



CPT/Inf (2001) 7

**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 Northern Ireland**

**from 29 November to 8 December 1999**

The United Kingdom Government has requested the publication of the CPT's report on the visit to Northern Ireland from 29 November to 8 December 1999 (see CPT/Inf (2001) 6) and of its response. The response of the United Kingdom Government is set out in this document.

Strasbourg, 3 May 2001



THE GOVERNMENT OF  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

RESPONSE TO  
THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE  
AND INHUMAN OR DEGRADING TREATMENT

VISIT TO NORTHERN IRELAND - DECEMBER 1999

1. The Government of the United Kingdom of Great Britain and Northern Ireland welcomes the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment following the Committee's visit to Northern Ireland in December 1999.
2. The Committee made a number of recommendations and comments in its report, along with requests for additional information. Responses to each of these are outlined below. Where it has not been possible to respond in full at this time, the Government undertakes to provide the additional information in due course.

Detention by the Security Forces

*Para 15-17 Amongst the most serious allegations which were examined by the CPT's delegation were those concerning the detention of a group of five persons suspected of offences related to terrorism, during a joint military/police arrest operation near Crossmaglen on 10 April 1997. Upon their arrival at Gough Barracks Holding Centre, all of the persons concerned complained that they had been ill-treated by the soldiers who detained them, and two of the five alleged additional assaults by RUC officers ... The CPT would like to receive a copy of the report prepared by the RUC investigating officer(s) in this case, together with details of the reasoned grounds on which the Director of Public Prosecutions determined that no criminal proceedings were to be taken against soldiers/police officers.*

3. The CPT report does not identify by name the cases referred to above. The information given below assumes that the correct cases were identified. Based on the information provided by CPT, the DPP caused the relevant files to be obtained. Two relevant police investigation files were received. The first was a complaint against the army; the second was a complaint against the conduct of the police. As in every case, the test for prosecution was applied to each of these cases. It was concluded that the evidence which could be adduced in court was insufficient to provide a reasonable prospect of conviction in each case.

*Para 18 The Committee has also been informed that police investigations of alleged criminal behaviour by members of the Armed Forces cannot be supervised by the Independent Commissioner for Police Complaints for Northern Ireland (the ICPC) or the independent assessor of Military Complaints Procedures. It appears that the ICPC can only become involved if there is a – quite distinct – complaint about the manner in which the police conduct a given investigation into the behaviour of the Army. Further, it remains unclear whether the recently-appointed Police Ombudsman is to be granted the necessary mandate to remedy this apparent lacuna in the oversight of investigations of alleged ill-treatment. The CPT would like to receive the comments of the United Kingdom authorities on this subject.*

4. The rationale of having the Police Ombudsman investigating complaints against the police is to allow for a separate body to investigate and so remove the complaint that the police are investigating themselves. Criminal allegations against members of the military are investigated by the police, thereby providing investigation by a different organisation. At this stage, as with the Independent Commission for Police Complaints, the Police Ombudsman will not supervise complaints against members of the military, which will continue to be carried out by the police. In addition, there exists a statutory office of Independent Assessor of Military Complaints Procedures. The Independent Assessor produces a report each year.

*Para 23 In the light of the information gathered during the visit, the CPT must reiterate the recommendation made in the report on its 1993 visit, that members of the security forces in Northern Ireland be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that once arrested persons have been brought under control, there can be no justification for them being struck.*

5. All members of the Army serving in Northern Ireland are trained in the use of reasonable force and are required to carry with them an instruction card. The guidance on this card is to be strengthened with effect from 6 February 2001. From that date, it will stipulate that, in all situations, no more force should be used than is absolutely necessary.

*Para 25-27 Specific reference should be made to the case of a male detainee held at Castlereagh Holding Centre between 29 October and 3 November 1999. ... The person concerned alleged that, at around 10.00am on 30 November 1999, having refused to voluntarily leave his cell to attend an interview, he was physically assaulted in his cell and in an interview room. ... The CPT would like to receive a copy of the report prepared by the RUC investigating officer(s) in this case. It also like to be informed of whether the matter was referred to the Director of Public Prosecutions and, if so, to receive details of their reasoned grounds on which the Director of Public Prosecutions determined that no criminal proceedings were to be taken against the officers involved.*

6. The Government and the RUC agree that the sort of scenes witnessed in the video are regrettable and do not represent normal practice in Northern Ireland.

