, have one hour's exercise a day. Vulnerable prisoners currently are allowed half an hour's exercise, but spend, on average, 10 hours during each day out of their cells involved in recreational association, education and employment. This is not considered unreasonable and is in line with the practice at many closed establishments. A review of Prison Rule 27 (which relates to daily exercise) and its application is currently underway. The outcome of the review will be reported to the Committee in due course.

- **steps to be taken immediately to ensure the confidentiality of discussions between newly-arrived prisoners and reception officers at Leeds Prison (paragraph 97)**

The condition of the reception area is acknowledged and as part of the overall refurbishment of Leeds prison, a new entry block is proposed, which is to include a new reception area. For the present the creation of a new reception/induction accommodation unit has considerably improved reception facilities at the prison.

- **material measures to be taken to ensure that the eight very small holding cells located in the reception area at Wandsworth Prison cannot again be used to hold prisoners (paragraph 98)**

These cells have been rendered unusable in accordance with this recommendation.

- **appropriate means to be found to ensure that the operation of the advance booking system for visits at Liverpool Prison does not lead to prisoners sitting alone in the visiting room (paragraph 101)**

The only waiting room currently available is a small room with no windows or any other form of natural light and is considered unsuitable for prolonged use. It may be preferable therefore for prisoners to continue the practise of sitting in the visiting area to await visitors. There are staff resource implications if prisoners whose visitors fail to attend were to be returned to living accommodation during visits. There are, therefore, no plans to introduce any changes to the current system of visits at Liverpool prison.

- **the communications system in the facilities for closed visits at Liverpool Prison to be improved (paragraph 102)**

A telephone communication system has been installed for closed visits and is now operational.

- **the iron bound wooden blocks in the cells for violent or disturbed prisoners in the segregation unit at Leeds Prison to be removed and prisoners held there to be provided with alternative means of rest (paragraph 108)**

The fixed wooden furniture located in the two cells in question have now been permanently removed.

- **improvements to be made as regards access to natural light in all of the cells on landing B1 at Leeds Prison and as regards the ventilation in the two cells for violent or disturbed prisoners (paragraph 108)**

Two cells on B1 landing (segregation unit) have already had window conversions giving much better access to natural light and better ventilation. A major capital bid of £57,000 has been made to finance the conversion of the windows on the remaining eight cells and the two special cells. This conversion will improve ventilation in these special cells.

- **any prisoner against whom the measure of removal from association for reasons of good order and discipline is applied to have the right;**

    - **to be informed in writing of the reasons for that measure (it being understood that those reasons need not include facts which it would be reasonable to withhold from a prisoner on security grounds);**

    - **to present his views on the matter to the deciding authority;**

    - **to lodge an appeal to a relevant authority against the decision on removal from association and against any renewal of that decision (paragraph 113)**

The addendum to Circular Instruction 26/1990 makes it clear (paragraph 14) that any prisoner who is segregated "must be advised in writing of the reasons as far as is practicable, and as soon as possible. In general, this should be done before, or at the time that the prisoner is placed in segregation. But an prisoner does not have an absolute right to be informed of the reasons before the decision is taken or before or at the time that the prisoner is placed in conditions of segregation, if the interests of good order or discipline dictate otherwise."

Paragraph 15 of the addendum clearly states that an prisoner who is not given reasons before or at the time must be given reasons as soon as possible thereafter - and at the latest within 24 hours unless, in a most exceptional case, the prisoner's demeanour necessitates delay.

There is no formal right of appeal against a decision to remove from association, but prisoners have access to the prisons Board of Visitors as well as the complaints/request procedure, the right to complain to the Prisons Ombudsman and can challenge such decisions in the courts by means of judicial review.

- **a full review to be carried out of the use made of segregation units in local prisons, with a view to ensuring that such units are not used to hold inappropriate categories of prisoners for lengthy periods of time (paragraph 119)**

Segregation units are only used for such purposes when there are compelling operational reasons for doing so. There are, for instance, only a limited number of locations which are suitable for holding prisoners of the highest security category. This means that occasionally they must be held in segregation units. It is unusual for prisoners to be held in such conditions for prolonged periods and every effort is made to avoid such situations occurring. However, when more suitable accommodation is unavailable it is necessary to hold prisoners there who have shown themselves to present a particular risk.

It is not accepted that there are grounds for a review of the use

made of segregation units in local prisons as recommended by the CPT.

- **prison governors to be reminded of the need to take all reasonable steps to ensure that prisoners on remand are not uprooted unnecessarily (paragraph 125)**

Governors are aware of the need to avoid the unnecessary movement of unconvicted prisoners. Central guidance on the matter is not considered necessary.

comments

- **the CPT trusts that the necessary means will be provided to enable the Health Care Service for prisoners to provide services equivalent in range and quality to those available in the community (paragraph 84)**

The Prison Service Health Care Service is committed to providing a level of care at least equivalent to that available in the community. Plans include a comprehensive long-term health strategy, based on needs assessment, which will describe priorities and goals for the coming years. A key objective is to develop closer links with the National Health Service and other external agencies.

- **the UK authorities are invited to take steps to render operational the single rooms in the hospital at Leeds Prison (paragraph 86)**

The existence of a number of single rooms without sanitation in the hospital at HMP Leeds is the result of decisions taken regarding the prison hospital design about 8-10 years ago. The hospital at Leeds was built with about 50% of its single rooms lacking integral sanitation, since it was believed that violent or seriously disturbed individuals were safer housed in cells without sanitation.

The possibility of installing sanitation in these cells has been explored. Whilst recognising in principle the need to equip them with sanitation, the work has been allocated a relatively low priority because the available cells with sanitation are currently providing enough space for the in-patient requirements of the prison. Those cells which lack integral sanitation have now been fitted with an electric unlocking system giving prisoners access to sanitation during periods of lock-up. However, these rooms are currently being refurbished and are not in use at the present time.

<u>Wandsworth Prison</u> - The reference to Wandsworth Prison, "1998" should read 1995. Refurbishment of the health care centre has begun. This work will not be completed until April 1996 and these rooms ready for use until June.

- **many prisoners held in A wing at Leeds Prison complained that staff required them to complete written "general applications" forms even if in respect of simple requests, and that once those forms had been submitted, it could be some considerable time before they received a reply (paragraph 91)**

Prison Service policy is to try and resolve all problems at a local level with applications made orally to the landing officers. Where it is not possible to resolve matters through an oral application, prisoners may be asked to follow the formal applications procedure and submit it in writing. The vast majority of applications are made orally and are dealt with by landing officers; in addition the applications system is supervised by wing managers. As regards Leeds prison, while there is a requirement for prisoners to submit written applications on certain subjects, the majority of applications are dealt with informally, as oral applications.

- **attention should be given to the decoration of the room used for post-visit strip searches in Wandsworth (paragraph 93)**

Following the visit by the Committee in May 1994, this room has now been thoroughly re-decorated.

- **the lavatories in the A wing exercise yard at Leeds Prison were found to be in a filthy condition (paragraph 95)**

The lavatories in A wing exercise yard were completely refurbished two and a half years ago. In addition there is now in place a cleaning plan for the whole prison, which has considerably improved the cleanliness of the whole prison including the exercise yards.

- **UK authorities are invited to explore means of equipping the exercise yards at Leeds and Wandsworth Prisons (and at other establishments) with appropriate means of shelter for prisoners who wish to take outdoor exercise in inclement weather (paragraph 96)**

The development of individual prisons is a matter for the individual Governors of the prisons in conjunction with the establishments Works Department. If it is considered that some form of refurbishment should take place such as providing shelter for exercise yards, then this work may be done, subject to any budget restrictions. For example, at Leeds prison, as part of its ongoing development, some form of shelter is being considered on the exercise yards which will allow prisoners to exercise during bad weather. At Wandsworth prison, however, there are at present no such plans. Instead it offers internal recreational association on a daily basis.

- **the CPT trusts that further efforts will be made to increase the visit entitlement of convicted prisoners (paragraph 103)**

The statutory visiting entitlement for convicted prisoners has been increased to 2 visits of 30 minutes duration a month. Governors are encouraged to provide longer visits wherever possible. The eligibility for temporary transfer to receive accumulated visits has been increased to twice a year. The entitlement for Assisted visits has been increased to 26 visits a year. Extended visits schemes operate at Holloway, Styal, Whitemoor and Wormwood Scrubs.

- **the CPT welcomes the fact that in addition to the possibility of the "judicial review" of adjudications, the newly-created office of the Prisons Ombudsman will act as an appeal tribunal for disciplinary proceedings (paragraph 107)**

The Prisons Ombudsman does not act as an appeal tribunal for disciplinary proceedings. He has no statutory power to rehear a disciplinary case, but can review cases on their merits as well as on procedural grounds, on the basis of the documentation available and supplemented by interview as necessary.

requests for information

- **an account of the progress being made towards the creation of an entirely new reception complex at Leeds Prison (paragraph 97)**

The new reception area, to be built within a completely new entry complex, is scheduled to be built by 1999.

- **confirm that card-operated telephones have now been installed at all prisons, for use by both convicted and unconvicted prisoners (paragraph 104)**

Card phones have now been installed at all prisons for use by both convicted and unconvicted prisoners.

- **the number of cases since 1992 in which prisoners have been granted the right to be legally represented in the context of disciplinary proceedings before prison Governors (paragraph 106)**

There have been four legally represented governor's adjudications since the removal of boards' powers in 1992.

- **the comments of the UK authorities on the suggestion that in cases where - in view of the nature of the alleged offence - a penalty of a significant number of days of imprisonment may be imposed, the prisoner concerned should always be able to be legally represented at disciplinary proceedings (paragraph 106)**

The Prison Service's internal discipline system is for the purpose of maintaining good order and discipline in prisons and

has only relatively modest levels of punishment powers appropriate to proceedings which are disciplinary rather than criminal in nature. Where alleged indiscipline amounts to a serious criminal offence the case is normally referred to the police so that criminal proceedings can be considered.

It is accepted that legal representation may be necessary at some disciplinary hearings. The decision whether or not to grant it rests entirely with the individual governor who is given power to adjudicate by the Prison and YOI Rules and whom the courts have established is responsible for proceedings at adjudications. The courts have also established that a prisoner has no right to legal representation at an adjudication but that this does not affect the adjudicator's discretion to allow it, taking into account the six considerations, to which the CPT refer briefly, set out in the Divisional Court ruling in *R v Secretary of State for the Home Department ex parte Tarrant*. These are the seriousness of the charge and of the potential penalty; whether any points of law are likely to arise; the capacity of a particular prisoner to present his or her own case; procedural difficulties; the need for reasonable speed and finally the need for fairness as between prisoners and as between prisoners and prison officers. Boards of visitors at the time of this judgement in 1984 had significantly higher levels of punishment available to them than those now available to governors, including punishments of up to 180 days forfeiture of remission.

Governors' maximum punishment powers were increased on 25 April by 50% with the exception of cellular confinement which remains at the current maximum of 14 days for adult prisoners. Even so we regard punishment levels as modest compared with those available to boards of visitors at the time of the Tarrant judgement. The Divisional Court in that case considered that no Board of Visitors properly directing itself could reasonably have decided not to grant legal representation to the two prisoners charged with mutiny. They came to this conclusion because of the points of law which were likely to arise in considering a charge of mutiny, in particular the question of whether collective action was intended to be collective (ie whether it was concerted) and the distinction between mere disobedience of a particular order on the one hand and disregard or defiance of authority on the other. The offence of prison mutiny, however, is no longer a disciplinary offence under Prison Rules.

However in relation to the other applicants, who were charged with assaults on prison officers, the court concluded that it could not be said that any Board of Visitors properly directing itself would be bound to grant legal representation or assistance by a lay adviser. The court thereby recognised that in many cases legal representation was not necessarily appropriate - even though at the time of this judgement in 1984 Boards of Visitors had available to them penalties of 180 days' forfeiture of remission, or possibly even more.

