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**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
and the Isle of Man**

from 8 to 17 September 1997

The United Kingdom Government has requested the publication of this response to the CPT's report on its 1997 visit to the United Kingdom and the Isle of Man, which was published on 13 January 2000 (see document CPT/Inf (2000) 1).

Strasbourg, 11 May 2000

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INTRODUCTION

This is the 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 and the Isle of Man from 8 to 17 September 1997 which it published on 13 January 2000.

This response follows the format of the CPT's recommendations, comments and requests contained in its report of 27 March 1998, and also includes the observations of the UK Government on some of the other issues raised by the Committee.

Home Office
April 2000

Part I: UNITED KINGDOM

A. Legal remedies for police misconduct

Observations on the CPT's Report

1. The UK Government places great importance on effective procedures for handling complaints and allegations against police officers. The police service in this country is one of the finest in the world, but public confidence in the police relies on its ability to identify and deal effectively with the small minority of officers whose behaviour would otherwise bring the service into disrepute.
2. The Police Complaints Authority (PCA), which was established in 1985, provides independent oversight of the police complaints process. The Government recognises, however, that in spite of the new procedures for the investigation of allegations of police misconduct in Part IV of the Police Act 1966, which came into force in April 1999, there remain concerns about the independence and effectiveness of the current process.
3. These concerns were reflected in the House of Commons Home Affairs Select Committee (HASC) report. The Home Secretary, in his statement to the House of Commons on 23 March 1998, stated that the HASC's report made 'a compelling case for change'. The Government has accepted almost all of the HASC's (and thus the CPT's) recommendations to strengthen disciplinary procedures and has made significant progress with their implementation. This will be described in the response to the CPT's Recommendation i.
4. In March 1999, the Government indicated that it was sympathetic to the principle of an independent police complaints system which does not rely solely on the police to conduct investigations. Following the recommendations of the HASC and the Stephen Lawrence Inquiry, the Home Office commissioned a feasibility study into how an independent system might be implemented. The first phase included an analysis of views of concerned parties from within and outside the criminal justice system. The study, which is due to be published in early May, examines possible models for the independent investigation of complaints and considers the resource and practical issues involved.
5. The introduction of an independent system to investigate police complaints would require primary legislation. The Government is considering how this work should be taken forward following publication of the report. The HASC made a number of other recommendations to increase the independence and transparency of the complaints system and many of these would also require primary legislation. These will now be taken forward in the context of the wider work on an independent complaints system.
6. Before responding to the detailed recommendations made by the CPT, the Government would like to clarify some of the statements made in Part A of the CPT's Report.

7. Paragraph 21. Although the Police Act 1966 places responsibility for the investigation of complaints with the police force concerned, the Report does not reflect the powers which PCA members already had in September 1997 to supervise and direct investigations. The supervising Member sees all the statements and other evidence obtained and regularly reviews progress with the investigating officer. The PCA has the power to 'issue directions imposing such additional reasonable requirements on the conduct of the investigation as appears to them to be necessary'. Although the investigating officer is responsible for drafting the report, if the supervising Member is dissatisfied he or she will require changes to be made. The PCA also has the statutory power to question any police investigation report and to request additional information from the police.

8. Paragraph 25. In its description of the dispensation procedure, the Report should have mentioned that the power to grant a dispensation if it is not 'reasonably practicable' to carry out an investigation can be used only as a result of the 'refusal or failure' of the complainant to co-operate with the investigation.

9. Paragraph 27. Sir Iain Glidewell's review of the CPS recommended an amendment to paragraph 6.2 of the Code for Crown Prosecutors, to delete the words 'in cases of any seriousness'. Guidance was issued to prosecutors in August 1999 to put that recommendation into immediate effect. On 24 November 1999, the Attorney General announced that the Code would be reviewed to take account of the Human Rights Act, and that formal amendment, in accordance with the Glidewell recommendation, would be made when the Code is reissued after the review. The review should be completed by the end of 2000.

10. Paragraph 30. It is not correct to say, in the context of advice in criminal proceedings, that Treasury Counsel are retained by Government. They are instructed by the CPS acting on behalf of the Crown. Treasury Counsel are independent of the Government and CPS and give independent opinions and advice.

11. The three cases mentioned, those of Mr Richard O'Brien, Mr Shiji Lapite and Mr Derek Treadaway, have all been considered in detail following the judicial review proceedings. In the case of Mr Lapite and Mr Treadaway, subsequent re-review of the cases by CPS has endorsed the earlier decisions. Treasury Counsel has also advised that the CPS decisions that there was insufficient evidence is correct in both cases. The CPS re-reviewed Mr O'Brien's case and obtained Treasury Counsel's advice. The decision was taken to prosecute. Criminal proceedings were commenced against three police officers. They were acquitted, after a full trial, in July 1999.

12. Paragraphs 26 to 30 do not take account of the measures already put in place by the CPS by September 1997 to ensure that very careful consideration is given to cases where police officers are alleged to have committed offences. More serious cases are dealt with by lawyers at CPS Headquarters, less serious ones by senior lawyers in other parts of the CPS, but none is handled by lawyers in the same locality as the officer(s) concerned to ensure that there is clear independence of decision-making.

13. Paragraph 32 The CPT refers to the consideration given by the Metropolitan Police and the PCA to bringing disciplinary proceedings in this case of Mr Shiji Lapite and comments that it was the chief officer's view that no-one should be charged which prevailed. It goes on to suggest that the PCA later accepted that it had failed to give 'proper consideration' to the evidence when reviewing the chief officer's disciplinary decision. This is wrong. The chief officer is required to submit his recommendations on disciplinary action to the PCA, and it is for the PCA to determine whether any charges are brought. In this case, the investigation report and the chief officer's recommendations were considered carefully by PCA before it decided to accept the chief officer's recommendation not to bring disciplinary charges.

14. The case subsequently went to judicial review. The PCA, in preparing affidavits for the judicial review, discovered that the Metropolitan Police response to a question from the PCA had transposed the names of two pathologists. As this had not been appreciated at the time when the PCA made its decision, the PCA immediately informed the family's legal representatives and proposed that an order by consent be sought from the High Court quashing the PCA's decision. Both the CPS and the PCA reconsidered their position following the judicial review but concluded again that neither criminal nor disciplinary charges were appropriate.

15. Paragraph 37. The Report quotes a figure of £2,658,000 paid in damages by the Metropolitan Police in 1996/97. This figure has now been reduced to £2,012,000 (as at 15 March 2000).

16. Paragraph 51. The Report states that 'it is comparatively unusual for police officers to face a disciplinary hearing as a result of a public complaint'. The Government disagrees. Over recent years the number of charges brought as a result of cases considered by the PCA has varied between 230 to 340 a year. The power to recommend or direct that disciplinary charges are brought, which is used by the PCA in some 25-30 cases each year, provides an important safeguard against disciplinary issues being disregarded by the force.

17. In the Metropolitan Police, the number of officers charged with discipline offences increased from 121 officers in 1996/97 to 147 officers in 1997/98 (of which the charges against 54 officers arose from public complaints). Of the 147 officers charged with discipline offences, 115 were convicted. This represents a conviction rate of 75%.