7. From its follow-up visit to Northern Ireland in January 2001, the Committee will be aware that, having considered the Committee's report, the Director of Public Prosecutions for Northern Ireland has requested that the case be reviewed. At the time of responding, we are awaiting a decision by the DPP. In the meantime, the Committee has been provided, in confidence, with a copy of the RUC complaints investigation file. The Government stands ready to respond to any additional comments or requests for information that the Committee may have.

*Para 28 The CPT would like to receive further and better particulars regarding the "areas for improvement" which have been identified by the RUC, together with details of the improvements which are to be made in those areas.*

8. Following the issues raised by the Committee in this case, the RUC carried out a review of its policies and procedures in relation to the handling of prisoners in holding centres. As a result, instruction were issued that only officers who have been trained in self-defence and restraint procedures would be employed as jailers in holding centres. A training programme for all custody staff was developed and continues. This includes input on legal, medical, health & safety and prisoner handling issues.

9. Furthermore, the issues raised are being considered as part of the overall development of custody facilities within the RUC. In brief, the RUC is attempting to move towards a system based on series of Centres of Excellence for custody of all prisoners (including terrorist suspects). These will be built to the most modern standards and staff there will be trained in recognised best practice techniques.

10. The Committee will also want to be aware that the RUC is in the final stages of reviewing all its policies on police use of force to ensure that these are completely compliant with the Human Rights Act 1998. New Force Instructions have been developed. They will soon be audited by a barrister specialising in human rights issues. All other aspects of Force Instructions either have been or are in the final stages of human rights auditing.

*Para 29 It is also noteworthy that, some three weeks after the event, the CPT's delegation was the first body to request to view the video tape of this incident. Neither the Deputy Independent Commissioner for the Holding Centres (who had made a brief note of the detainee's allegations in his logbook), nor an investigating officer from G Department (to which a formal complaint had been submitted), had sought to have access to material which proved to corroborate at least some of the detainee's allegations of ill-treatment. The CPT would like to receive the comments of the United Kingdom authorities on this matter.*

11. Before G Department were able to break the seal, they were required, under the code of practice, to offer the person previously detained the opportunity to witness the seal being broken. The tape was viewed as quickly as possible as part of the investigation into the detainee's complaint.

*Para 30 More generally, the delegation found that only one of the two hundred video tapes recorded at Castlereagh in 1999 had been seen by an outside body (the ICPC). It is axiomatic that, in order to maximise the potential of the current video recording system, all relevant monitoring and investigatory bodies should systematically seek access to any video tapes which may support (or contradict) a detainee's complaints of ill-treatment.*

12. A code of practice governing the video recording system in Northern Ireland deals with the issue of access to master tapes. The code facilitates access as set out below.

13. Where access to a master tape is required for viewing, the written authority of an officer not below the rank of Assistant Chief Constable must be obtained before the seal on the master tape is broken. Requests to view the master tape may be made by the police; by the person who was previously detained; or by the investigating authority, in connection with court proceedings (criminal or civil), a police disciplinary or internal investigation, a complaint of ill-treatment, or an investigation under the auspices of the Police Ombudsman.

14. The Government is in general agreement with the CPT that those who are able to access the tapes should do so whenever they consider that to be necessary. Whether to view a tape is, however, a matter for the body concerned. The Government will bring to the attention of the relevant bodies the access provisions in the code of practice.

*Para 38 As the CPT acknowledged in the report on its first visit to Northern Ireland, the questioning of persons detained in relation to terrorist offences cannot be expected to be a pleasant process. However, shouting at detainees, insulting them and attempting to browbeat them into making confessions is behaviour which has no proper place in the interrogation process. The Committee recommends that police officers conducting interviews with persons detained in relation to terrorist offences be clearly reminded of this. The Committee would also like to be informed of whether police officers who conduct interviews with persons detained in relation to terrorist offences receive any specialist training for this task, and – if so – to receive details of the training concerned.*

15. All interviewers have received training in the PEACE investigative interviewing model. PEACE stands for Planning & Preparation; Engage & Explain; Account; Closure; Evaluation. The PEACE model came into effect in the RUC in 1995 and is a standardised police interviewing model throughout the United Kingdom. The RUC use the PEACE model when dealing with suspects and witnesses. It is a structured model of interviewing willing and co-operative witnesses as well as hostile witnesses and suspects. All CID officers attend a five-day course on PEACE.