Article 6(3) of the European Convention on Human Rights provides that "everyone charged with a criminal offence has the [right]

to defend himself in person or through legal assistance of his own choosing...". The criteria to be considered in deciding whether a charge is a criminal one within the meaning of the Convention were set out in the case of *Engel v Netherlands*. In the case of *Campbell and Fell v The United Kingdom* it was held, on the basis of those criteria, that the potential forfeiture of remission involved "such serious consequences as regards the length of ...detention" that it had to be regarded as a criminal charge. However in that case the amount of remission lost was 570 days, which was again very significantly higher than the penalties now available to prison governors. The Government does not consider that any of the offences under the present Prison Rules amount to a criminal charge giving rise to the automatic right to legal representation under the European Convention.

Both the English Prison Rule 49 (2) and the European Prison Rule 36(3) make reference to the need to ensure that a prisoner has a proper opportunity of presenting his case, but neither expressly requires lay or legal representation of prisoners at adjudications.

There appears to be no evidence that adjudications are being conducted unfairly as a result of the lack of legal representation. In 1994 less than two percent of adjudications were challenged and of those less than a quarter (441) were quashed or mitigated. Only ten cases were quashed because of failure to consider properly requests for legal advice or representations.

The function of the internal discipline system is to maintain discipline within prisons. One of the prime needs of the institutional system is for a simple procedure which involves direct participation by both staff and prisoners. Paragraph 105 of the Committee's report refers to the Woolf Report. The Woolf Report itself recognised at paragraph 14.403 that disciplinary proceedings "are properly brought within the limited objective of maintaining order within the confines of a prison. They should be subject to a level of penalties and a formality of procedure which is commensurate with that objective." Paragraph 14.430 stated that the role of the Board of Visitors might be emphasised "because, given the domestic nature of these proceedings, we do not propose that prisoners should have a *right* of legal representation at these proceedings."

Institutional discipline also requires the swift and effective punishment of offences. Hence Prison Rule 48 provides in paragraph (1) that a disciplinary charge "shall be laid as soon as possible and, save in exceptional circumstances, within 48 hours of the discovery of the offence"; and in paragraph (4) that "Every charge shall be first inquired into not later, save in exceptional circumstances, than the next day, not being a Sunday or public holiday, after it is laid." The need for speed is also recognised in the European Prison Rules. Rule 36(2) provides that "reports of misconduct shall be presented promptly to the competent authority who shall decide on them without undue delay." The need for reasonable speed was also recognised by the

court in *Tarrant* as being "clearly an important consideration".

The granting of legal representation inevitably detracts both from the simple nature and the speed of the procedure. In the view of the Government, while such representation should clearly be available in appropriate cases, it would not be helpful to grant a right to it in all cases where additional days were likely to be awarded.

There is provision for a prisoner to request consultation with a legal adviser before an adjudication takes place and at any later point in the adjudication and such a request should normally be granted by the adjudicator. A prisoner may also request a McKenzie friend to assist him or her during an adjudication. This request may be made even if legal representation is refused and adjudicators must consider such requests afresh, independently of any decision to refuse legal representation. The *Tarrant* case established that it is entirely a matter for the adjudicator's discretion whether or not to allow a McKenzie friend at an internal disciplinary hearing. In accordance with the judgement *McKenzie v McKenzie* a friend's role is limited to attending the hearing, taking notes, quietly making suggestions and giving advice to the prisoner and in this way assisting the latter in presenting the case and giving support. An adjudicator may allow greater participation, but if the McKenzie friend interferes or participates in the proceedings without the permission of the adjudicator, the latter may require him or her to leave.

- **the comments of UK authorities on the remarks made in paragraph 116 about the operation in practice of the system of transferring prisoners for the reason of good order and discipline (paragraph 116)**

Prisoners subject to the Continuous Assessment Scheme have their behaviour and progress monitored by a Special Units Section at Prison Service Headquarters. The case of every prisoner on the Continuous Assessment Scheme is reviewed by a Special Units Selection Committee every 6 weeks. There are currently 15 prisoners on the scheme, 3 of whom are being held on normal location.

Whilst there is no formal right of appeal against decisions to transfer, prisoners have full access to the requests/complaints procedure available to all prisoners, the right to complain to the Prisons Ombudsman and can challenge such decisions in the courts by means of judicial review. It is considered that the present arrangements provide both adequate safeguards and effective remedies for prisoners subject to these decisions.

- **the number of so-called "primary cells" (formerly known as 37/90 cells) in local prisons which are reserved for holding prisoners on temporary transfers, including details of the location of the cells in question (segregation unit/normal location) (paragraph 116)**

Instruction to Governors 28/1993 introduced a new five-stage strategy for the management of disruptive prisoners.

Under this strategy, all local prisons are expected - subject to their being able to provide an appropriate level of security - to accept disruptive prisoners. The decision as to where such prisoners should be held within the prison is a matter for the Governor. The designation of "primary cells" (formerly known as 37/90 cells) is no longer required.

- **information on the safeguards (right to be informed of reasons, right to present views and right of appeal) which are available to prisoners classified as security category A who are placed in segregation units in local prisons (paragraph 118)**

Sentenced Category A prisoners are normally allocated to dispersal prisons - training prisons which have accommodation suitable for holding the most dangerous and high security risk prisoners. Remand and unsentenced prisoners who have been provisionally made Category A are held in local prisons because of the need to hold such prisoners close to the courts.

Every effort is made to avoid holding such prisoners in segregation units. However, there are only a limited number of locations which are suitable for holding prisoners provisionally designated as category A, and this means that occasionally they must be held in segregation units. It is unusual for prisoners to be held in such conditions for prolonged periods. After conviction and sentencing, such prisoners are allocated to suitable dispersal prisons as soon as possible. Prisoners placed in segregation units for security reasons, and not under Rule 43, are not denied association.

- **information on the placement of prisoners in security Category A and, in particular, on the safeguards available (right to be informed of reasons for that classification, right to present views and right of appeal) (paragraph 118)**

The statutory basis for security categorisation is section 47(1) of the Prison Act 1952 which empowers the Secretary of State to make rules for, among other things, "the classification, discipline and control of prisoners". Rule 3 of the Prison Rules 1964 provides for the classification of prisoners "in accordance with any directions of the Secretary of State, having regard to their age, temperament and record and with a view to maintaining good order".

Category A is the highest security category and is reserved for prisoners "whose escape would be highly dangerous to the public or the police of the security of the State, no matter how unlikely that escape might be; and for whom the aim must be to make escape impossible".

All prisoners are categorised or provisionally categorised on their reception into prison in accordance with prescribed

procedures laid down under Rule 3 of the Prison Rules 1964.

For remand prisoners, on their reception, prison staff are required to identify those prisoners charged with certain serious offences which were listed in the Prison Service Security Manual. In such cases, the police officer in charge of the case is contacted for information about the offence in question and for an assessment of the prisoner's dangerousness and escape potential. The cases of those prisoners charged with such offences which meet any one or more of a list of specified criteria, also set out in the Security Manual, are referred to Prison Service Headquarters. It is then decided whether the prisoner should be <u>provisionally</u> categorised as Category A pending conviction and sentence. Prisoners and their legal representatives are, on request, given the reasons for such a decision. There is no right of appeal although a prisoner can make an application for a judicial review of the decision.

All prisoners provisionally placed in Category A have their security classification reviewed by the Category A Committee following conviction and sentence. Thereafter the reviews of Category A prisoners are normally carried out annually by either the Category A Committee or officials of the Directorate of Security at Prison Service Headquarters.

The Committee comprises senior officials of the Prison Service, including Governors and staff of prisons normally holding Category A prisoners; a senior medical officer; and a senior police adviser. Its role is:

(1) to consider whether prisoners recently convicted of very serious offences should be retained in security Category A, which is reserved for those whose escape from prison custody would be highly dangerous to the public or the police or the security of the State;

(2) to consider all cases of Category A prisoners where recommendations have been made for a change in security status; and to review cases where no such recommendations have been made for 5 years; and

(3) to make recommendations to the Director of Security.

All other cases will be considered at least annually by officials of the Custody Group of the Directorate of Security.

To assist the Custody Group in arriving at its decisions whether or not to refer a case to the Category A Committee, and where such a referral takes place, the Committee arriving at its recommendations, reports are obtained about the prisoner from the holding prison. Reports are usually provided by the Governor or Head of Custody, the Medical Officer, the Psychologist, the Security Department, Personal Officers, the Probation Officer and the Chaplain. In some cases, information from the arresting police force, police intelligence and intelligence from other agencies may also be available.

Prior to the consideration of any case, prisoners are, subject to necessary exceptions arising from police interest immunity, provided with a gist of any matters of fact and/or opinion relevant to the determination of security category and given an opportunity to comment.

Subject to necessary exceptions arising from public interest immunity, a prisoner is given reasons for any decision which results in his remaining in Category A. There is no right of appeal, although a prisoner can seek a judicial review of the decision.

- **the comments of the UK authorities on the continued involvement of Boards of Visitors in authorising the extension of the segregation of prisoners held under Rule 43 of the Prison Rules (paragraph 121)**

Under Prison Rule 43, a governor may arrange for the removal from association of a prisoner (a) for maintenance of good order or discipline or (b) in the prisoner's own interests, for a period of not more than three days. Further periods of such removal from association require the authority of the Board of Visitors, or the Secretary of State. The further period is limited to a maximum of one month (14 days for persons under 21 years of age) but may be renewed. The governor is required to end the removal if the medical officer on medical grounds advises him to do so.

The role of Boards in England and Wales has recently been reviewed. It was concluded that the Boards of Visitors should retain their involvement in Rule 43 because as members of the public appointed by the Secretary of State, but independent of the Prison Service, they are well placed to make responsible and impartial judgements. An alternative would have been to allow governors unfettered discretion to continue segregation; it was thought preferable to maintain the current limit on governor's powers, since it avoids the delays inherent in the Board making a report to the Secretary of State about an alleged abuse of Rule 43.

It was therefore accepted that the continuation of the Boards' involvement in Rule 43 was reasonable in what is a sensitive and important area of restriction of liberty. It aimed to provide an independent view of continued segregation, and to ensure that a prisoner's welfare was safeguarded. In that respect there was no conflict with the "watchdog" role, which had the same purpose.

- **copies of the annual reports of the Prisons Ombudsman for England and Wales (paragraph 124)**

The Ombudsman has been asked to provide the CPT with copies of his annual reports.

D. Young Offender Institution and Remand Centre, Feltham

recommendations

- **the level 1 regime in the ordinary units and the regime in the Waite Unit to be modified, in particular to ensure that the prisoners concerned benefit from appropriate human contact (paragraph 138)**

Revised procedures in the Points and Levels regime system have now opened up the regime to allow more contact between staff and offenders. In addition these procedures also lay down strict guidance which require unit managers to ensure that the young offenders (YO) under their care and on Level 1 draw up, in their first week, an action plan which sets clear targets that the YO is able to clearly see and to understand exactly what is required and expected of him in order to progress to the higher levels of this system. The revised Level 1 reflects that those YO's on this minimum level are there because of their bad behaviour, not because they are regarded as having poor coping skills. This revised regime also includes two physical education classes a week which provides further social contact.

As regards the regime in the Waite Unit, a review has taken place since the committee's visit. As a result of this, the main aim of the regime for offenders will be to balance the emphasis on physical activity along with measures designed to encourage and facilitate personal development. Morning sessions for YOs concentrate on domestic chores and physical education, with afternoon sessions involving social skills, life skills and group activities focusing on offending behaviour.

- **placements for lengthy periods in the Waite Unit to be subject to a full review at least once every three months, where appropriate on the basis of a medico-social opinion (paragraph 139)**

All YO's in the Waite unit are now subject to a weekly review by the unit manager and staff there.