18. Officers who do not appear before a disciplinary hearing may still face other disciplinary action. In 1996/97, 1,018 decisions were reached to give admonishments, advice or guidance to officers. In addition, the Report does not make any reference to the 32% (1996/97 figures) of complaints which were informally resolved by the police to the satisfaction of the complainant. This is a procedure which has been particularly well received for dealing with less serious complaints without resort to the length and formality of a full investigation.

Response to the specific points raised by the CPT

Recommendation i

Steps to be taken to implement the Home Affairs Select Committee recommendations (paragraph 54)

19. Almost all of the Select Committee's recommendations for strengthening disciplinary procedures have been implemented under the new regulations which came into force in April 1999, and under a code which sets out the principles which guide police officers' conduct. Possible new investigatory procedures are currently being considered as described in paragraph 4 above.

20. The key change under the new disciplinary procedures is that the standard of proof applied in determining a case is the civil rather than the criminal one used previously. This will also make it possible for an officer acquitted in a criminal court to be brought before a misconduct hearing on the same facts.

21. The new procedures provide greater discretion to hold a hearing in the absence of an accused officer so that if accused officers claim that they are unable to appear, for example through ill health, matters can be decided in their absence, with appropriate safeguards. There is also a fast track procedure to deal swiftly with officers caught committing serious criminal offences. Cases will be heard within six weeks of being identified, in advance of criminal proceedings. There is an appeal process.

22. Separate formal procedures have also been introduced for the first time for dealing with police officers whose performance falls below standard. This modernisation of the police disciplinary system will provide the police service with the powers it needs to deal effectively with the small minority of bad police officers.

23. The Government has identified other police disciplinary matters requiring further consideration. These include the availability of disciplinary sanctions after retirement, and the question whether legislation should be introduced to enable police pensions to be forfeit for serious disciplinary offences, as they currently can be for criminal offences.

24. The Government's response to the HASC recommendations was published in March 1998. A copy is attached.

Recommendation ii

The role of the ‘chief officer’ within the existing complaints and disciplinary system to be reviewed (paragraph 55).

25. The Government’s work on the establishment of an independent complaints investigation system (paragraph 4 above) will include scrutiny of the role of the chief officer in the complaints and disciplinary system.

Recommendation iii

The Crown Prosecution Service to be required to give detailed reasons in cases where it is decided that no criminal proceedings should be brought against police officers (paragraph 57).

26. On 28 June 1999, the Government accepted, in principle, recommendations made by Sir Iain Glidewell in June 1998 that the CPS should take on responsibility to communicate decisions direct to victims rather than via the police.

27. Pilot studies in six CPS areas commenced in November 1999 to test the operational impact and costs of CPS direct communication with victims. They are being evaluated. In June 2000, the pilot sites will be developed to conduct a full study to test a range of options for better service to victims. This service will include providing explanations of decisions in as much detail as possible. Lawyers with responsibility for explaining decisions will be required to exercise their judgement with regard to the precise amount of information to be given in each case.

28. National implementation of direct communication with victims will commence in April 2001.

29. The CPT commented on the relationship between verdicts in the Coroners' Courts and Civil Courts and decisions of the CPS not to prosecute police officers. Particular attention is paid to cases where the inquest jury returns a verdict of unlawful killing. The Coroner's function is not to attribute blame to particular individuals, but rather to establish the cause of death. Criminal proceedings are very different in nature from proceedings in the Coroner's Court, and although a finding of unlawful killing will always lead to a review of any decision not to charge any police officers on whom suspicion may have fallen, it cannot replace the review of available admissible evidence in the context of a criminal trial.

30. Similar issues arise when considering the impact of evidence given at a civil hearing. Although the standard of proof is sometimes expressed as a ‘very high degree of probability’, the conduct of a civil trial is very different from that of criminal proceedings. When reviewing the evidence, Crown Prosecutors must have regard to the admissibility of evidence and the protections afforded to any defendant in the criminal trial process.

31. The police are currently solely responsible for investigating criminal allegations against police officers, and the CPS is responsible for prosecutions. The CPS cannot direct the police investigation although close co-operation between the investigation and prosecution frequently cures deficiencies in cases where the CPS request the police to obtain further evidence. Once a case has been submitted to the CPS by the police, the Crown Prosecutor will decide whether or not to proceed by applying the criteria set out in the Code for Crown Prosecutors. The review of a case is a dynamic process. Although it may not be possible to proceed on the available evidence, Crown Prosecutors will always consider, with the police, what other evidence might be obtained in order to produce the best possible case. As the CPS does not investigate, however, it relies on the police to obtain further evidence or initiate investigations.

Recommendation iv

An independent review to be carried out of all cases during the past two years in which there have been successful claims for civil damages/ out-of-court settlements for sums in excess of £10,000 on grounds including assault by police officers. The review to seek to identify cases where, having regard to the nature and gravity of the allegations against the police officers concerned, the question of criminal and/or disciplinary proceedings against those officers ought to be reconsidered. More generally, the review body to be requested to propose measures designed to ensure that, in future, all such cases lead to an independent (re)examination of whether criminal and/or disciplinary proceedings should be brought against police officers (paragraph 58).

32. The Government does not intend to set up an inquiry into cases which have already been lost by the police or settled out of court, particularly since some cases are settled by police forces in order to save the greater cost to the public of a civil action even though they do not believe that any police officer was culpable. As part of its review of the complaints system, however, the Government will seek views on the proposition that a case involving allegations that a police officer acted unlawfully which the police lose in the civil courts, or which they settle out of court, should normally result in action being considered against the officer of officers concerned.

Comment v

The creation of a fully-fledged independent agency to investigate complaints against the police would be a most welcome development. Such a body should certainly, like the Police Complaints Authority, have the power to direct that disciplinary proceedings be instigated against police officers. Further, in the interests of bolstering public confidence, it might also be thought appropriate that such a body be invested with the power to remit a case directly to the Crown Prosecution Service for consideration of whether or not criminal proceedings should be brought (paragraph 55).

33. As stated under Recommendation i, the Government has already indicated that it is sympathetic to the principle of an independent police complaints system which does not rely on the police to conduct investigations; and it has commissioned work on how an independent system might work. It will take into account the CPT's comment that an independent investigatory body should have the power to direct that disciplinary proceedings should be instigated against police officers, and that it might be appropriate for the body to have the power to remit a case directly to the CPS for consideration whether or not criminal proceedings should be brought.

Comment vi

It would be preferable if the independent element were to preponderate on adjudication panels at police disciplinary hearings (paragraph 56).

34. The new police misconduct procedures introduced with effect from April 1999, together with a code of conduct which sets out the principles which guide police officers' conduct, modify to some extent the role of the chief officer in disciplinary hearings.

35. Where the report of an investigation indicates that a criminal offence may have been committed by a member of the force, section 75(3) of the Police Act 1996, which came into force in April 1999, requires the chief officer to send a copy of the report to the Crown Prosecution Service to consider. In any case arising from a complaint, the Police Complaints Authority reviews the disciplinary recommendations of the chief officer and determine whether to recommend or direct that the officer faces a misconduct hearing. The separation of functions between the chief officer, the Crown Prosecution Service and Police Complaints Authority is intended to ensure that decisions are made impartially, based on the evidence in the case.