Para 45 *The CPT recommends that the planned nation-wide regime as regards the right of access to a lawyer include the following features:*

- *A legally-binding provision (at least in the form of a full provision of the a Code of Practice) granting all detainees the right to have access to another, independent, lawyer when access to a specific solicitor is delayed;*
- *The repeal of provisions which permit denial of access to a lawyer for successive periods of 48 hours between consultations, and which enable police officers to seek authorisation to listen to interviews between lawyers and their clients;*
- *An entitlement for lawyers in all jurisdictions of the United Kingdom to be present during police interrogations.*

Para 46 *In the meantime, and for so long as the Northern Ireland legislation remains in force, the CPT wishes to make clear that it retains serious reservations about the absence of a formal right for detained persons to have access to another, independent, lawyer when access to a specific solicitor is denied. In this respect, it would like to receive clarification from the United Kingdom authorities as to the precise meaning of the statement in their 1994 response to the effect that "in any event, in Northern Ireland the reason for delay of access to a suspect's lawyer would, in many cases, apply equally to an 'independent' lawyer".*

Para 47 *Reference should also be made to the recent judgments of the European Court of Human Rights in the cases of Averill v. the United Kingdom<sup>1</sup> and Magee v. the United Kingdom<sup>2</sup>, in each of which the Court found that there had been a violation of Article 6 (1) of the European Convention of Human Rights, in conjunction with Article 6(3) thereof as regards the denial of access to a solicitor. The Committee would welcome the views of the United Kingdom authorities on the implications of these judgments.*

16. The Chief Constable announced on 29 September 2000 that solicitors would be allowed to sit in on interviews with terrorist suspects with immediate effect.

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<sup>1</sup> Application No. 36408/97, Judgment of 6 June 2000

<sup>2</sup> Application No. 28135/95, Judgment of 6 June 2000

17. Schedule 8 paragraphs 7 – 9 of the Terrorism Act 2000 provide for access to a solicitor and these provisions will be governed by a Code of Practice which will come into force, along with the Terrorism Act, on 19 February 2001. A copy of the draft Code of Practice has already been forwarded to the ECPT for comment.

*Para 53 The CPT recommends that a sound facility be added to the system used to video record interviews with persons detained under counter-terrorist legislation.*

18. The Chief Constable recently announced the introduction of sound and vision video recording of all interviews with terrorist suspects in Northern Ireland. The new system will replace the silent video recording system currently in place in Northern Ireland. The new system will come into force on 19 February 2001 and will protect against allegations of physical abuse and “off-tape” interviewing as well as protecting the interests of the persons being interviewed and the police who interview them.

19. The system will be operated in accordance with a Code of Practice which was issued recently for public consultation. A copy was sent to the Committee for comment.

*Para 55 The CPT would like to receive clarification on the following matters:*

- the date on which the office of the Ombudsman will become fully operational;*
- the level of staffing and other resources which will be allocated to the Ombudsman’s Office, as compared to those allocated to the bodies (i.e. the Independent Commission on Police Complaints and the RUC’s Complaints and Discipline Department) which it replaces;*
- whether it is intended that all investigators employed by the Ombudsman will be genuinely independent from the security forces in Northern Ireland;*
- whether the Ombudsman will have a power to initiative inquiries or investigations even if no specific complaint has been received.*



20. The new office of Police Ombudsman became fully operational on 6 November 2000.

21. The Government has given the Police Ombudsman a clear commitment that she will be adequately funded. The new office will have 105 members of staff, including 40 investigators. The budget for the new office for this financial year is £5.7m. The funding for next year is still to be determined.

22. The budget of the former Independent Commission for Police Complaints was approximately £1m and the budget for the RUC's Complaints and Discipline Branch is approximately £6m. However, the RUC's Complaints and Discipline Branch also has responsibility for organising disciplinary hearings and for investigating internal allegations of breach of discipline, that is those which do not arise from a complaint but rather from reports by supervisory officers. These functions have not been transferred to the Police Ombudsman. As can be seen, the comparison between these budgets is not a direct one.

23. The Police Ombudsman advertised internationally for Investigating Officers and has recruited officers from the UK, South Africa and Australia. Serving officers from the police force in Northern Ireland have not been recruited. The legislation allows the Police Ombudsman to second police officers from any police force in the UK into her organisation.