- **measures to be taken to rectify the shortcomings observed in the material conditions of detention and, more generally, to improve the material environment of the juveniles and young adults detained at Feltham (paragraph 141)**

The YOI is now considerably cleaner than when the Committee visited, while a programme of refurbishment has continued to improve conditions there. The newly redecorated units have given YO's and staff a common sense of ownership and YO's are being encouraged to take a pride in their surroundings and consequently in themselves. Some parts of the units have been redesigned to create visiting facilities and improved shower rooms. The grounds of the establishment are now much tidier and a party of YOs collects rubbish from the grounds, which they are

able to re-cycle and sell.

- **a high priority to be given to developing activities programmes at Feltham which are capable of putting into practice the objectives set out in Rule 3 of the YOI Rules 1988 (paragraph 148)**

Since the Committee's visit considerable efforts have been made to offer an enhanced regime to unconvicted young prisoners and there is now an activity centre offering art, woodwork, soft toy making, theatre workshop and group work to a maximum of 50 prisoners per session. Selected, long term, unconvicted young prisoners are also encouraged to undertake training. However, it should be noted that the YOI Rules 1988 do not apply to unconvicted young prisoners. They are instead governed by the Prison Rules. Efforts are being made to provide regime activities which are comparable to those available to YO's. All sentenced YO's (who are fit) are allocated to work. Consequently Feltham has achieved and surpassed its target of activity hours for 1994/95, providing between 20 hours for unconvicted YO's and 30 hours for convicted. Every effort is made to ensure that time spent out of cell at Feltham is occupied by "purposeful activity".

- **appropriate steps to be taken to ensure that all prisoners at Feltham benefit from at least one hour of outdoor exercise every day (paragraph 149)**

The design of the establishment does not allow for a prison style exercise period every day. Indeed there is no statutory requirement for exercise for prisoners held in YOIs. Instead they are encouraged to participate in the sporting activities and physical education, which take place in the establishment on a regular basis. Young prisoners in Remand Centres, on the other hand, are subject to Prison Rules which have a statutory requirement for at least one hour's exercise in the open air and provide for indoor physical training as an alternative. Accordingly, physical education is made available to young prisoners in the Remand Centre on a daily basis.

- **the vacant post of medical officer to be filled as soon as possible (paragraph 152)**

The Senior Medical Officer has reviewed the professional staffing requirements of the Healthcare Centre at Feltham and is of the opinion that there is no requirement for a further medical officer.

- **improvements to be made to the room used in the Osprey Unit for medical consultations with newly admitted prisoners (paragraph 161)**

This room is no longer used for medical consultations. New prisoners are now seen in the main Health Care Centre by the duty doctor.

- **the functioning of the points and levels system to be reviewed, in the light of the Committee's comments in paragraphs 168 and 169 (paragraph 169)**

Since the Committee's visit, a comprehensive review of the Points and Levels has been undertaken and its recommendations tested through a pilot project. The new procedures (see response to para. 138) will be undertaken on a standardised basis throughout the establishment. The system will provide a consistent approach, but it will also allow the various units to adapt the system in recognition of the different types of prisoner held.

comments

- **material conditions in the Waite Unit should be reviewed (paragraph 149)**

The Waite Unit has been redecorated since the Committee's visit and a refurbishment programme for all other units has also commenced. Greater use is now made of gymnasium facilities in the Waite Unit.

- **it would be advisable to increase the number of nurses trained in psychiatric care (paragraph 153)**

Since the visit of the CPT, Feltham, under the Director of Therapy, has been recruiting a range of nursing grades including a new I grade nurse, the highest clinical grade and only the second in our Service. The job has been offered following recent interviews. The RMN qualification (psychiatric nursing registration) has been high on the list of desirable qualifications for the nursing posts at Feltham. The I grade nurse is a psychiatric nurse.

- **insufficient privacy was afforded by the glass partition currently separating the lavatories in the dormitory in the health care centre (paragraph 158)**

The ward in question was designed for the purpose of allowing maximum observation of high-risk (ie those most liable to harm themselves) prisoners. There is a decency door on all these lavatories. In considering whether to introduce the changes suggested by the Committee the establishment had to consider whether these changes would reduce the ability of the staff to offer maximum care and supervision to those prisoners most at risk from harming themselves.

It has been decided that a bid should be made for funding to introduce in-room sanitation in the seven rooms that do not have this facility and it is anticipated that this bid will be funded in 1996/97.

- **it would be desirable for the interview with the an prisoner on arrival always to be conducted by a member of the health care staff who is a qualified nurse (paragraph 160)**

The value of having qualified health care staff conduct the initial reception process is recognised and procedures in the recruitment and training of nursing staff have been initiated to achieve this. Where problems with staffing levels do not allow for the use of qualified nurses in reception, these functions are carried out by trained Health Care officers who have sufficient experience to make an assessment of the needs of prisoners on reception.

- **it would be preferable for the initial filtering of requests to see a doctor to be carried out in private (paragraph 162)**

Prisoners who wish to see a doctor now make a written application on a pro-forma which is available in all the units. The applications are collected by health care workers and sifted in private by the doctor in the Health Care Centre.

- **it is important to guarantee the confidentiality of discussions between an prisoner and his lawyer (paragraph 165)**

The authorities at Feltham consider that the room set aside for legal visits is big enough to accommodate a number of such visits while allowing sufficient room between tables to guarantee privacy. However, private rooms are available on request for such visits. The Governor at Feltham reports that he has not received any complaint from prisoners' legal advisers about the lack of privacy.

requests for information

- **information on the results of the inquiries by the Governor and the local police into an incident which occurred in the common room of Quail Unit on 21 May 1994 and as the case may be an account of any follow-up action taken (paragraph 130)**

An investigation was conducted by a senior manager at Feltham into this incident and, in particular, an allegation made against a member of staff. The injury sustained by the prisoner while being restrained was acknowledged, but no evidence of improper use of control and restraint techniques, or of assault, was found and staff were exonerated of any fault in this matter. A complaint against an prisoner, was made by one of the prisoners who was injured and was referred to the police for investigation. However the prisoner against whom allegations of assault were made has since been released and is currently receiving psychiatric care. In view of this, and as the prisoner who made the allegations was reluctant to give evidence, the Police decided not to pursue this matter.

- **the number of complaints of ill-treatment lodged against staff at Feltham and the number of criminal/disciplinary proceedings initiated as a result of such complaints;**

an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment (paragraph 131)

	1993/94	1994/95	1995/96
Number of complaints against staff	30	41	24
Number of criminal proceedings	0	1	0
Number of disciplinary proceedings	1	6	0

The one complaint which resulted in criminal proceedings against a member of staff in 1994/95 was referred to the Police to pursue. This complaint related to the theft of prison property. The officer has been suspended from duty and the case is to go to court.

Of the disciplinary proceedings that were held in 1994/95, the following sanctions were imposed;

1 case dismissed - allegation of assault by staff on prisoner

1 written warning - incorrect use of control and restraint techniques

4 dismissals -
- i) unprofessional conduct by prison chaplain
- ii) assault by officer on prisoner
- iii) unprofessional conduct by an officer
- iv) night patrol asleep on duty

- **the comments of UK authorities on complaints heard about the quality of the food at Feltham (paragraph 143)**

Senior managers visit the kitchen on a daily basis and sample the meals as well as observing the issue of food to prisoners. There has been a noted improvement in the quality of the food provided.

- **whether any of the psychiatrists working at Feltham have received specialist training in child and adolescent psychiatry (paragraph 152)**

None of the psychiatrists employed full-time at Feltham have received specialist training in child and adolescent psychiatry. Feltham are, therefore, currently recruiting a senior lecturer consultant with experience in forensic adolescent psychiatry. In the meantime they employ a psychiatrist qualified in child and adolescent psychiatry on a sessional basis.

- **clarification as to whether the health care staff on duty at night always includes a qualified nurse (paragraph 154)**

Feltham has a 24 hour health care service but, due to the still low proportion of nurse qualified staff, there will be occasions when the night cover is provided by a health care officer who is

not nurse qualified. This is inevitable during the transitional period through which the nursing service is currently working. The health care officers are trained to take on this additional responsibility and to recognise the limitations on their practice. In a situation where the health care officer is in any doubt he or she will call the medical officer who is on call 24 hours a day.

- **the comments of the UK authorities on the concerns of expressed by some members of the health care staff about the lack of a managerial structure in the medical sphere and the lack of communication between the various groups involved in the health care service at Feltham (paragraph 155)**

The CPT visit coincided with the appointment of a Senior Medical Officer after a period of 18 months without one in post. Since May 1994 a clear management structure has been implemented throughout Feltham Therapeutics (which includes the HCC and Medical Managerial Structure). This structure incorporates all professionals, including psychologists, probation officers and counsellors involved in the delivery of therapeutic responses to the prisoners within Feltham.

- **notification of the completion of the work to install integral sanitation in the single cells in the health care centre (paragraph 158)**

Regrettably, at the present time there still remain 8 single cells in the Health Care centre without integral sanitation.

- **the comments of the UK authorities on the subject of the transfer of mentally ill patients from Feltham to a psychiatric hospital (paragraph 163)**

Performance in identifying mentally disordered prisoners who require in-patient care and transferring them to hospital, has improved greatly over the past few years. The number of such transfers under the Mental Health Act 1983 in England and Wales has more than doubled in recent years from 325 in 1990 to 784 in 1994. The improvement is the result of much better levels of co-operation between those with a direct involvement in the transfer process at individual prison/hospital level, in the Home Office and in the National Health Service.

The Government is committed to meeting the needs of offenders who require care and treatment from the National Health Service (NHS) and the guidance to the NHS makes this a priority task. The development of secure in-patient facilities is a key element in fulfilling this. Central capital funding of over £47 million has been made available for medium secure psychiatric services 1991 and 1995. This will increase the number of medium secure places from less than 600 in 1991 to 1200 by the end of 1996. A further 300 secure places are being developed by health authorities from their main allocations.

Proposed important changes in the management and funding of high security psychiatric services were announced on 21 June 1995.

Subject to approval, new special health authorities will be formed to manage the three special hospitals and a national High Security Psychiatric Services Commissioning Board will advise the NHS Executive on the use of high security and longer-term medium secure services. This will help to achieve closer integration of the special hospitals with the main body of the NHS, so increasing the Service's ability to respond flexibly to the full range of prisoners' and other offenders' needs.

- **information on plans to modify the induction procedure in Osprey Unit (paragraph 167)**

A new induction programme for all new receptions is now fully operational. The programme includes the following;

- first night interview with representatives from the National Association for the Care and Resettlement of Offenders (NACRO) and/or Friends of Feltham group as well as induction staff to complete the initial record;

- subsequent interviews with a member of the Chaplaincy, the Medical Officer, and Education staff;

- information is then provided about the rules of the establishment as regards the use of the shop, visiting rights, the points and levels system, on reporting to the health care centre, making an application and on their appearance.

E. Administrative detention of foreign nationals

recommendations

- **the new detention centre at Gatwick Airport for foreign nationals to be brought into service as soon as possible (paragraph 186);**

- **pending the opening of the new detention centre, steps to be taken to ensure that persons detained in the Beehive Detention Suite are offered outdoor exercise on a daily basis (paragraph 187);**

The Beehive Detention Suite was closed in January 1995 and replaced by a Temporary Detention Centre of 45 beds, which offers space in the open air for exercise and recreation. The intention is that in April 1996 the temporary centre will be replaced by Tinsley House, a permanent purpose built facility offering some 150 beds, which will offer indoor and outdoor exercise and sports facilities.

- **the limited natural light and the absence of outdoor exercise facilities at the Queen's Building detention area at Heathrow Airport to be rectified (paragraph 194);**

Queen's Building cannot be adapted to provide outdoor exercise

and an increase in natural light. It is designated a short stay facility for detention of up to a maximum of five days. If detention continues beyond five days the detainee is transferred to a long stay centre which offers a range of facilities. However, in view of the Committee's comments every effort will be made to transfer detainees to more appropriate accommodation well before the expiry of the 5 day limit.