36. Since April 1999, police authorities and HM Inspectors of Constabulary also have a statutory responsibility under section 77 of the Police Act 1996 to keep themselves informed of the workings of the procedures under Part IV of the 1996 Act in relation to the force.

37. Hearings under the new Police Misconduct Regulations are conducted by an Assistant Chief Constable (or Commander in the Metropolitan Police) with two assessors, usually of Superintendent rank. There is no provision in the Regulations for independent members to sit on the adjudicating panel in cases arising from a complaint, but the Government will consider this recommendation further in the context of the work on possible arrangements for the independent investigation of police complaints.

Request for information vii

The comments of the United Kingdom authorities on the adequacy of the current formulation of the ‘evidential test’ set out in the Code for Crown Prosecutors (paragraph 57).

38. The CPS applies the Code for Crown Prosecutors in all cases which are submitted by the police. The Code for Crown Prosecutors is a public document issued under section 10 of the Prosecution of Offences Act 1985. The CPS considers allegations of criminal offences against police officers in the same way as it considers those involving civilians, applying the evidential sufficiency and public interest criteria set out in the Code. The evidential test is whether there is a realistic prospect of conviction, not whether conviction is certain. It is considered appropriate to maintain the evidential test so that weak cases, where there is little prospect of conviction, are not prosecuted. It is clearly right that potential police officer defendants are treated in exactly the same way as other potential defendants and to the same evidential standards.

39. The Explanatory Memorandum which provides guidance in support of the Code emphasises the distinction between cases that are evidentially complex or difficult and those that are simply weak; encourages Crown Prosecutors to request further evidence when they believe there is insufficient evidence to prosecute; excludes consideration of speculative defences and in cases of doubt, requires Crown Prosecutors to ask whether there is no realistic prospect of conviction rather than conclude that the case is too evenly balanced to prosecute.

40. The Glidewell review (see paragraph 26 above) scrutinised the Code in detail, though it did not examine individual cases. As a result, a number of recommendations have been made in connection with the public interest test, and reasons for not proceeding with cases particularly in more serious cases will be subject to detailed research conducted by the Home Office. As mentioned earlier, the words ‘in cases of any seriousness’ will be deleted from paragraph 6.2 of the Code for Crown Prosecutors, and prosecutors have been instructed to put Sir Iain Glidewell’s recommendation into effect in the meantime. A copy of the summary, conclusions and recommendations of the Glidewell Report is enclosed.

41. It is usual practice for the police to refer a high proportion of investigations into the conduct of police officers to the CPS. In criminal allegations against civilians may decide not to refer cases to the CPS on a several grounds, for example, that there is insufficient evidence, that the offence merits a caution, or simply that no further action is required. The police do not apply the filter in the same way to investigations into complaints against the police. The result is that a very high proportion of such complaints, when there is clearly insufficient evidence for a realistic prospect of conviction, are submitted to the CPS. It is therefore unsurprising that a high proportion of ‘police complaint’ cases referred to the CPS are not prosecuted. The reason is not, however, a lack of willingness to do so.

42. The recent experience of the safeguards referred to in the CPT report showed that there was very little disagreement between CPS lawyers and Treasury Counsel. Following publication of the Butler report and the implementation of its recommendations, the safeguards have finished. Special procedures have been made for handling death in custody cases following Butler. If a provisional decision is made not to prosecute, then the case will be sent for advice of Leading or Senior Treasury Counsel, unless it is plain that there is no realistic prospect of conviction. Cases will always be considered by a Crown Prosecutor of at least Head of Division level. Where the Head of Division disagrees with Counsel’s advice, the case will be considered by the Director, Casework or the Director of Public Prosecutions. (A copy of the Butler report is attached.)

B. Other police-related issues arising out of the visit

Recommendations

i. 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 61).

43. The Government recognises that the CPT has previously raised the issue of persons in police custody being, in exceptional circumstances, ‘...denied access to a lawyer for a certain period of time’. The Government's response to the CPT's recommendation in its 1994 report was that it would consider amending Code C of the Codes of Practice under the Police and Criminal Evidence Act (PACE) on the detention, treatment and questioning of persons by police officers, so that the Note for Guidance (B4 - Annex B to Code C) would be upgraded to a full provision of the code. A comprehensive review of the Codes of Practice is currently in progress and this recommendation will be fully considered as part of that process.

ii. the Metropolitan Police Medical Examination Form to be revised in order to guarantee that Forensic Medical examiners record:

- (1) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment);**
- (2) an account of objective medical findings based on a thorough examination; and**
- (3) the doctor's conclusions in the light of (1) and (2) (paragraph 62).**

44. The Metropolitan Police has considered the CPT's recommendation, but does not consider it necessary to revise the Medical Examination Form. The Metropolitan Police introduced a new version of the form on 1 July. This does not comply with the CPT's request, but it does simplify the recording of the information that Forensic Medical Examiners (FMEs) are required to provide. A copy of the new form is enclosed.

45. There are no FMEs directly employed by the Metropolitan Police, but about 120 FMEs working under contract. They are obliged to record full details of any examination given as contemporaneous notes, and they remain the doctor's property. In the police record, the FMEs are required to note information that is relevant to the care of the detainee or to the police investigation.

Comments

iii. anyone held in custody for an extended period (24 hours or more) should, as far as possible, be offered outside exercise every day (paragraph 59).

46. The Government agrees that this is desirable, but this is only practicable where police stations have facilities allowing for such exercise. The Government will continue to seek to improve the conditions and facilities available for detained persons at police stations and welcomes the CPT's view that matters have improved significantly since its visit in 1990.

Requests for information

iv. whether closed-circuit television monitoring of custody areas is to be extended nationwide (paragraph 60).

47. The Government accepts that there are benefits both to police officers and to suspects from the continuous video recording of custody suites. The police service strongly supports the wider introduction of video recording, and a number of police forces have already introduced video cameras into their custody areas. As with the Metropolitan Police, CCTV is being introduced by chief officers gradually as their resources permit.

48. The Metropolitan Police stations at Islington, Brixton, Streatham and Vauxhall are already equipped with video recording facilities and all activities within the public areas of the custody suites are continuously recorded, including the reception and processing of all prisoners. A programme of work for the installation of systems in other Metropolitan Police stations has been identified and will be taken forward as finances permit.

v. the comments of the United Kingdom authorities on the issue of the presence in custody suites of police officers involved in the investigation of offences (paragraph 63).

49. In response to the CPT's concerns about Brixton Police Station, the Metropolitan Police state that investigating officers would have valid reason to enter the custody suite. In Brixton, as in the majority of police stations, officers would need to pass through the main custody suite to gain access to the interview rooms. Visits to cells are regulated by the custody officer who has a duty to ensure that all detainees are treated in accordance PACE and the Code of Practice on detention, and that all matters relating to detainees are recorded in their custody records.

vi. copies of all current guidance issued to police officers on the use of restraint techniques, together with details of the methods used to train police officers in the application of that guidance and of the regularity of such training (paragraph 66).