24. The Ombudsman will be the focal point for complaints about the police. All complaints, and not just those on police conduct, will be made through the Ombudsman in the first instance. Where, however, complaints are against policy or operational instructions, the Ombudsman will pass them to the Chief Constable or Police Authority for action.

25. The Ombudsman will decide how complaints that relate to the conduct of officers should be handled. She will also have the power to call herself in to investigate cases about police conduct, even though there has been no complaint, if she believes this is in the public interest. The Ombudsman will be required to investigate cases of death or serious injury. The Ombudsman may investigate other complaints as she sees fit or may refer them to the police to investigate, possibly under the her office's supervision.

26. The Ombudsman's power to investigate includes examination of both alleged criminal offences and possible disciplinary breaches. Reports on cases where a criminal offence may have been committed by a member of the police force will be sent to the Director of Public Prosecutions, with a recommendation by the Ombudsman. After any criminal aspects have been dealt with, the Ombudsman will then consider the disciplinary aspects of a case. She will make a recommendation to the Chief Constable (or Police Authority for Northern Ireland for a senior officer, above Superintendent). The Ombudsman said on 19 January 2001 that she believed she had "greater power than any other independent investigative organisation anywhere in the world."

27. The legislation also provides for the Ombudsman to produce an annual report, and such other reports as are requested by the Secretary of State. The Ombudsman's office will also be expected to analyse trends in respect of complaints – for example the extent to which specific policing practices or policies, the use of certain types of equipment, etc, tend to increase the occasion for complaint, and to make recommendations on these issues.

*Para 56 The CPT would like to receive further information about the precise nature of the interlock between the activities of the Ombudsman and those of the Police Board for the Area.*

28. The roles of the Policing Board and the Police Ombudsman are outlined in the Appendix to this response. The inter-relationship between the two organisations, generally and in the specific area of information exchange, is outlined below.

29. Both organisations exist to provide a vehicle for accountability. The distinction, however, is that the Board has a much wider role and at a more strategic level. The Ombudsman is focused on legal accountability. She will look at police conduct, through investigations of alleged crimes or disciplinary matters; make recommendations to the independent Director of Public Prosecutions; and compile information on trends and patterns in complaints.

30. Given the potential for overlap, the Independent Commission on Policing recognised that the Ombudsman would need to have a “dynamic co-operative relationship” with both the police and the Policing Board as well as other bodies. So, for example, under section 23 of the Police (Northern Ireland) Act 2000, the Ombudsman will make any reports on police policies and practices arising from complaints to the Chief Constable and the Board. This ties in with the Board’s broader role in looking at police policies and practices.

31. Also, under section 64 of that Act, the Ombudsman is required to compile and supply the Board with statistical information on complaints to enable the Board to fulfil its function of keeping itself informed about the complaints system. The Ombudsman is also required to provide the Board with any other information that the Ombudsman considers the Board needs to carry out its functions. Section 64, which builds on a provision in the 1998 Act, reflects the more specific role Patten envisaged for the Board in looking at “trends and patterns in complaints”. This role is provided for in section 3(3)(c) and is not a power for the Police Authority in the Northern Ireland Act 1998 – see section 2(4)(a) of the 1998 Act. So the Ombudsman, who will keep the information using a sophisticated IT system and will analyse it in her research unit, will supply the Board with relevant information.

32. The overall position is summed up well by the Patten report. It states: (paragraph 6.23) *“it will be important for the Board to co-ordinate its activities with (the Police Ombudsman, Inspectorate of Constabulary or the Audit Office), so as to avoid a confused proliferation of scrutiny into the police service. The Board should have the responsibility for overall monitoring of police performance, and its activities will therefore be bound to overlap to some extent with those of the more specialised agencies like the Ombudsman or the Audit Office. Sensible practical understandings will have to be worked out as to who leads on particular issues.”* It will be for the Board and Ombudsman to make those practical arrangements.

*Para 57 The CPT would like to receive detailed information about the precise nature of the reforms which are envisaged for police disciplinary hearings.*

33. In line with changes in England and Wales, reforms to police regulations governing conduct and unsatisfactory performance of the police were introduced in Northern Ireland on 6 November 2000. The main change is to the standard of proof, which has changed from the criminal standard (beyond reasonable doubt), to the civil standard (on the balance of probability) for all disciplinary hearings. In other words, an officer may be cleared of a criminal charge where the proof required is still the criminal standard but may still be found guilty of an offence against conduct where the standard of proof is the civil standard.