- **steps to be taken to ensure respect of the terms of the contract between the Immigration Service and Group 4 Securitas, which provide for the presence of a general practitioner at Campsfield House between 9 am and 5 pm, Monday to Friday (paragraph 212);**

The contract with Group 4 has been revised and improved to ensure that a general medical practitioner is present between 9 am and 5 pm Monday to Friday and on-call at weekends, and at least one nurse is on duty between 9 am and 5 pm seven days per week. These arrangements are monitored daily by local Immigration Service staff.

- **the necessary steps to be taken to establish a psychiatric and psychological service appropriate to the needs of those detained at Campsfield House (paragraph 213);**

The presence on site of the general medical practitioner enables him to bring to the attention of the Immigration Service any case where he considers it advisable to enlist the services of a psychiatric or psychological consultant. Existing arrangements for providing these services on an ad hoc basis have been reviewed but are considered to be satisfactory.

- **all foreign nationals to be seen by a member of the medical staff on admission to Campsfield House and, if necessary, medical examination. The medical screening on admission to be carried out by a doctor or by a qualified nurse reporting to a doctor (paragraph 215);**

Port cases are always examined on arrival at Immigration Service detention centres if not previously examined at the point of arrival. We have no power to force those already in the United Kingdom who are subsequently detained to undergo medical examination on arrival at detention centres. However, all detainees are given the opportunity on reception or as soon as practicable thereafter to see a qualified nurse or to have a medical examination by a doctor.

- **the factors referred to in paragraph 220 to be taken into account in the selection, as well as in the induction and ongoing training, of supervisory staff at Campsfield House and at other detention centres for foreign nationals (paragraph 221);**

The recommendation is accepted. Under the new contract, improvements in the Group 4 training programme are expected to deliver consistently the quality and standards of service

required by the Immigration Service. Training embraces the following elements - Immigration Service Induction, Interpersonal Skills, Race Awareness, Cultural Awareness, First Aid, Fire Prevention, Emergency Procedures, Suicide and Self-Injury Awareness, Communicable Diseases, Medical Confidentiality, Health and Safety, Food Hygiene, Control and Restraint - and includes on-going training. Selection is carefully monitored under a registration scheme for all Group 4 personnel employed under contract.

- **steps be taken without delay to bring an end to the practice of placing in prison establishments persons deprived of their liberty under the Immigration Act (paragraph 230)**

The majority of persons detained by HM Immigration Service under the Immigration Act are held in specialist immigration detention centres. The Prison Service provides accommodation when there is a need to hold detainees in the more secure conditions.

Plans to hold immigration detainees in only 5 designated Prison Service establishments - Haslar, Holloway, Rochester, Birmingham and one other - have now been implemented, apart from the need to identify a fifth establishment in the North of England. These changes have been made to enable immigration detainees to be held separately from convicted prisoners, to help the Prison Service to better meet the particular needs of detainees and to assist the Immigration Service in providing appropriate support and assistance.

Planned additions to the Immigration detention estate, principally at Gatwick and Heathrow, should enable the Immigration Service to reduce its use of Prison Service accommodation. There will, however, remain a need for a number of detainees to be accommodated in prisons either because of a known potential for violence or because of a need for closer medical supervision.

- **as regards the "Code of Practice of searches of premises, seizure of property and interview and treatment of persons; application by the Immigration Service during the investigation of offences":**

    - **the Code to be given the same status as that of the codes of practice drawn up under the provisions of the Police and Criminal Evidence Act 1984;**

    - **certain additional fundamental rights for foreign nationals detained under the Immigration Act to be included, in particular, the right to free legal aid and the right to be examined by a doctor of their own choice (paragraph 234).**

There is an essential difference between the application of these codes of practice to immigration officers and those applied to the police under the provisions of the Police and Criminal

Evidence Act 1984. Immigration Service staff are not charged with the duty of investigating offences or charging offenders, within the meaning of Section 67(9) of the Act. The Immigration Officer's enquiries are aimed at establishing the person's immigration status and resolving the issue by administrative means (ie by confirming his right to remain in the United Kingdom or by effecting his removal or deportation).

In these circumstances we do not accept that there is a conclusive case for enshrining the Immigration Service codes of practice in law in the same way as the codes of practice drawn up under the Police and Criminal Evidence Act 1984. By the same token, we do not accept that the right to be examined by a doctor of the subject's choice, which relates to detention in police stations, should be incorporated in the Immigration Services codes of practice; nor do we agree that access to free legal aid is necessarily appropriate to what is essentially a civil issue.

comments

- **the proximity to the runways of the new detention centre for foreign nationals at Gatwick Airport renders it unsuitable for long-term detention (paragraph 186);**

In planning the centre, acoustic consultants were employed to ensure that sound levels within the building are within acceptable levels.

- **efforts should be made to offer additional activities to detainees who spend several months at Campsfield House Immigration Detention Centre (paragraph 207);**

Since the visit of the CPT additional facilities have been put in place. Table football has been provided and rowing/cycling machines have been acquired. The appointment of two physical training instructors has permitted a more varied and structured use of sports facilities. An outdoor recreational area in the sports field is now available for use and plans to augment it are at an advanced stage. English language tuition continues to be provided and improvements are planned. There are regular craft classes and library facilities are being enhanced. Additional social activities, which Group 4 staff encourage, are occasionally organised by the detainees themselves. These include bingo, competitions and disco dancing.

As far as religious activities are concerned, visiting ministers of different faiths attend the centre regularly to lead acts of worship. A permanent part-time chaplain has been appointed and his responsibilities include the co-ordination of multi-faith activities.

- **the provision made for incoming telephone calls at Campsfield House is far from adequate (paragraph 210);**

There may be confusion on this point. One contact telephone number is published for the centre, but four (not one) lines are dedicated to receiving external calls for detainees.

- **given the capacity of Campsfield House, an increase in nursing staff would be desirable (paragraph 214);**

The revised and improved contract with Group 4 provides arrangements to call on additional nursing staff as and when required by the general medical practitioner, or in response to specific needs.

- **isolation measures should be accompanied by appropriate safeguards. The person concerned should be informed of the reasons for the measure taken against him, be given an opportunity to present his views on the matter and be able to contest the measure before an appropriate authority (paragraph 219);**

- **a scrupulous record of all placements in isolation, whatever the reasons for the measure, is a fundamental safeguard against any possible abuse, more generally, an essential tool of good management (paragraph 219);**

The isolation rooms at Campsfield House were designed and are used exclusively for medical cases. These facilities are used only when a detainee is suffering (or is suspected of suffering) from an infectious or contagious disease, and where clinical assessment decides that short-term isolation is necessary for the welfare of the individual.

Isolation rooms are not used for disciplinary purposes, and no other measures are employed to isolate a detainee from fellow detainees except on medical grounds.

- **it would be preferable for the Campsfield House Visiting Committee to be provided with administrative support from outside the Immigration Service (paragraph 224);**

The Visiting Committee is an unpaid voluntary body. The provision of administrative support from Immigration Service resources ensures that the committee receives necessary assistance to meet its responsibilities. The support is provided by an administrative officer at Campsfield House who has no participatory role in the conduct of the Committee's business. The Immigration Service is unaware of any criticism that the independence or impartiality of the Committee has been breached or otherwise affected by this arrangement.

- **it would be appropriate for the Code of Practice for Immigration Officers to be made public (paragraph 234);**

The Immigration Service code of practice is available to the public.

requests for information

- **the outcome of the trial of the police officers who arrested Ms Joy Gardner on 28 July 1993 (paragraph 172);**

The trial began on 15 May 1995 at the Central Criminal Court and lasted several weeks. The 3 officers from the Metropolitan

Police Deportation Group who were involved in the attempted removal were acquitted. In the light of this the Coroner's office decided not to resume the inquest opened prior to the trial.

- practical steps which have been taken following the joint Home Office/Police Review of Removal Procedures in Immigration Cases Involving the Police, together with copies of any directives issued on the means of restraint which the police are authorised to use in removal procedures (paragraph 173);

The Home Secretary accepted the recommendations of the joint Immigration Department/police review and these recommendations are now reflected in the handling of all removal cases.

As a result a Home Office Circular has been issued to police forces throughout the United Kingdom to draw attention to the recommendations contained in the Joint Review.

- the means of restraint which escort groups employed by private companies are authorised to use, together with copies of any relevant instructions on that subject issued by the Enforcement Directorate of the Immigration and Nationality Department and/or the private companies concerned (paragraph 173);

Companies contracted by the Immigration Service have received specific instructions on the means of restraint which may be employed and the levels of prior authority which must be obtained.

Instructions issued on an individual basis to all Assistant Directors and Inspectors in the Immigration Service Enforcement and Ports Directorates were forwarded to the Committee with the interim response, together with a copy of the instruction to companies which takes the form of a letter.

- the comments of the United Kingdom authorities on the allegations referred to in paragraph 174 (174);

The case is the subject of legal action. The comments of the United Kingdom authorities on the allegations will be forwarded when the case is concluded.

- for 1993 and 1994:

  - the number of complaints of ill-treatment lodged in respect of removal procedures or the transfer of foreign nationals and the number of criminal/disciplinary proceedings initiated as a result of such complaints;

  - an account of criminal/disciplinary sanctions imposed following such complaints (paragraph 174);

In 1993 there were 4 such complaints, none of which resulted in criminal/disciplinary proceedings being initiated.

In 1994 there was one such complaint, which did not result in criminal/disciplinary proceedings being initiated.

- **further information about the Immigration and Nationality Department Complaints Audit Committee (composition, terms of reference, powers, etc.) (paragraph 176);**

The independent IND complaints Audit Committee was established on 1 January 1994. Its remit is:

- to satisfy itself as to the effectiveness of the procedures for investigating complaints;

- to draw IND management's attention to any weaknesses; and

- to make an annual report to the Secretary of State.

The Committee has access to all papers on complaints investigations, but is not involved in the investigation of individual complaints or decisions in individual cases. The powers of the Parliamentary Commissioner for Administration are unaffected.

The Committee's three members, appointed by the Secretary of State, are Diana Rookledge (Chair), Blair Greaves and Karamjit Singh.

The Committee has now reviewed all complaints completed during 1994, making a number of helpful and constructive comments about IND's investigation procedures which management are carefully considering. Its first report has now been published and a copy was forwarded to the Committee with the interim response.

- **full information on the operation of the new detention centre for foreign nationals at Gatwick Airport (de facto capacity, possible length of stay, activities available, medical services, etc) (paragraph 186);**

The Temporary Detention Centre accommodates up to 45 detainees. It is a longer stay centre and has a range of facilities including satellite television/video, an outside area for exercise and recreation, video and table games, a shop, keep fit classes and a range of other ad hoc activities which are often suggested by the detainees. A nurse is on duty between 9am and 7 pm seven days each week, and a medical practitioner between 9 am and 5 pm Monday to Friday and on call at weekends.

In April 1996 the temporary centre will be replaced by Tinsley House, a permanent purpose built facility offering up to 150 beds. It will be a longer stay centre, and it is planned to offer a range of facilities including indoor and outdoor space for exercise and recreation, library, shop, satellite television/video, video and table games, and 2 Physical Training

Instructors who will arrange a programme of activities. A general practitioner will be present between 9am and 5 pm Monday to Friday and on-call at weekends, at least one nurse will be on duty between 9 am and 5 pm seven days per week.

- **the comments of the United Kingdom authorities on the possible difficulties caused by the location of Campsfield House, as referred to in paragraph 209 (paragraph 209);**

Campsfield House has good access by road from London and its airports. The potential for conducting more casework functions at the centre is under consideration. Appeals and bail hearings for Campsfield House detainees have been held locally at a Banbury courtroom since July 1995, and this has reduced delays in the hearings process.