50. The main source of guidance to police officers on the use of restraint techniques and other related matters is the Personal Safety Programme produced by the Association of Chief Police Officers and the National Directorate of Police Training. This document is currently being reviewed by the Association of Police Officers. The implementation of this Programme is a matter for individual chief officers within their forces. In October 1997 a National Working Group of self-defence instructors undertook an audit of officer protection training, and information was provided from 46 forces which gives an overview of training times and content. A copy of that audit is enclosed.

vii. details of any specific measures which have been taken by the United Kingdom authorities in the light of the verdict of the inquest jury in the case of the late Mr Ibrahima Sey (paragraph 66).

51. The coroner made a number of points and recommendations which have been considered by the Metropolitan Police, the Association of Chief Police Officers, and the Home Office.

52. The coroner commended guidelines produced by the Metropolitan Police on the issue of restraint. That guidance has been incorporated into the Metropolitan Police Officer Training Manual. On the condition of acute exhaustive mania or excited delirium, a training video imported from the USA, has been made available to all police forces. The video follows the criteria which were commended by the coroner. In addition, an information pack was produced as a result of the investigation into Mr Sey's death by Hertfordshire Constabulary and disseminated to all forces. A copy of that information pack is enclosed.

53. The Home Office has considered all the pathologist's reports and other medical and toxicological evidence which was submitted to the inquest. This included summaries of the available literature on CS and Methyl Isobutyl Ketone (MIBK) – the solvent for CS particles. In 1999, the Independent Expert Committee on Toxicity, which reports to the Department of Health, reviewed the available evidence on the effects of CS spray on toxicity, mutagenicity and carcinogenicity. Following this report, the Home Secretary considers there is no reason to withdraw CS spray from police use. In line with the Committee's recommendations, follow-up studies will be made of persons receiving medical treatment following use of CS spray. The Gendarmerie Nationale have used CS sprays and MIBK in France for many years without significant problems.

C. Prison overcrowding

Observations on the CPT's Report

Overcrowding

54. The CPT refers to previous predictions made by UK authorities about the prison population in England and Wales. The projection published in 1993 had estimated that the average population in 1994-95 (covering the time of the CPT's previous visit) would be 44,500. In fact, the average population increased from 44,600 in 1992-93 to 49,500 by 1994-95. If the population for 1994-95 had been as projected, the available uncrowded capacity (Certified Normal Accommodation or CNA), would have been enough to balance prison population and accommodation.

55. In March 1995 it was estimated that the prison population would average 54,300 by the year 2000-01. At the time of the Government's response to the CPT in February 1996, the Prison Service was confident that it would be able to provide sufficient accommodation to hold this number of prisoners without overcrowding.

56. As the CPT notes, the prison population in England and Wales has consistently outstripped successive projections. There has been a detailed appraisal of past projections and the causes of the large increases in the population between 1993 and 1998. The Prison Service acknowledges that there is no realistic prospect of the prison population and available accommodation coming into balance in the foreseeable future. The projected average prison population in 1999 - 2000 of 65,300 will remain above the current uncrowded capacity of 63,200.

57. It can be assumed that some increase in overcrowding is inevitable. This will be ameliorated by significant extra funds for improving regimes and for expanding bail information schemes to help keep remand numbers down. The Prison Service will continue to monitor trends closely and take whatever action it considers is required.

58. The CPT notes that the prison authorities have stressed that 'safe overcrowding' has, thus far been largely contained within local prisons. With the exception of some minimal overcrowding in about 18 training prisons, this remains the case. Overcrowding capacity has increased above CNA at these training establishments by about 4% in recent years, allowing for some 1,000 more prisoners to be held. This additional capacity will be needed during 2000-2001 when the prison population is expected to increase to around 68,000.

59. The Government notes the CPT's 'misgivings' about the Prison Service's view (expressed in its Audit of Prison Service Resources) that there is a safe level of overcrowding. The Prison Service considers that the determination of the maximum safe overcrowded capacity (known as Operational Capacity) is a matter of management of the physical constraints of the establishment, the threat to good order posed by overcrowding and the additional pressures imposed on staff.

60. Since 1992-93, the overcrowded prison population has increased from 17% to a provisional 18.5% of the total in 1999-2000. Over the same period, the safety indicators have also remained at much the same level: the assault rate has fallen from 10.2% to a provisional 10% in 1998-99 and the weekly average hours of purposeful activity per prisoner has only fallen from 23.7 hours to a provisional 23 hours. This suggests that the Prison Service has been consistent in its assessment of the level of safe overcrowding.

61. A revised population projection was published in February 2000, which shows that pressures continue to grow. The Government recognises that overcrowding needs to be tackled not just by building additional accommodation, but by ensuring that prison is not used when there are other more appropriate penalties available.

62. Prison is the right disposal for serious, dangerous and persistent offenders, but it may not be the best or most effective option for less serious offenders whose crimes can adequately be punished by fines or community penalties. The Government therefore wants to ensure that the UK courts have available to them a range of tough community punishments which are not only effective, but in which the courts and the public can have confidence.

63. The Government is committed to ensuring there is an effective sentencing system for all the main offences to ensure greater consistency and stricter punishment for serious repeat offenders. Provisions in the Crime and Disorder Act 1998 place a statutory duty on the Court of Appeal to consider sentencing guidelines. The Act also provides for a new Sentencing Advisory Panel to provide advice to the Court of Appeal on sentencing and consult interested parties. These provisions will build and improve on the current system and help ensure greater consistency in sentencing.

Dorchester Prison

64. The CPT visited Dorchester Prison and noted that, owing to the rising population, some prisoners have had to share cells. However, the CNA of one prisoner to a cell and the operational capacity of two prisoners to a cell has always been accepted as a safe level for the prison.

65. The CPT noted the difficulties of providing work and purposeful activities for prisoners. In December 1997 a system was introduced to regularise allocation of work places to prisoners. When they are not at work, prisoners are allowed out of cells, where they are associating with other prisoners, during the morning and afternoon periods. Vulnerable prisoners (VPs) on D wing can take educational classes and have daily access to the library and gymnasium, and a small number of VPs hold domestic cleaning posts. The Governor is considering new work for the prison and if successful will include new work for VPs.

66. The CPT was concerned that health care staff were frequently diverted from their duties. The Health Centre has in-patient facilities with 24 nurse cover, and staff from this area are no longer diverted to generalist duties. The new attendance system (which began in January 2000) eliminates the need to use other specialist staff in general duties except in the most extreme (unforeseen) circumstances.

67. The problem of the long-standing vacancy for a dentist is acknowledged. Dorset has a shortage of qualified dentists. The Prison Service Health Care Group is carrying out a feasibility study looking at clustering the dentistry service for prisons in the Dorset area and recruiting a full time dentist. At present a locum dentist visits Dorchester and treats all prisoners who require his services.

68. The Government welcomes the CPT's interest in the drug rehabilitation programme at Dorchester. This won an award in 1996.

Response to the specific points raised by the CPT

Recommendations

i. the United Kingdom authorities to redouble their efforts to develop and implement a multifaceted strategy designed to bring about a permanent end to overcrowding (paragraph 77).

69. There is no immediate prospect that overcrowding in prisons in England and Wales will be ended. The Government is, however, ensuring that overcrowding is contained within the maximum safe operational capacity of establishments by providing additional accommodation, introducing new legislation with tough community sentences, and investing significantly in expanding regimes.