- **detailed information of the transfer to hospital of persons on hunger strike at Campsfield House (numbers involved, criteria applied, authority competent to order transfer) and on the approach adopted as regards the treatment of such persons after their transfer to hospital (paragraph 216);**

The policy adopted towards those engaging in food/fluid refusal at Campsfield House is the same as that applied to immigration detainees elsewhere. The objective of the policy is that no detainee should die or do themselves serious harm as a result of such action whilst in detention but equally that no detainee should be released directly as a result of such action. The Immigration Service is very conscious of its duty of care to which detainees are entitled and, indeed, with regard to food/fluid cases, this is extended to total care after the third day of such a protest. On the fourth day the detainee is medically examined and moved into close 24-hour medical observation on the fifth day. If the detainee's condition deteriorates to a condition where the Medical Officer believes that hospitalisation is required, a second opinion is generally sought, where possible, from a consultant and the necessary arrangements for transfer to a hospital are made. If the initial assessment in hospital confirms the need for continued treatment, the Immigration Service will generally arrange for bed-guards as necessary. At the end of any treatment and only when the hospital staff have confirmed that the detainee is fit to be discharged, the detainee will be returned to Campsfield House.

However, each case is treated on its merits and, if appropriate, temporary admission may be granted either on admission to the hospital or subsequently. The question of any transfer to a hospital is essentially one for the local doctor but at this stage the Deputy Director (Enforcement) would normally be consulted before the transfer is effected and if there is any question of temporary admission, the Deputy Director (Enforcement) would normally consult the Minister.

From the opening of Campsfield House on 29 November 1993 to date 19 detainees refusing meals have been transferred to hospital on

the recommendation of the medical staff. Of these, 2 detainees were transferred for medical reasons unconnected with meal refusal; after treatment one was returned to Campsfield House and the other granted temporary admission. Of the remaining 17 detainees, one absconded from hospital, 13 were granted temporary admission, and 3 were returned to Campsfield House.

- **full information on the rules governing placement in isolation at Campsfield House, together with copies of all relevant texts (paragraph 218);**

The isolation rooms are use for medical cases only, where clinical assessment decides that short term isolation is for the welfare of the individual. The isolation rooms are not used for disciplinary purposes, accordingly no instructions on use for that purpose exist.

- **a copy of the most recent Annual Report of the Campsfield House Visiting Committee (225);**

A copy of the 1993-1994 report was forwarded to the Committee in the interim response, together with a copy of the response by the Home Office and Group 4 Total Security Limited response.

- **the comments of the United Kingdom authorities on the complaints received from detained foreign nationals about having received insufficient information regarding the grounds for their detention or the progress of their case, and about the overall length of the procedure applied to them (paragraph 231);**

Before detention commences every detainee receives a full verbal explanation of the reasons for detention in a language he/she understands. The detainee is given every opportunity to ask questions on this and any other aspect of the immigration case. During detention it is open to the detainee and/or the detainee's representative to make further enquiries to the port or office responsible for the case. In addition, each detainee receives a written report on progress in resolving his case and any outstanding asylum application, after one month's detention and monthly thereafter. These arrangements have been reviewed recently and as a result progress reports are sent to detainees much more quickly.

- **a detailed account of the precise measures taken in practice by the Immigration Service to ensure that persons are not returned to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment (235);**

The UK is committed to fulfilling its obligations under the 1951 UN Convention relating to the Status of Refugees, and its 1967 Protocol. All asylum applications made in the UK are referred to the Asylum Division of the Home Office where they are carefully assessed against Convention Criteria by specially trained officers.

It is normal practise to interview an asylum applicant and account is taken of all the relevant circumstances, including whether, in the country of origin, there is a consistent pattern of gross, flagrant or mass violations of human rights. There is a detailed knowledge of those countries from which asylum is sought or which otherwise violate human rights. Caseworkers receive advice from British diplomatic posts and regular country assessments from the Foreign and Commonwealth Office. Press reports and analyses of particular countries produced by external agencies, such as the United Nations High Commission for Refugees and Amnesty International are also taken into account. In addition caseworkers attend various seminars, including talks by human rights experts and immigration lawyers.

The Asylum and Immigration Appeals Act 1993, which came into force on 26 July 1993, introduced an in-country right of appeal at some stage before removal, with an oral hearing before an independent Special Adjudicator, for all refused asylum applicants, regardless of their immigration status, except for those who represent a threat to national security. This represents a considerable strengthening of the rights of asylum seekers in the UK.

The 1993 Act contains further important safeguards for asylum seekers. For example, Section 2 of the Act establishes the supremacy of the 1951 Convention and the 1967 Protocol in domestic law. Section 6 states that "During the period beginning when a person makes a claim for asylum and ending when the Secretary of State gives him notice of the decision on the claim, he may not be removed from, or be required to leave, the UK". Schedule 2 to the 1993 Act specifically incorporates those provisions of the Immigration Act 1971 which prohibit the removal of an appellant while an appeal is pending.

An applicant who is not a refugee under the 1951 Convention, and has no other claim to stay in the UK, may be granted exceptional leave to remain where there are compelling humanitarian reasons for not returning the individual to his country of origin. This may arise, for example, where there are substantial grounds for believing that the individual could be subjected to torture or inhuman or degrading treatment, even though this might not amount to persecution within the strict meaning of the 1951 Convention.

The numbers applying for asylum in the UK have been rising quickly and are expected to exceed 40,000 in 1995. However, only about 4% of applicants are found to satisfy the 1951 UN Convention criteria for refugee status and just under 20% are granted exceptional leave to enter/remain. Increasing abuse of the asylum system is unfair to genuine applicants. The Government has therefore recently announced plans to streamline further the decision-making process in asylum cases. Amongst the measures proposed are plans to designate selected countries as not giving rise to a serious risk of persecution. This will not mean that all claims from nationals of those countries will be automatically refused, but there will in effect be a rebuttable presumption against claims from those countries and these claims will be dealt with speedily.

Further measures will include plans to make appeals against return to a safe country exercisable only after removal to that country and proposals to extend existing accelerated appeals procedures to a wider range of cases. The Government is satisfied that all of these proposals are fully compatible with the UK's obligations under the 1951 Convention.

F. RAMPTON SPECIAL HOSPITAL

recommendations

- **Greater attention to be given to training in the different methods of managing aggressive behaviour as outlined in section 18 of the Code of Practice issued under the Mental Health Act 1983.**

- **Appropriate steps to be taken to ensure that health-care staff at Rampton become fully acquainted with the whole of the Code of Practice in its most recent version (paragraph 242)**

All special hospitals place a high emphasis on developing alternative strategies for the management of aggressive behaviour which accord fully with the Mental Health Act Code of Practice. In 1994, Rampton Hospital hosted a conference to initiate a wide ranging review of the issue. Mental Health Act Commissioners have been fully involved in subsequent training sessions and are continuing to monitor the situation carefully. Commissioners have also confirmed that each ward holds a copy of the Code of Practice. The issue of managing aggressive behaviour is continually under review and all current training has been updated in line with the Code of Practice.

An enhanced training package, which focuses on the causes of aggression and its management, has been piloted in part with new staff and has proved extremely effective. A rolling programme has been developed which will fully train over 200 staff by April 1996 with further programmes that will equip every member of staff with the necessary level of skill being implemented throughout the coming year.

- **The necessary steps to be taken to improve the psychiatrist: patient ratio, and more generally, to ensure that all of the authorised posts for doctors at Rampton Hospital are filled (paragraph 243)**

The Government acknowledges that the current psychiatrist: patient ratio at Rampton Hospital was not ideal and has now taken steps to see it increased. There are now 15 full-time consultant psychiatrists making a patient ratio of 1:30 on average with our current patient population. No consultant has a caseload of over 36 patients.

In order to increase the supply of consultant forensic psychiatrists the National Joint Planning Advisory Committee conducted a review of Senior Registrar quotas in Forensic Psychiatry in March 1994. This led to an increase of 17 senior

registrar posts and a one-off tranche of 5 single holder posts for the Special Hospital Service Authority (SHSA). Nearly all the posts have been funded and filled. In addition, the Government has recently announced important changes in the organisation and funding of high security psychiatric services (see paragraph 276 below). One of the purposes is to promote better integration of high security services with other parts of the secure and non-secure mental health services. This will encourage movement of staff between the special hospitals and other NHS hospitals and over time should help in meeting recruitment problems.

In 1996/97 there will be a further increase in training posts nationally, some of which, it is anticipated, will be allocated to Rampton Hospital.

- Steps to be taken to ensure that at least one doctor is present on the premises on a 24 hour basis (paragraph 244)

The hospital, in conjunction with the SHSA, has considered the availability of medical cover out of normal working hours. A further 5 additional posts have now been allocated to enable the authorities at Rampton to implement a permanent on-site medical presence and the process of recruitment of these posts is currently taking place.

- **Procedures to be revised in order to ensure that patients' rooms may be unlocked more quickly in the event of emergency at night clarification regarding the possibility for nursing staff to provide immediately the full range of emergency care (paragraph 245)**

At the time of the Committee's visit the wards cited had not moved to 24 hour care. However, as a result of a major funding and policy initiative, 24 hour care now applies throughout the hospital. Mental Health Act Commissioners have confirmed that all patient rooms now have personal locks and that there is an alarm/call system on all wards/villas.

With regard to the use of emergency equipment, the hospital has confirmed that every ward has basic equipment and selected areas have more advanced provision. All staff receive basic training on appointment and more advanced training is provided as appropriate. Selected senior nursing staff are trained to use a defibrillator at cardiac arrest without medical supervision. A Resuscitation Training Officer from a local hospital co-ordinates the training process.

- **Ward renovation work to be continued and, as far as possible, expedited**

- **Immediate steps to be taken to ensure that all patient's rooms are equipped with a call system (paragraph 252)**

At the time of the Committee's visit, work was in hand to

complete the installation of call systems in all rooms on all wards. This work was completed in the Summer of 1994. Drake Ward is currently being refurbished and this will rectify the concerns expressed by the Committee. The refurbishment programme for other wards and villas is regularly reviewed.

- **high priority to be given to ending the practice of night-time confinement of patients (paragraph 254)**

The level of night-time detention of patients in locked single rooms is changing as wards/villas move towards 24 hour therapeutic care. All the patients' rooms now have personal locks.

- **Immediate steps to be taken to ensure that a sufficient number of nursing staff (at least two staff members) are on duty every night on each ward (paragraph 255)**

The move towards 24 hour therapeutic care will ensure that there are sufficient nursing staff on each ward at night. Twenty-five out of twenty-eight wards are now open to twenty-four hour care. The remaining three wards will be opened during the summer.

- **A high priority to be given to the implementation of the objective of providing open access for patients to their room or dormitory over 24 hours (paragraph 256)**

Privacy locks have been installed on all patient bedrooms and patients have access unless clinically contraindicated. The MHAC have noted the significant improvement in patients' quality of life following the move to 24 hour care.

- **Urgent steps to be taken to ensure that all patients are able to take at least one hour of outdoor exercise each day (unless there are medical reasons to the contrary) (paragraph 257)**

The Government has now set a minimum quality standard of ten hours access to fresh air, per patient, per week in Summer and four hours per week in Winter. This will be monitored regularly over the coming year.

- **Patients admitted to Drake ward for observation or as emergencies to be separated from chronic patients (paragraph 261)**

Following clarification of patients' needs, resources have been allocated to provide a programme of therapeutic activities for patients on Drake Ward. The majority of patients on this ward require intensive treatment, and this would not be helped by having separate facilities for "chronic" and "observation/emergency" patients as the Committee suggests. The MHAC has noted that the appointment of the ward manager and other

new staff has brought about an improvement in the environment and culture of the ward.

- **The necessary steps to be taken to ensure the application in practice of the policy on seclusion defined by the Code of Practice issued under the Mental Health Act 1983 and the Policy Statement on the use of seclusion issued by the SHSA in October 1993 (paragraph 267)**

The revised Code of Practice was issued in 1993. The hospital has amended its procedure accordingly and has provided appropriate multi-disciplinary training. Hospital managers are confident that seclusion is used only when all other options have been fully considered. The MHAC has expressed satisfaction that seclusion is only being used for the purposes defined in the Code of Practice. It has noted the low incidence of seclusion at Rampton Hospital.