70. The Prison Service plans to increase operational capacity from 67,800 in 1998-99 to 71,600 in 2001-2002 – the third year of the Comprehensive Spending Review (CSR) settlement. Three prisons designed, constructed, managed and financed by the private sector (DCMF prisons) are under construction. These will provide 2,200 of the additional places. 160 'ready to use' places for female prisoners have also recently been approved.

71. The CSR provided an additional £226m over three years for investment in improved regimes. This includes education to improve basic literacy and numeracy and a significant increase in the number of offending behaviour programmes. Of the total, £76m is ring-fenced for initiatives in support of the Government's Ant-Drug Strategy.

72. The Government introduced provisions, in the Crime and Disorder Act 1998, to reduce the prison population. Home detention curfew is now used to commute the last part (up to 2 months) of a prison sentence of between 3 months and 4 years to a curfew enforced by electronic monitoring. This will provide a controlled transition between custody and living in the community, particularly for those prisoners who at present have no post-release supervision, as well as reducing pressure on the prison population. There are now about 2,000 offenders on Home Detention Curfew.

D. HMP The Weare - the prison ship

Recommendations

i. the United Kingdom authorities to seek to develop opportunities for purposeful work (preferably with vocational value) for prisoners at HMP The Weare (paragraph 87).

73. The Weare's activity programme for prisoners concentrates on education and offending behaviour classes. Both are well attended by prisoners who feel they are gaining from the experience.

ii. steps to be taken to ensure that someone qualified to provide first aid, preferably with a recognised nursing qualification, is always present on the prison's premises, including at night and weekends (paragraph 90)

74. The Weare's part time Medical Officer attends five days a week and the staffing levels of nurses is considered to be adequate for the population size of the Weare. A Health Care Group has recently been formed among the prison establishments in the same area and it is currently looking at ways of sharing resources and expertise. Whenever there is no qualified nurse on the premises, there is one on call.

75. The Weare's Health Care Department does not operate overnight, but first aid is always available in prison establishments from qualified staff.

Comments

iii. the United Kingdom authorities are invited to explore whether it would be possible to provide the cells with access to fresh air (paragraph 84).

76. All prisoners are unlocked from 7.45 to 20.30 hours except at meal times and therefore little time is spent in cell during the day. Any access to fresh air through open windows would negate the effects of the prison's air-conditioning and increase fire risk owing to unpredictable air flow and prisoners' ability to throw lighted material into the well area.

iv. the two exercise areas for prisoners left something to be desired (paragraph 86).

77. The two outdoor exercise areas were not designed for sports, and are used only for exercise periods in the fresh air. There are two gymnasiums for sports and they are well used.

v. if the establishment's inmate population has now reached its capacity of 400, a more frequent attendance by a general practitioner and reinforcement of the nursing staff should be considered; more frequent attendance by a dentist should also be foreseen (paragraph 90).

78. A part-time General Practitioner has taken up post as Visiting Medical Officer for The Weare. Dental cover is provided by an agency.

79. First aid is always available in prison establishments from qualified staff. Staff at the Weare have a good working relationship with local health practitioners, including the local Accident and Emergency staff. Local general practitioners are always on call for more serious incidents, and a qualified nurse is also either present or on call. A qualified nurse is also always available, either present or on call.

80. As with many other prisons, nurses are not available 24 hours a day. Health Care in training prisons such as The Weare is like that provided by general practice where nursing skills are best used during surgery opening hours.

vi. the United Kingdom authorities are invited to consider ways of facilitating visits to prisoners at HMP The Weare (paragraph 93).

81. The Government acknowledges that visits are particularly important for maintaining prisoners' relationships with their family and friends, and that it is important to provide as relaxed and informal an atmosphere as possible for visits. A number of measures have been introduced to foster better links between prisoners and their families and many prisons are developing innovative schemes for more or longer visits, or for visits in more comfortable or private surroundings.

82. Although the time and expense involved in getting to HMP The Weare may be greater than visiting some other establishments, the Prison Service has increased the financial aid given to families on income support to enable them to make two visits a month. Visits to local towns for Category D prisoners (those who are considered to pose little or no risk) and who have earned additional privileges because of good behaviour, began in 1998.

83. A comprehensive visits review is currently being undertaken by the Prison Service in which all aspects of visits will be critically assessed and particular consideration given to the needs of families. The report is expected to be completed by December 2000.

Requests for information

vii. whether difficulties regarding the regularity of kit changes and arrangements for prisoners' pay have now been resolved (paragraph 82).

84. Before the CPT's visit in September 1997, the Weare was ready to operate on full capacity with sufficient staff to deal with the rising population. The prison was receiving an average of fifty prisoners a week. There were some teething problems with kit exchanges and prisoners earnings, but these matters have now been resolved.

viii. the comments of the United Kingdom authorities on the nature of the information provided to prisoners prior to their transfer to HMP The Weare (paragraph 83).

85. The Weare sent information about its opening to other prisons, but it appears that this was not always passed on accurately to prisoners. This has now been corrected.

ix. up-to-date information on out-of-call time offered to inmates (paragraph 85).

86. The CPT report states that 'at the time of the visit, out of cell time appeared to be in the region of 7 to 8 hours per day'. Since its opening, out of cell time at the Weare has always exceeded 10 hours a day.

x. an account of the different forms of organised activities (education, work, sport) currently offered to prisoners at the establishment, including information on the number of prisoners involved and the amount of time which they spend on those activities (paragraph 87).

87. In order to keep all 400 prisoners employed, the Weare has introduced a 'Job Share' programme where 50% of prisoners attend classes, course and other work whilst the other half take part in physical education in the gym, exercise, clothing exchange etc. This programme works effectively, and over 20 hours per week of such purposeful activity per prisoner is regularly achieved.

xi. details of the progress which has been made in developing the prison's library (paragraph 87).

88. The Library was opened in November 1997 after a delay when the The Weare was recruiting an Assistant Librarian. The Library is open to prisoners twice a week, with a large subject range of books. Prisoners can also order books from the County Library.

xii. further information on the provision of pre-release courses for inmates (paragraph 88).

89. The value and importance of pre-release programmes is recognised and they are part of every prisoner's sentence plan. Every prisoner received at the Weare is interviewed and his sentence plan is created or adjusted, taking into account his new needs. Each prisoner signs a compact agreeing to follow his plan. The Pre-Release courses, along with courses on Offending Behaviour, Anger Management and Alcohol Education, are run by the Throughcare Department.

xiii. information on home leave possibilities for prisoners at HMP The Weare (paragraph 93).

90. The rules on temporary release and home leave at The Weare are no different from those at any other prison. Prisoners who request home leave are considered under the national system of release on temporary licence which replaced the previous systems of home leave and temporary release. Prisoners approaching the latter stages of their sentence may be considered for resettlement licence in order to maintain family ties and to make arrangements for work or accommodation upon final release. Prisoners may also be temporarily released for compassionate reasons or in order to undertake education, employment or training in the local community.

91. A dedicated throughcare department was opened at The Weare in March 1998. Prisoners held there may now be considered for release resettlement licence in line with the current eligibility criteria. Between April and November 1999, 203 prisoners applied for temporary release and 61 were successful. All applications require a comprehensive risk assessment to be undertaken.

xiv. whether thought has been given to moving the vessel to a more central location (paragraph 93).