- **The shortcomings observed in the seclusion rooms in Anston and Drake Wards to be rectified (paragraph 268)**

Hospital managers acknowledge the Committee's concern about shortcomings in the standards of some seclusion rooms and are taking remedial action. Drake Ward is currently being refurbished and problems on Anston Ward have been attended to.

comments

- **Review of the training of workshop staff with a view to completing it by training in the psycho-social rehabilitation of patients (paragraph 247)**

The hospital's Director of Rehabilitation has implemented basic training programmes to ensure that workshop staff are properly equipped to promote the psycho-social rehabilitation of patients. The hospital intends to employ more qualified Occupational Therapists to support these staff.

- **The privacy afforded to patients in Alford and Anston Wards when using the lavatories should be improved (paragraph 250)**

This method of observation has been found to be the least intrusive way of checking for signs of potential self harm. The patient's entitlement to privacy has to be balanced against the need to carry out observations if there is a risk of self-harm.

- **initiatives such as the establishment of proper vocational training which will be recognised outside the hospital are to be encouraged (paragraph 259)**

The Government welcomes the Committee's positive comments regarding the hospital's therapeutic and rehabilitation facilities. Further progress has been made on arrangements to

provide recognised vocational training for patients: four members of staff are currently training to become National Vocational Qualification (NVQ) assessors; a number of patients are pursuing vocational qualifications in food and hygiene; and training for an NVQ in leisure and hospitality will be available for patients from September 1996.

requests for information

- **A copy of the results of the judicial enquiry and the SHSA enquiry into an allegation that in 1992 a patient died following the use of control and restraint techniques (paragraph 241)**

There was no "judicial enquiry", but an inquest was held and this reached an "Open Verdict". A summary of the action taken by the hospital following the death has been forwarded to the Committee.

- **Comments of the UK authorities on the working hours of nursing staff (paragraph 246)**

Proposals have been put to staff to establish a flexible and shorter working day for the benefit of patients and staff. Consultation is taking place with staff and their organisations about these proposals. In the meantime, all new staff are contracted to work shorter days. The involvement of the Arbitration and Conciliation Service (ACAS) in Management Staff Associations is expected to produce further progress in the coming months.

- **The comments of the United Kingdom authorities on whether an appropriate balance is maintained between the forensic and therapeutic activities of psychologists at Rampton Hospital and whether a clear distinction is drawn between forensic activities and treatment (paragraph 248)**

Clinical Psychologists take a holistic perspective to the rehabilitation of patients in special hospitals. While a considerable amount of their work originates as a forensic referral, requiring them to focus initially on issues concerning the patient's index offence, the development of a psychological treatment programme usually involves tackling any major clinical issue presented by the patient. It is usual for psychologists to adopt a therapeutic strategy which requires active and consensual collaboration with their patients. Such a collaborative approach ensures that issues of importance to the patient, as well as those of importance to the clinical team are properly addressed. It is important to recognise that forensic and therapeutic activities are complementary and the absence of either would be detrimental. Work in progress in the hospital on effective multi-disciplinary working will focus on their therapeutic input.

- **Updated information on the development of psycho-therapeutic activities (paragraph 262)**

The hospital is restructuring the Rehabilitation Directorate to improve the delivery of psycho-therapeutic activities. It has also established a new Consultant post for the Psychological Treatment Unit. There is scope for further development in this area and the position will be reviewed.

- **The comments of the United Kingdom authorities on the matters raised in relation to the administration of medication (paragraph 264)**

Nursing staff can only administer a course of prescribed medication with the patient's consent. If this consent is not forthcoming, a doctor will be consulted to ensure compliance with the Mental Health Act. The hospital has introduced a new system for review, at least annually, of all records of renewal of patient consent (form 38) and this is monitored by the Medical Records Department.

- **The response to the recommendation in the Report of the Committee of Inquiry into Complaints about Ashworth Special Hospital that a Patients' Advocacy Service be established (paragraph 272)**

Rampton hospital invited independent organisations to tender for the provision of an Advocacy Service, in the light of the successful similar experience of Ashworth Hospital. The contract has now been awarded and staff are currently being recruited. The starting date for this service will be March 1996.

- **The measures which the United Kingdom authorities intend to take in order to ensure that staff working in institutions such as Rampton receive the necessary external support and stimulation (paragraph 273)**

The hospital has a wide range of educational, research and secondment opportunities for staff, enhanced by its status as an Associate College of Sheffield Hallam University. There is also a well developed staff support system, which includes occupational health, welfare and counselling. An independent staff counselling service has been provided for over two years.

- **The comments of the United Kingdom authorities on the apparent difficulties in arranging transfers of patients from Rampton (paragraph 275)**

The issue of transfer delays is a matter of particular concern. Significant effort has been invested by the hospital and the SHSA in reducing the number and length of these delays. There are some indications of success, not least the steady reduction of overall patient numbers (for example, the current total of 474

can be compared with 556 in 1989). The SHSA remains concerned at the delays and will work with colleagues in the wider NHS and Social Services to reduce them further.

- **Updated information on the measures taken to implement the recommendation set out in paragraph 5.11 of the report of the Department of Health Working Group on High Security and Related Psychiatric Provision (greater dispersal of high security services and units with a maximum of 200 patients) (paragraph 276)**

The Government has recently announced a number of changes to the current arrangements for the funding and organisation of high security psychiatric services (see also comment on paragraph 243 above). A copy of the Policy Statement has been forwarded to the Committee.

III SCOTLAND

A. POLICE ESTABLISHMENTS

recommendations

- **conditions of detention in the police establishments visited to be reviewed, in the light of the remarks made in paragraphs 282 to 284 (Paragraph 285)**

There are many police stations where the nature of the buildings makes it impossible to achieve the ideal accommodation for detained persons, but we note that the Committee found that, on the whole, standards conformed with the criteria in paragraph 24 of their report.

The only significant shortcoming observed at the Divisional Headquarters was a lack of outdoor exercise areas. The Committee were concerned about the impact of this on those who are held in custody for an extended period (in particular over the weekend). Ideally, outside exercise areas should be provided; but at these three stations there is no suitable outside space. People are, however, only detained over the weekend in special circumstances, for example when they are considered too dangerous to be released before a court appearance.

The Committee's comments on the conditions of detention at Wester Hailes police station have been noted. The Government can confirm that no one is detained at that station overnight, and that the cell ventilation system , which was not working at the time of the delegation's visit, has been repaired and upgraded.

The Government notes that the Committee would have preferred the cells to be equipped with a chair as well as the low platform with mattress. The facilities for detention take account of the need to minimise the potential risk of injury, either accidental or self inflicted, to the occupant and experience has shown that that design is most appropriate for the purpose of detention. Alterations and additions to existing facilities raise issues of buildings and finance as well as of staffing.

- **all persons taken into police custody be entitled to have access to a lawyer from the very outset of their custody. This right should include the right to contact the lawyer and be visited by him (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right of the person concerned to have the lawyer present during interrogation (paragraph 291)**

- **a person in police custody to have a right of access to another lawyer, when access to a specific solicitor is delayed (paragraph 292)**

A research report entitled "Research into Detention and Voluntary Attendance of Suspects at Police Stations", published on 24 June 1994 (copy attached), showed that, despite some difficulties in

a small proportion of cases caused by the 6-hour limit, the current provisions generally work satisfactorily. The research took into account the views of groups of police, solicitors and procurators fiscal interviewed by the researchers.

The Government has reservations about an obligatory right of confidential discussions between solicitors and clients at all stages of an inquiry. It is essential in some investigations that the person detained or arrested should be restricted in his communications with third parties to prevent any possible interference with evidence or warning of other suspects. Some element of discretion to refuse access to a solicitor should remain with the police bearing in mind any refusal may have to be justified to the court at a later date. As the Committee recognises, it is sometimes necessary to delay access to a particular solicitor; there is no question, however of this being used to delay access to any solicitor. In these circumstances, every effort is made to ensure the prompt attendance of a solicitor.

The Criminal Justice (Scotland) Act 1980 provides a number of safeguards which are intended to protect the rights of any detained person. At the time of the detention the detainee must be informed of the reason for the detention and that he is under no obligation to answer any question other than to give his name and address; and a record must be kept of the place of detention, the duration of detention, of the time when the person was informed of his rights and of the identity of the police constable informing him, and of the time when a request for a solicitor to be informed is made and when it is complied with.

These safeguards and the tape recording of interviews, which is covered in guidance issued by The Scottish Office are fully adequate to ensure the welfare and rights of detainees. The Committee may wish to note that the police in Scotland undertake interviews of detainees as opposed to interrogations. The word "interrogation" is pejorative and implies undue pressure.

- **specific legal provisions be adopted on the subject of the right of persons in police custody to have access to a doctor. Those provisions should stipulate inter alia:**
    - **that a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities;**
    - **that all medical examinations of persons in custody are to be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of police officers;**
    - **that the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing**

by the doctor and made available to the person in custody and his lawyer (paragraph 295)

Under current guidelines, if a person complains of illness or shows symptoms of being unwell a doctor must be summoned. Although these guidelines do not say specifically that the person has a right to be examined by a doctor of his or her own choice, in practice such a doctor is normally called (although may, of course, choose not to attend). Only in exceptional circumstances would the police refuse access to a particular doctor - for instance if there were any fear of collaboration with the person in custody.

Medical examinations may be conducted out of the hearing and sight of police officers. The doctor concerned, however, may request otherwise or the police may consider that it might impede their investigations. The safety of the doctor is of paramount importance and he may not be the best person to judge the danger to himself as, unlike the police officers concerned, he would not have direct knowledge of the prisoner's prior behaviour.

Medical examinations are recorded and the record is made available to legal representatives and defence agents through the procurator fiscal.

The Government considers that these arrangements work well and we do not at present see any need for specific legal provisions, as recommended by the Committee.

- **a form setting out these rights of persons taken into custody by the police to be given systematically to such persons at the outset of their custody. The form should be available in different languages and the person concerned should certify that he has been informed of his rights (paragraph 296)**

Rights are explained on arrest or detention and a comprehensive list is also provided on the walls of the cells. In addition, in light of the Committee's recommendation the Government has agreed, in principle, with the police that a note of rights should be given to the prisoners. The detail of this note is currently the subject of consultation between the Scottish Office and the Association of Chief Police Officers in Scotland. It must be recognised however that many detainees or prisoners may refuse to certify the form, either due to suspicion of what they might be signing, or from a desire to be obstructive.

- **a code of practice on interrogations be drawn up for the Scottish police (paragraph 299)**

Any information obtained from a person interviewed by the police will only be admitted in evidence at any subsequent trial if it has been obtained fairly. The case law on this matter is quite extensive. Guidelines on the questioning of suspects, based on the case law, have been approved by the Lord Advocate and have been issued to the Scottish police. The Crown Office is

currently engaged in updating and revising the guidance and the points made by the Committee have been noted. Again, the use of "interrogation" is inappropriate. Answers to questions put by the police will be excluded if they are seen to have been extracted by unfair means which place cross-examination, pressure and deception in close company. Statements obtained by threats or inducements are likewise inadmissible, and the law is such that it is possible to exclude statements given in circumstances exhibiting none of these specific objectionable features, but where, nevertheless, there is an element of unfairness.

Guidance on the interviewing of people with a mental handicap or mental illness is contained in Police Circular No 2/1990 (copy attached). The Circular advises on the circumstances under which an appropriate adult should be informed of a mentally disordered person's presence at a police station and advises on the role of that person to provide support and reassurance. The guidance is currently being reviewed by a working party, in the context of the wider work on services for mentally disordered offenders being carried out by The Scottish Office. Account will be taken of the CPT recommendations during the review.

comments

- **it is important that senior officers deliver the clear message that no more force than is reasonably necessary should be used when effecting an arrest and transporting detained persons to a police station (paragraph 280)**

Agreed. The Government are glad that the Committee heard no allegations of torture and few allegations of other forms of ill-treatment. The Committee can be assured that all officers, irrespective of rank, clearly understand that no more force than is reasonably necessary should be used when effecting an arrest and this is reflected both in written guidance and during training seminars on this issue.

- **the grounds upon which notification of custody can be delayed under the Criminal Justice (Scotland) Act 1980 might usefully be defined more closely (paragraph 288)**

The Committee's comments about the usefulness of defining more closely the grounds upon which notification can be delayed are noted but the Government considers that the present arrangements work well and do not propose to change them.

requests for information

- **the number of complaints of ill-treatment lodged against police officers and the number of criminal/disciplinary proceedings initiated as a result of such complaints;**

- **an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by police officers (paragraph 281)**

The available information has been forwarded to the Committee. The figures include persons who are not in police custody. It is not possible to relate them directly to those on criminal/ disciplinary proceedings. As to sanctions, the number of officers dealt with under the Police (Discipline) (Scotland) Regulations in 1993 was 364; in 1994 it was 451. In 1993 73 of these cases proceeded to a disciplinary hearing; in 1994 the corresponding figure was 48. Figures for 1995 are not yet available. Information which shows the disposals for these cases has also been forwarded to the Committee.

- **clarification of the concept of a person reasonably named by a detained or arrested person, together with details of the maximum length of time for which notification of a person reasonably named may be delayed. In addition information on the precise procedure followed when it is considered necessary to delay the exercise of the right of notification of custody (are the precise reasons for delay recorded in writing ?, is the authorisation of a senior officer required ?, etc.) (paragraph 288)**

Normally, a detained or arrested person asks for a close relative or friend to be informed. It is unusual for that request not to be complied with but, as the Committee recognises, it would not for example be appropriate for someone who has been detained under Section 2 of the Criminal Justice (Scotland) Act 1980 to have that detention notified to someone who is a known criminal associate of the detainee. The police are, however, governed by considerations of fairness to the detained person and must be prepared to justify their actions subsequently at court. While there is no specified maximum length of time for which notification may be delayed, police action is again governed by the same principles of fairness, capable of review by the courts.

Any decision to delay notification of custody is recorded in writing on the appropriate detention form. A record is also kept of the time when a request is made and when it is complied with together with the reasons for any delay. The compliance with the statutory duty in section 3(1) of the 1980 Act to have intimation of custody and location notified and timing recorded is of course subject to judicial review and a constable failing to carry out the statutory duty could face disciplinary procedures.

There is no specific level of authority which is necessary before notification is delayed.

- **the percentage of cases in 1994 in which use has been made of the power to delay the exercise of the right to have a person notified of the fact of custody, drawing a distinction between cases of detention/arrest under the Criminal Justice (Scotland) Act and cases under the PTA (paragraph 289)**

The information requested by the Committee is not readily available. This power is exercised in very few cases and, in

view of the fact that any delay in notification may have to be justified by the police officer involved either at court or at a disciplinary investigation if any complaint is made, the Government does not think it appropriate to make special arrangements to collate this information.

- **the percentage of cases in 1994 in which notification of a solicitor has been delayed, drawing a distinction between cases of detention under the Criminal Justice (Scotland) Act and cases under the PTA (paragraph 293)**

The information requested by the Committee is not readily available. This power is exercised in very few cases and, in view of the fact that any delay in notification may have to be justified by the police officer involved either at court or at a disciplinary investigation if any complaint is made, the Government do not think it appropriate to make special arrangements to collate this information.

- **confirmation that all interviews conducted by CID officers are tape recorded, together with details of any planned developments in the area of the electronic recording of police interviews (paragraph 300)**

All interviews conducted by CID officers are tape recorded. A copy of the memorandum of guidance has been forwarded.

Police forces are working towards the tape recording of all interviews. A pilot exercise on video recording has also been carried out in one force and it has proved successful. Video cameras are also used to record activities at some police station charge bars. It is open to individual police forces to introduce video recording of interviews as resources permit.

- **information on the operation of police complaints procedures, including full details of the guarantees ensuring the independence and impartiality of that procedure (paragraph 301)**

A full note on the police complaints procedure, together with a publicity leaflet available to all concerned, has been forwarded.

B. PRISONS

1. Torture and other forms of ill-treatment

recommendations

- **the relevant authorities to deliver the clear message that the ill-treatment of prisoners is not acceptable under any circumstances and will be dealt with severely (paragraph 309)**

This recommendation is covered in the Scottish Prison Service (SPS) Discipline Code which aims to provide an efficient and equitable framework for dealing expeditiously with alleged breaches of discipline. Article 1, First Schedule, Code No 5 states that an officer commits an offence against discipline if he is guilty of "Unlawful and Unnecessary use of Authority": that is to say, if he/she

(a) uses obscene, insulting or abusive language to, or deliberately acts in a manner calculated to provoke a prisoner; or

(b) strikes a prisoner unless compelled to do so in self defence; or

(c) in dealing with a prisoner uses force unless its use is unavoidable, or where the application of force to a prisoner is necessary, uses undue force.

Staff training programmes constantly emphasise the need not only to keep the use of force to an absolute minimum but also to take steps to promote positive interaction between staff and prisoners. Line managers and other supervisors take special care in carrying out their duties to ensure that subordinates comply with both the letter and the spirit of the Rules at all times.

- **steps be taken to ensure that the safeguards identified in paragraph 310 are available to all prisoners against whom any means of force (including control and restraint techniques) have been used (paragraph 310)**

This recommendation is already met. The general principle in situations involving the use of force is that, if the objective cannot be achieved without the use of force, then minimum force may be used. In each case where physical force has to be used, a written report is submitted to the officer's immediate superior. The reports are referred upwards through the accountability line to the Governor in Charge of Operations. Medical staff examine a prisoner who has been involved in an incident and has been controlled/subdued by approved control and restraint techniques and make a written report to the Governor. Under the Access to Medical Records Act 1990 a prisoner would be entitled to see the report on request and if he had no objection this would be made available to his lawyer.

requests for information

- **a full account of the findings of the internal and police investigations into the three cases of alleged ill-treatment of prisoners by prison officers described in paragraphs 306 and 307, together with details of any disciplinary and/or criminal proceedings which may subsequently have been initiated (paragraph 308)**

On 5 April 1994 a life sentence prisoner (who has since been transferred to Greenock Prison) alleged that he had been the subject of an assault by a member of staff. The allegation was subsequently investigated by officers from Grampian Police and a report was submitted to the Procurator Fiscal in Peterhead. The Procurator Fiscal advised the prisoner in writing on 26 September 1994 that his complaint had been investigated but that following investigation, no proceedings were being taken.

Regarding the allegations of ill-treatment of 2 prisoners in Barlinnie Prison who had been transferred from Shotts and Glenochil Prisons following serious incidents at both these establishments, when allegations are made of this nature, they are subject to investigation by the police who then submit a report to the Procurator Fiscal when the investigations are complete.

In the case of the prisoner who was transferred from Shotts to Barlinnie, his allegations of assault are still being investigated.

In respect of the alleged ill-treatment of the prisoner who was transferred from Glenochil to Barlinnie, 3 members of staff have now been suspended from duty in Barlinnie. They have been charged with assaulting prisoners and appeared in private at Glasgow Sheriff's Court on 16 November 1995. They were released on bail and a date for a further hearing has yet to be set. One officer, the subject of a separate allegation, was acquitted by the Court.

- **for 1993 and 1994:**

  the number of complaints of ill-treatment lodged against prison officers and the number of criminal/disciplinary proceedings initiated as a result of such complaints;

  an account of the criminal/disciplinary sanctions imposed following complaints of ill-treatment by prison officers.

- **Regular/updated information on complaints of ill-treatment lodged against prison officers and on subsequent criminal/disciplinary proceedings (paragraph 311)**

If allegations of physical abuse or ill treatment are made the police are asked to investigate. Prisoners can also contact the police direct. If following the police investigation a member

of staff is convicted in a criminal court, the SPS would normally take the view that assaulting a prisoner would constitute gross misconduct and merit a disciplinary award of dismissal. Given this basic principle each case is dealt with on an individual basis and staff are given the opportunity to plead in mitigation before a decision is taken. This is in line with best practice in managing discipline. Any allegations which would not merit referral to the Police or Procurator Fiscal would be dealt with under the provision of SPS Discipline Code referred to in the SPS response at paragraph 309.

In the last two years only one member of staff has been convicted of assaulting a prisoner. In this case which involved a nurse officer, the mitigating factors were sufficient to persuade management that dismissal was inappropriate. This investigation was not initiated following a complaint by the prisoner but rather was initiated by SPS management. The member of staff was warned and transferred to another establishment. The officer has subsequently left the Service. Human Resources Directorate in SPS Headquarters only record disciplinary or criminal cases but not complaints. They have no reason to record complaints which do not lead to action, or which lead to acquittal. Regular updated information of the number of convictions can be provided in the future.

2. Peterhead Prison

recommendations

- **steps be taken to improve conditions of material detention in B, C and D Halls in the light of remarks made in paragraph 314.**

- **Details of any plans to carry out extensive renovation work, including the installation of integral sanitation in the establishment (paragraph 314)**

Planning is underway for overcladding the walls of A and D and B and C halls to improve the weather protection as water penetration is a serious problem. At the same time external insulation will be provided and the size of the cell windows increased, with security window grills and weather screens fitted. In D Hall, it is recognised that the existing control systems for regulating heating requires upgrading, as they do not allow for sensitive adjustments of temperature, and options for improvement are being examined. Integral sanitation is to be installed at Peterhead Prison in 1997/1998. The upgrading of B Hall has yet to commence, but it is scheduled to begin in early 1996. It is anticipated that this upgrading will take approximately 4 months.

An appraisal is currently being carried out by SPS Headquarters, with a view to resolving the structural defects in B Hall.

D Hall has now been completely re-decorated and cell lockers have been installed. Staff, with prisoners, are currently considering

the scope for re-designing cell furniture.

- **material measures be taken to remove from service on a permanent basis the so-called "silent cell" (located in an outhouse adjacent to G Hall and in E Hall) (paragraph 320-325)**

Although this facility had not been used since 1988 steps were taken shortly after the Committee visited to render the silent cell inoperable and removed from service on a permanent basis. The silent cell within the new Peterhead Unit has also been removed in the course of renovation.

- **urgent measures to be taken to bring the regimes in G and E Halls into conformity with the criteria set out in paragraph 330 of the report;**

- **the practice of staff wearing riot gear in all day-to-day contacts with certain prisoners to be discontinued (paragraph 333)**

Many of the criticisms mentioned in the Committee's report about the regime in E Hall have been overtaken by the SPS report on Small Units. The restricted regime in operation in G Hall ceased with the transfer of the last prisoner on 27 April 1995 to Barlinnie. The practice of prison staff wearing riot gear in all day-to-day contact with prisoners was discontinued in November 1994. A new regime is being is devised in E Hall (the Peterhead Unit) which will conform to the criteria set out in paragraph 330. The new Peterhead Unit became operational on 1 October 1995.

- **the Scottish Prison Service to take full account of remarks in paragraph 330 when developing policy for the management of prisoners considered to be violent or disruptive (paragraph 334)**

Prior to the Committee's visit, a Working Party had been set up to review aspects of the operation of Small Units in the SPS. The Working Party reported in october 1994 and its recommendations were endorsed by the Scottish Prisons Board in November. A copy of the report has been forwarded to the Committee. The National Induction Centre at Shotts opened on 1 May 1995. The purpose of this Centre is to enable those prisoners serving sentences of over 10 years to come to terms with their sentence in a setting which is more supportive and more flexible than the ordinary mainstream setting. Following the closure of the G Hall Unit on 27 April 1995, the Peterhead Unit will opened in October to accommodate prisoners who pose management problems.