92. The Prison Service investigated numerous locations for the prison ship. Portland Harbour was the only site in England and Wales which provided safe mooring and a secure quayside, and was immediately available in 1997. Portland Harbour also has the advantage of being located near to HMP The Verne and HM Youth Offender Institution Portland, prison establishments which can provide rapid support if required.

93. The Prison Service will consider other sites closer to urban populations if they become available.

Part II: ISLE OF MAN

94. This part of the UK's Response covers the measures adopted by the Isle of Man Government to implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and its reactions and responses to the Committee's comments and requests for information.

A. Isle of Man Prison

Recommendation

i. the Isle of Man authorities to agree, as a matter of urgency, on a prison redevelopment strategy capable of meeting the policy objectives referred to in paragraph 101, and to vigorously pursue the implementation of that strategy (paragraph 102).

95. Approval has been given by the Council of Ministers to the development of a new prison on a different site. The site selection process has been undertaken and a redevelopment strategy is under consideration. A regime strategy has already been approved.

ii. immediate steps to be taken to ensure that all prisoners placed in the segregation unit at the Isle of Man Prison are offered at least one hour of outdoor exercise every day (paragraph 106).

96. Segregation Unit prisoners are guaranteed $\frac{3}{4}$ hour exercise daily as part of prison routine; when circumstances allow this is extended to one hour. The problem is that six exercise groups (A wing, B wing, C wing, females, juveniles and Segregation) have to fit into one exercise yard, with only six and a half hours available (9.00 to 12.15 and 13.45 to 16.00). The schedule is very tight, particularly when account is taken of the time needed to move prisoners to and from the exercise area. It is envisaged that the new prison will enable prisoners to get at least one hour's exercise.

iii. the practice of handcuffing prisoners placed in the segregation unit whilst outside their cells to be the subject of an urgent review (paragraph 107).

97. The three prisoners mentioned by the CPT had previously escaped, attempted to take a prison officer hostage, and held a siege lasting several hours in the medical room, destroying records and taking drugs which required their admission to hospital. In those circumstances, the Isle of Man authorities consider that the measures taken in respect of these prisoners were reasonable.

98. Routine handcuffing of Segregation Unit prisoners during moves has ceased, but there may still be circumstances in which the Prison Governor will need to impose this restriction. The provision of a guard dog has reduced the need for handcuffing, but this must remain a matter for the Governor's professional judgement in order to safeguard other prisoners, staff and the general public. The CPT refers to means of reducing the risk of escape other than handcuffing, but handcuffing is more discreet than the use of 'patches' (clothing with large, highly coloured inserts on legs, back and front) and less costly in manpower than use of an escort party.

iv. the necessary steps to be taken to ensure that:

- **the standard-sized cells in A and B wings do not accommodate more than two prisoners;**
- **cells A12 and B7 do not accommodate more than three prisoners;**
- **the A wing dormitory does not accommodate more than six prisoners;**
- **the cells in C and D wings accommodate only one prisoner (paragraph 124).**

99. The CPT's recommendations on cell and dormitory occupancy levels in A and B Wings have been implemented. This has resulted in an operational capacity of 79 male prisoners, with some prisoners being released early under an executive release scheme.

100. At the time of the CPT's visit two prisoners were sharing a cell in C Wing because they had asked to do so on the grounds that one of them, known to have a fragile mental state, needed the support of the other. D Wing held ten female prisoners and the unit was overcrowded. The cells in C and D Wings have rarely accommodated more than one prisoner per cell.

v. prison officers to receive clear instructions to the effect that when a prisoner held in a cell without integral sanitation requests to be released from his cell during the day for the purpose of using a toilet facility, that request is to be granted without delay (paragraph 125).

101. The Isle of Man Prison has always allowed prisoners out of cell to use the toilet facilities during the daytime, except when the prison is in patrol state (12.30 to 13.30 and 17.00 to 18.00).

vi. the recesses to be kept in a proper state of repair and hygiene (paragraph 125).

102. The recesses are kept in a proper state of repair and hygiene. The CPT observed overflow from the urinal into the shower area (A wing recess), but this was likely to be because the prisoners were misusing the facility by emptying pots into urinals, rather than using the sluice.

vii. the Isle of Man authorities to strive to enhance the activities offered to prisoners, having regard to the remarks in paragraphs 121 and 122. In particular, steps to be taken to improve the regimes offered to young offenders and Rule 45 (own protection) prisoners. Further, the reintroduction of outdoor sports activities for all prisoners, both male and female, to be seen as a priority; in this connection, the Isle of Man authorities to explore the possibility of bringing back into service the former A and B Wing exercise yard (paragraph 126).

103. Since the CPT's visit much effort has been made to improve the regime, at the expense of other tasks, such as searching. Two officers have been redeployed to formulate a physical education (PE) programme so that all prisoners have access to PE in the afternoons, including sessions at the National Sports Centre. Access to education has also been improved with the provision of a classroom and an increase of 140% in the education budget.

104. Bringing the former A and B wing exercise yard back into service is not feasible within current budgets and would be a disproportionately expensive short term measure, bearing in mind that the prison will be decommissioned when the new prison is brought into service.

viii. someone qualified to provide first aid, preferably with a recognised nursing qualification, always to be present in the prison, including at night and weekends (paragraph 131).

105. Additional Healthcare Officers with nursing qualifications have been recruited and the day time complement has been strengthened. The prison is now able to meet the guidelines of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting for the issue of treatments. There is a shortage of qualified nurses in the Island and it has not proved possible to recruit and retain sufficient qualified nursing staff to provide 24 hour cover. All prison officers are trained in First Aid and two are on duty all night.

ix. the Manx authorities immediately to review the use being made of unfurnished cells in the Isle of Man Prison, having regard to the remarks in paragraphs 135 to 138 (paragraph 139).

106. The death of one prisoner was caused by his tearing fabric from a mattress to form a noose. There are no Home Office-approved mattresses from which such a ligature cannot be made.

107. The CPT's comments on the use of unfurnished cells are noted. Placement in these cells is always either decided by a doctor or brought to his attention on the next visit. Until such time as the prison has a regular properly contracted medical officer, however, the management of these situations cannot be the responsibility only of medical staff: there are occasions when the risk of self-harm is so high and the situation so urgent that the Prison Governor must act immediately.

x. a fully-fledged and multifaceted suicide prevention policy to be developed (paragraph 140).

108. A Suicide Prevention and Awareness Policy has been developed and is currently being implemented. It mirrors the policy in UK prisons and is a multidisciplinary approach to managing and caring for those at risk of self-harm. Staff training is continuing. In addition, a direct telephone link to the Samaritans has been provided (a mobile telephone which can be handed in to the cell at any time of the day or night). Samaritans personnel visit the prison twice weekly.

xi. particular attention to be paid to the education (including physical education) of juveniles accommodated in the establishment. Further, care to be taken to ensure that there is a watertight separation between juveniles and other prisoners in the establishment (paragraph 146).