- **in respect of the placement of a prisoner in a unit for violent and disruptive prisoners, whether at Peterhead prison or elsewhere in Scotland:**
  - **a prisoner who is placed in such a unit or whose**

placement is renewed to be informed in writing of the reasons for that measure (it being understood that those reasons need not include facts which it would be reasonable to withhold from a prisoner on security grounds);

- **a prisoner in respect of whom such a measure is envisaged to be given an opportunity to express his views on the matter to the deciding authority;**

- **the placement of a prisoner in such a unit to be fully reviewed at least every three months, where appropriate, on the basis of a medico-social opinion (paragraph 335)**

A distinction must be drawn here between those prisoners who require to be held out of association under Prison Rule 80, either generally or during any period the prisoner is engaged or taking part in a prescribed activity, and those who are held in Small Units. Under Prison Rule 80, a prisoner who has been removed from association generally by an order made by the Governor for the purpose of:

a. maintaining good order and discipline;

b. protecting the interests of any prisoners; or

c. ensuring the safety of other persons;

shall not be subject to such removal for a period in excess of 72 hours, but not exceeding one month from the time of the order without written authority of the Secretary of State. The Governor should also specify in the order the reasons why he is making it and explain to the prisoner why the order is made. The prisoner can challenge the order through the internal grievance procedures. The Minister of State's agreement is always sought in cases where prisoners are held out of association, generally for periods in excess of 3 months, and the Secretary of State must approve periods in excess of 6 months. Under Prison Rule 100(d) a prisoner found guilty of a breach of discipline may be punished by cellular confinement for a period not exceeding 3 days.

comments

- **the Scottish authorities are invited to endeavour to provide the occupant of the Category A Unit with an enhanced range of appropriate human contact (paragraph 332)**

The Government notes that the CPT already accept that the Category A prisoner in question does not wish to take outside exercise. He receives occasional visits from his mother and 2 women from Peterhead visit more frequently under the Prison Visitor scheme. For the past year he has been encouraged to become involved with the Staff Training Unit and the Staff Training Officer and is engaged in a range of work for the Unit

including preparing material for courses and exhibitions. He is responsible for keeping the Staff Training Unit clean and tidy. He also has contact with certain other visitors from time to time and with certain specialists who come to work in the Training Unit. He also helped with the collation of material for Peterhead's input to the recently published prisons national survey. The prisoner is also actively involved in writing a history of the prison.

- **it would be desirable for a person with a recognised nursing qualification to be present in the prison at night. Further, someone competent to provide first aid should always be present in the prison (paragraph 336)**

- **the CPT trusts that the vacant posts for a second psychiatrist and for a psychologist will be filled as soon as possible (paragraph 339)**

- **the CPT trusts that steps will be taken to implement throughout the Scottish Prison Service the recommendations made in paragraphs 8.31, 9.12 and 9.61 of the recent Review of Medical and Nursing Services in Scottish Prisons (paragraph 340)**

A review carried out before the CPT's visit of nursing resources at Peterhead concluded that at that time there were no inpatients in the prison hospital who required 24 hour nursing care per day and there was therefore no requirement for such cover. It should be pointed out that all prison officers receive basic first aid training but if a prisoner required 24 hour nursing care, Peterhead would meet that demand by employing an agency nurse or by providing some other form of care. Alternatively the prisoner would be transferred to an outside hospital or to another prison hospital which provides that level of care. Ongoing consideration is being given to the number of hospital beds and their management throughout the prison estate. Management at the prison have made considerable efforts to obtain the services of an additional psychiatrist and psychological support. Peterhead will engage the services of a second Psychiatrist early in 1996 and are still actively pursuing the employment of a Psychologist.

requests for information

- **the avenues open to a prisoner for the purposes of appealing against a decision to place him in a Unit for violent or disruptive prisoners or to review his placement (paragraph 335)**

The purpose of small units in the SPS in the future will be to provide an intensive treatment resource for those prisoners who are unable or unwilling to accept the operation of mainstream prisons and who it is agreed might benefit from removal from their prison of allocation. There are several avenues open to a prisoner for the purposes of appealing against a decision to place him in a unit. These include:

a. internal prisoners complaints system (including confidential access to the Governor in Charge), leading to

b. access to the Scottish Prisons Complaints Commissioner, who is independent of the Scottish Prison Service;

c. complaints to the Police and/or Procurator Fiscal;

d. complaints to legal representatives;

e. complaints to Members of Parliament;

f. complaints via Members of Parliament to the Parliamentary Commissioner for Administration;

g. civil legal proceedings or application for judicial review;

h. application to the European Court of Human Rights;

i. interviews with a visiting representative of the Secretary of State under Rule 102 of the Prison Rules.

3. Barlinnie Prison

recommendations

- **steps be taken to ensure that prisoners are never held 3 to a cell in C Hall (paragraph 348)**

The numbers held in Barlinnie are determined by the Courts and every effort is made to move prisoners on to other prisons where they may be appropriately held. C Hall is the hall for unconvicted prisoners and suffers more than most because of the number of movements to and from the Courts. Although Barlinnie do not keep cell occupancy figures, the best information that management has available indicates that prisoners have not been held 3 to a cell since 1986. A management instruction will be issued to the effect that prisoners will not be held 3 to a cell unless exceptional circumstances dictate otherwise.

- **serious efforts be made to reduce the occupancy level in C Hall to one prisoner per cell (paragraph 348)**

There are plans for the major upgrading of every Hall in Barlinnie through a rolling programme and the ultimate aim is to provide one prisoner per cell accommodation for the whole establishment, however, this will be dependent upon the current trend of increasing prisoner numbers abating. The upgrading of Barlinnie is scheduled to commence in D Hall at the beginning of 1996. The total upgrade programme, which will last 7 years, will include both provision for ending "slopping out" and improved recreational facilities.

- **the installation of integral sanitation in cells in Scottish Prison (or the provision of other means of ready access at all times to a lavatory) to be accorded a very high priority;**

- **wherever practical, "3 cells into 2" rather than simple sanitation to be installed;**

- **it would be most desirable to bring forward the current target date of 1999 for the completion of work to provide all prisoners with ready access to a lavatory at all times;**

- **the present timetable for the installation of integral sanitation in the cells at Barlinnie (paragraph 349).**

The Scottish Prison Service's Estates Strategy attaches a high priority to ending slopping out. The timescale will depend in particular on the ability to decant the accommodation at a time of very high prisoner numbers. The planned upgrading of the Halls at Barlinnie provide for integral sanitation within a compartment in each cell. Integral sanitation will be provided for remand prisoners as part of the refurbishment programme for all the accommodation blocks. This work is scheduled to commence in March 1996 and will run over the next 7 years. Local management have still to decide on the sequencing of the programme but hope to move forward with C Hall as quickly as is feasible. Converting 3 cells into 2 would not be a practical proposition because of the corresponding reduction in accommodation places.

- **Prison Officers to receive clear instructions to the effect that a request made by a prisoner during the day to be released from his cell for the purpose of using a lavatory is to be granted, unless significant security considerations dictate otherwise (paragraph 350)**

A management instruction will be issued making it clear that staff will allow prisoners who are locked in their cells to have access to the toilet, during normal working hours.

- **appropriate steps to be taken to improve significantly the regime activities offered remand prisoners at Barlinnie Prison; the objective should be to ensure that they spend a reasonable part of the day (8 hours or more) outside their cells engaged in purposeful activity of a varied nature (work preferably with vocational value; education; sport, recreation/association) (paragraph 351)**

Local management are taking positive steps to enhance the quality of life for prisoners in C Hall against a background of high prisoner numbers.

These matters were being addressed prior to the Committee's visit. With a remand population of over 350 at any time this poses a significant management challenge, but the range of regime

activities and the opportunity for time out of cell has increased since the Committee's visit. Exercise and recreation are available 3 times a day on a rota basis and physical training is now part of the programme. The standard of Hall cleanliness is much improved and small repairs are attended to as quickly as possible. Recent figures show that in excess of 27% of unconvicted prisoner hours are available for out of cell activities. This is in excess of the SPS Agency target of 25% and Barlinnie has plans to improve on this and make further improvements in the regime for unconvicted prisoners. In summary, there has been a significant amount of work done in the last year in Barlinnie to improve conditions. This had an impact in C Hall. The quality of programme available here is better now than when the Committee visited. New staffing levels in C Hall now in place will result in further improvements in activities for prisoners.

The regime for remand prisoners has been improved and Barlinnie is well on course to consistently meeting the local target of 6 hours out of cell time per day by the end of the current financial year. The Hall has now been re-decorated and the planned refurbishment in the future will allow greater scope for recreational and other programmed activities. An option appraisal of the current C Hall recreation area has been included in the Strategic Plan.

Hall cleanliness has been improved by the introduction of a cleaning work party and a new laundry system provides a better service to prisoners. A new library facility will shortly be set up and the conversion of a number of areas has provided additional space for recreation, meetings and the C Hall Drug Awareness Group. The Hall is also equipped with its own nursing stations.

- **all placements in the "silent cell" in the segregation unit whether for disciplinary or other reasons to be recorded in a special register (paragraph 354)**

The use of the silent cell is carefully monitored and requires the authority of a Governor before a prisoner is placed in it. Details of a prisoner's transfer to the silent cell, the duration of his stay and release are recorded in the segregation unit occurrence book. Local management will now arrange for a separate record of placements in the silent cell to be kept.

- **measures to be taken to improve the regime offered to prisoners held in the segregation unit at Barlinnie Prison for lengthy periods. The regime to be developed to include increased out-of-cell time, purposeful activities of a varied nature (work, preferably with vocational value; education; sport and recreation) and appropriate human contact (including association with other prisoners held in the unit) (paragraph 356)**

- **the segregation unit's outdoor exercise facility to be improved substantially - all prisoners held in the unit to**

be offered at least one hour of outdoor exercise per day in an area large enough to allow them to exert themselves physically, preferably with shelter from inclement weather (paragraph 356)

In view of the fact that the vast majority of prisoners held in the segregation unit are there specifically to remove them from association with other prisoners, the SPS does not intend to provide any activities which include association with other prisoners in the unit. Work is not available although there are opportunities for in cell education, recreation, eg art. Limited equipment is also available for physical recreation. Because of space restrictions it is not possible to extend the outdoor exercise facility. Management at the prison are currently considering the possibility of roofing the outdoor exercise facility to provide exercise during inclement weather. The location of any prisoner in the segregation unit is regularly reviewed.

Clear objectives will be set by local management to improve out of cell time for prisoners located in the segregation unit and to provide more varied and purposeful activities and to improve the social contact for any prisoner held in the Unit for more than 2 weeks. The regime and use of Barlinnie Segregation Unit will be subject to a full review as part of the Strategic Plan in early 1996.

- **the cubicles in the reception unit at Barlinnie Prison to be replaced by larger holding facilities (paragraph 359)**

Every effort is made to reduce the length of time that prisoners are held in these cubicles and they are processed through reception quickly and moved to the main residential accommodation halls as soon as possible. Although the practice of holding 2 prisoners at a time in a cubicle designed for one is regrettable and is avoided whenever possible there are periods when it is unavoidable. Barlinnie management will, however, consider improvements to the design of the reception area including reconsidering the feasibility of moving away from cubicles to larger holding rooms.

Some recent work has increased the flow through reception, which means less time being spent in the reception holding cubicles. Two project teams are currently reviewing the current reception process. One team is looking at refining the process to improve the reception procedures, including the Health Care service to prisoners. The second group are taking a more strategic view, which will consider the future demands of reception against the adequacy of the current facilities.

comments

- **the Scottish authorities are invited to consider re-equipping the cells in the segregation unit with integral sanitation (paragraph 353)**

Experience has shown that integral sanitation fitments can be and are used for self-injury or as weapons. However, the regime and use of the Barlinnie Segregation Unit will be subject to a full review as part of the Strategic Plan in early 1996. This will include consideration of the introduction, or partial introduction, of integral sanitation.

request for information

- **details of the arrangements under which prisoners in the segregation unit may watch television (paragraph 355)**

Category A prisoners are from time to time located in the segregation unit purely for security reasons and not for punishment. Portable televisions can be provided for these prisoners during their location in the segregation unit but this privilege would not extend to anyone located there for punishment.