109. Responsibility for education of juveniles under the statutory school leaving age rests with the Department of Education. Each secondary school has an outreach tutor who visits the juvenile in prison and makes any arrangements necessary for the provision of support. There have been several occasions when the Prison has assisted juveniles to take examinations by conveying them, or allowing them to be conveyed by a parent, to the examination.

110. Juveniles above the statutory school leaving age but less than seventeen are interviewed by the Prison's Education Manager and appropriate tuition is arranged. Individual juveniles may also be taken out of the prison by staff to visit sites of historical and/or educational interest. Physical education is provided in the gymnasium and the exercise yard.

111. The Isle of Man authorities have always taken care to ensure the physical separation of adults and juveniles, as far as is possible within the physical constraints of D wing.

xii. a procedure to be devised in order to enable prisoners to enter into contact with the Prison Governor and Board of Visitors in a confidential manner (paragraph 151).

112. The Board of Visitors or the Prison Governor may interview a prisoner in confidence and alone, when this is appropriate. Prisoners have always been able to send a sealed letter to the Board of Visitors or Governor and sometimes do so.

xiii. the maximum possible period of cellular confinement as a punishment to be substantially reduced (paragraph 154).

113. The current maximum period of 56 days will be reduced to 28 days when the Prison Rules are revised. It is hoped that the new Rules will be introduced this year.

xiv. steps to be taken to ensure that prisoners removed from association for a prolonged period under Rule 45 are provided with purposeful activities and guaranteed appropriate human contact (paragraph 156).

114. It is not possible within current circumstances to improve the regime of those removed from association for the maintenance of good order and discipline.

Comments

xv. the CPT trusts that the new segregation/reception unit will be brought into service in the near future (paragraph 103).

115. The new segregation unit was brought into use in October 1998.

xvi. the remarks made in paragraph 115 to be borne in mind in the context of the prison redevelopment when arrangements are made for in-cell sanitary facilities (paragraph 125).

116. The Isle of Man authorities will bear in mind the need to partition in-cell sanitary facilities from living space in planning the redevelopment of the prison.

xvii. the CPT endorses Dr V Foot's recommendations designed to place the visiting general practitioner's relations with the prison on a firmer footing, to provide a properly resourced mental health team for the prison and to enhance interaction between the prison and Ballamona Hospital. The Committee also supports Dr Foot's recommendation that steps be taken to ensure that, other than in an emergency, the prison's hospital officers be deployed exclusively to health-care duties (paragraph 131).

117. The Prison Medical Officer (PMO) at the time of the Committee's visit has since died following a prolonged period of sick absence. Inevitably, during that period it was not possible to progress the issues raised by the ECPT. A new PMO is expected to be appointed shortly, and will be an established member of the prison staff team and thus able to provide greater continuity than previously. He/she will be a key player in developing the general healthcare service provided to prisoners and will also be tasked with developing a more pro-active mental healthcare strategy including interaction with the community mental health team.

118. Healthcare officers are rarely used on discipline duties, and then only when the healthcare team has already reached its staffing level.

xviii. the Isle of Man authorities are invited to review the conditions under which medical consultations with female prisoners take place at the prison (paragraph 131).

119. A lack of available accommodation makes it almost impossible to improve conditions in the present prison. However, we are continuing to attempt to identify a suitable location by means of resiting current office accommodation.

xix. the CPT endorses Dr Foot's recommendation that all new receptions be assessed by health care staff on the day of arrival and that such assessments be properly recorded to include a formal assessment of suicide risk (paragraph 133).

120. This is not always possible at present, but the recommendation has been accepted and the aim is to comply with it. At present, all new receptions are normally seen within 24 hours.

xx. the Isle of Man authorities are invited to strive to increase the number of visits for convicted prisoners; they should preferably be allowed to receive a visit every week. Further, the formal visiting entitlement for convicted prisoners should be revised at an appropriate moment (paragraph 148).

121. The new Custody Rules provide a statutory entitlement of fortnightly visits for all convicted prisoners. Convicted prisoners on enhanced regime status are allowed weekly visits.

xxi. the CPT trusts that, in the light of the remarks and recommendation made in paragraph 107, no prisoner will ever be handcuffed when he receives a visitor (paragraph 149).

122. The fact that a prisoner may be handcuffed on movement within the Prison does not mean that he is handcuffed when taking a visit. Unless there are exceptional reasons, a prisoner is not handcuffed when taking a visit. The three prisoners mentioned by the CPT had been handcuffed when taking visits for a short period on return to custody following their escape in June, but by the time of the CPT's visit this restriction had been removed.

xxii. the CPT trusts that the provisions of the Prison Rules concerning corporal punishment will be formally abrogated on the occasion of the next revision of those Rules (paragraph 154).

123. The rules regarding corporal punishment were revoked in 1989. A copy of the Prison (Amendment) Rules 1989 is attached to this Response.

Requests for information

xxiii. details of the measures taken to implement the recommendations made in Dr Foot's report and other recommendations of a medical nature made by the Committee of Inquiry into deaths of two prisoners in the establishment (paragraph 128).

124. The Isle of Man's response to the recommendations of the Committee of Inquiry is set out in the paper enclosed. The development of healthcare services is to be taken forward by the recently appointed Deputy Governor responsible for Planning and Development.

125. The contents of Dr Foot's report have been noted. However, in the period since Dr Foot made her report the policy adopted by the United Kingdom Prison Service (of which Dr Foot is a member) and now by the Isle of Man Prison Service, is that a multi-disciplinary approach to self-harm and suicide is more effective than assigning responsibility for those at risk of self-harm and suicide solely to healthcare staff. Whilst healthcare professionals have an important role to play, every member of staff must be made aware of the issue, and should be trained in the care and management of vulnerable prisoners. To that end, the Suicide and Awareness Prevention Policy has been formulated.

xxiv. the comments of the Isle of Man authorities concerning the apparent difficulties in ensuring prompt access to a dentist for prisoners, and on whether they consider the current and envisaged support for the prison from the Island's general hospital infrastructure to be sufficient (paragraph 131).

126. Prisoners requiring dental treatment are taken to an outside dental surgery, because it is not considered practicable for the prison to have its own dental surgery. Prisoners have no more, or less, priority in obtaining appointments than other patients. The Isle of Man authorities are satisfied that the current and envisaged support for the prison from the Island's general hospital infrastructure is adequate.

xxv. details of the special training provided to prison officers with particular responsibility for juveniles (paragraph 144).

127. Two officers from the Training Unit of Cardiff Social Services were employed to provide appropriate training for four members of staff. The training objectives set were:

- to provide staff with an understanding of the process of child development: physical, intellectual, emotional and social;
- to acquaint staff with the theoretical framework concerning juvenile crime;

- to identify the issues concerning holding children in secure accommodation; and
- to arrange attachments at a secure juvenile unit. Each attachment to have a clearly defined purpose with a debrief session on conclusion.

128. The tutors provided learning packages for staff; these were a mixture of reading and assignments, and divided into three modules:

- child development: physical, emotional, social and sexual. Development of conscience, relationships with peers and family. Separation and loss, aggressive behaviour.
- theoretical framework concerning juvenile crime: key research findings, models for understanding and dealing with deviant behaviour. Comparison of relevant legislation in the Isle of Man and UK.
- secure accommodation: tensions between control and maturation/safety of young person and society. Long term consequences: human rights; abuse of power; lessons from recent UK enquiries. Contact arrangements, use of force for control, effects of imprisonment on young person.

129. The tutors visited staff on the completion of each module in order to carry out group activities and discussions, assisting staff with their learning programmes and to prepare them for their placements in UK secure accommodation. Staff then each had a five day placement in a UK unit, followed by a debrief. The final part of the training was the preparation of an action plan/statement of purpose for the unit.

xxvi. a full account of arrangements made for the education of juveniles held in the juvenile unit (paragraph 144).

130. This has been set out in response to recommendation xi.

xxvii. information on developments as regards the provision of alternative accommodation for juveniles deprived of their liberty (paragraph 145).

131. The Isle of Man authorities have decided that a secure juvenile unit will be provided by the Department of Health and Social Security.

xxviii. further information on the installation of payphones for inmates (paragraph 150).

132. Payphones became operational on 1 December 1997.

xxix. information on the possibilities for convicted prisoners at the Isle of Man Prison to be granted home leave (paragraph 150).

133. Home Leave may be, and has been, arranged under a temporary release licence for those prisoners who are granted parole and for whom it would be beneficial as part of a discharge programme. There are no plans to extend its use.

xxx. the comments of the Isle of Man authorities on the retention of the disciplinary offence of making a false and malicious allegation against a prison officer (paragraph 151).

134. The disciplinary offence of making a false and malicious allegation has never been used in the Isle of Man Prison. It will be removed when the Prison Rules are revised. It is hoped that the new Rules will be introduced this year.

xxxi. information on the possibilities for prisoners to appeal against sanctions imposed by the Prison Governor or Board of Visitors (paragraph 153).

135. Under Prison Rule 60, awards may be remitted or mitigated on appeal to the Department of Home Affairs, the Board of Visitors or the Prison Governor.

xxxii. whether at least in certain cases (in particular, when the disciplinary charges are such that they could result in the most severe sanctions being imposed), the prisoner concerned is entitled to legal assistance in the context of the disciplinary proceedings, including during the hearing (paragraph 153).

136. Legal Aid is available for assistance in serious disciplinary charges, that is those heard by the Board of Visitors (Legal Aid Act 1986).

xxxiii. whether prisoners removed from association under Rule 45 are:

- **informed in writing of the reasons for the measure (on the understanding that the information given may omit particulars which security requirements reasonably justify withholding);**
- **offered an opportunity to express their point of view to the competent authority before any final decision is taken on the measure or its renewal;**
- **accorded a right of appeal against the measure or its renewal (paragraph 157).**

137. All prisoners removed from association are seen personally by the Governor or Deputy Governor and informed of the reasons shortly after their removal. Such prisoners can appeal using a number of means: Governor's Application, Board of Visitors Application, Petition to the Minister for Home Affairs, or contact with their Member of the House of Keys.

B. Isle of Man Constabulary

Recommendations

i. police officers to be reminded that no more force than reasonably necessary should be used when effecting an arrest (paragraph 160).

138. Although it is rare for an allegation about the use of excessive force to be substantiated, the Isle of Man authorities agree that all police officers should be regularly reminded that when arresting a suspect no more force than is necessary should be used. In addition to the initial training given to probationary Constables, the Training Department of the Isle of Man Constabulary is currently presenting a two hour training package to all officers, whatever their length of service, on the use of force. The course is supported by a full day of unarmed defence training each year, for all police officers, when they are taught Home Office approved self-defence restraint techniques and are required to display an appropriate level of force in relation to an incident. Special Constabulary officers receive similar training. Verbal reminders are always included in any briefing prior to any planned operation where arrests are anticipated.

ii. the right of a person detained by the police in the Isle of Man to have access to another advocate when access to a specific advocate is delayed to be the subject of a legally binding provision (paragraph 163).

139. Prior to the Police Powers and procedures Act 1998 coming into operation, duty advocates were not available top police stations. There was a duty advocate scheme which worked only at the Summary Courts. The Summary Courts' Duty Advocates' Scheme is still in operation.

140. Advocates are always contacted when a prisoner so requests. On the rare occasions when a nominated advocate is delayed or cannot attend through no fault of the police, the prisoner is offered the services of another advocate. The Police have also issued instructions that when, exceptionally, it would be right to delay access to the prisoner's chosen lawyer, then another independent lawyer should be contacted who can, in the CPT's words, 'be trusted not to jeopardise the legitimate interests of the Police investigation'.

iii. the cells at Castletown Police Station to be equipped with artificial lighting (paragraph 169)

141. The lighting in the police cell passage and cells at Castletown Police Station has been upgraded and artificial lighting has been provided. From January 2000, with the opening of a newly built Southern Division Police Station in Port Erin, the cells at Castletown Police Station will not be used except when the adjacent Court is in use (short term detentions only) or in emergencies, when other police cells have to be evacuated.

Comments

iv. persons placed in a sobering-up cell should be provided with a mattress (which could be equipped with a washable cover) (paragraph 166).

142. The sobering up cell has now been equipped with a mattress which has a washable cover.

v. persons held in police custody for an extended period (24 hours or more) should, as far as possible, be offered outdoor exercise every day (paragraph 166).

143. There is no exercise yard at Police Headquarters, but exercise can be arranged with suitable escort for such prisoners. This *is* written into custody instructions.

vi. the cells at Peel Police Station would be scarcely suitable for use as overnight accommodation (paragraph 168).

144. Other than in exceptional circumstances, the cells at Peel Police Station are no longer used as overnight accommodation.

vii. the cells at Castletown Police Station should under no circumstances be used as overnight accommodation (paragraph 169).

145. The cells at Castletown Police Station have not been used for overnight accommodation for many years, but it might be necessary to do so in an extreme emergency (e.g. if Police Headquarters, Port Erin Station or the prison had to be evacuated).

viii. in the event of an overspill situation arising, the cellular accommodation at Ramsey Police Station should be the first to be used (paragraph 170).

146. Priorities will alter in January 2000 so that Port Erin Police Station would be the first to be used, followed by Ramsey and Peel and, as a last resort, Castletown, but with the latter two not being used as overnight accommodation.

Requests for information

ix. further information on the legislative progress of the Police Powers and Procedure Bill 1997 (paragraph 163).

147. The Police Powers and Procedures Bill 1997 has been passed by both branches of the Legislature and Royal Assent has been granted. Codes of Practice have been written and police training has taken place. The Act came into operation on 11 January 1998.

x. the comments of the Isle of Man authorities on the possibility of including at least one suitably-qualified independent person on the adjudicating authority at police disciplinary hearings and of applying the civil rather than the criminal standard of proof in police disciplinary proceedings (paragraph 164).

148. In April 1999, the UK Government introduced the new Police Unsatisfactory Performance and Misconduct Procedures. Independent, suitably qualified persons preside with Police Officers on Misconduct Hearings. The Isle of Man Constabulary and the Isle of Man Authorities are due to discuss implementation in the Isle of Man of procedures similar to those in the UK.

149. The UK procedures incorporate provisions on the standard of proof on such hearings. The Isle of Man authorities will duly consider these provisions when discussions take place.