34. Other notable changes are:

- that appeals will no longer be made to the Secretary of State but instead to an appeals tribunal;
- that appeals against sanctions will only be allowed where the finding is a requirement to resign, dismissal or a reduction in rank, and
- the removal of double jeopardy.

*Para 58 The CPT has noted that, in September 1999, the Independent Commission on Policing for Northern Ireland (the "Patten" Commission) recommended that all holding centres be closed "forthwith". The CPT considers that this would be a desirable development, and would like to be informed of any steps being taken to implement this recommendation.*

35. The holding centre at Castlereagh was closed shortly after the Committee's visit, on 31 December 1999, and the one at Strand Road on 1 October 2000. Gough Barracks will be closed as soon as alternative arrangements can be made for holding all suspects in custody suites based in police stations. The objective is to provide alternative interim facilities by autumn 2001 so that Gough would close at that point. In announcing the closure of Strand Road the Chief Constable said that "with immediate effect, solicitors would be allowed to be present during the interview of terrorist suspects" in Gough Barracks.

### Prisons

*Para 67 The CPT would like to be informed of the findings of the inquest [into the death of a prisoner on 30 March 1996 at Maghaberry Prison] as soon as it is completed.*

36. The inquest has been relisted to commence on 5 March 2001. In Northern Ireland all deaths in custody are referred to the Coroner, who has the responsibility for arranging dates for the Inquest.

37. To date the family have sought adjournments on two occasions.

Para 68 *The Committee recognises that prison staff will on occasion have to use force to control violent and/or recalcitrant prisoners. However, force should only be used as a last resort and must not be more than strictly necessary. In the light of its delegation's findings, the CPT recommends that prison officers in Northern Ireland be reminded of these precepts.*

38. Guidance to Prison Officers in accordance with the Committee's recommendations is already contained in the NIPS Standing Orders and in Operational Circular Instructions. The message is also being reinforced as part of staff induction and other training programmes.

Para 69 *In order to have an overview of the situation in Northern Ireland, the CPT would like to receive the following information for the period 1998 to 2000:*

- *the number of complaints of ill-treatment by prison officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;*
- *an account of those complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence or sanction imposed).*

39. Complaint information is not collected in a way that separates out ill treatment cases from other issues - e.g. complaints on general conditions. However, the best available information from other sources indicates the following for the period 1/4/98 to 31/3/99.

40. Within Maghaberry, there were 8 civil claims by prisoners against the prison authority that alleged ill-treatment by staff. Of these, 6 are ongoing; one was withdrawn; and one was awarded damages in court. This last case involved minor injuries associated with a closure of a grille. Within Magilligan, there were 3 civil claims by prisoners against the prison authority that alleged ill-treatment by staff. All are ongoing.

*Para 72 The CPT recommends that:*

- *steps be taken to bring an end to the practice of accommodating two prisoners in 6 to 7m<sup>2</sup> cells; further 12m<sup>2</sup> cells should never be used to accommodate more than three prisoners and preferably no more than two;*
- *prisoners be guaranteed access to sanitary facilities at all times, including at night;*
- *in those cases where in-cell sanitation is provided, the lavatory be adequately partitioned.*

41. The Northern Ireland Prison Service (NIPS) is committed to trying to reduce multiple cell occupancy to as low a level as possible. Plans are being considered to meet future population demands.

42. Access to sanitary facilities at all times, including at night, is now available in each prison establishment in Northern Ireland. Only a small number of prisoners at Magilligan who share accommodation do not have access.

43. However, risk assessment has indicated that the risk to prisoners from self-harming is greater in such circumstances and hence the recommendation has been rejected as a viable option.

*Para 73 The Committee wishes to make it clear that, in view of their size alone, such cubicles are not acceptable for the detention of a person for any length of time. The CPT would like to receive confirmation that the cubicles concerned are no longer being used and to be informed of current arrangements for holding prisoners in the reception unit at Maghaberry Prison.*

44. A new reception unit is being constructed at Maghaberry with large holding rooms and single standard size cells. This work is due for completion in March 2001.

*Para 75 The CPT recommends that priority continue to be given to developing regime activities for prisoners, having regard to the above remarks.*

45. The development of regime activities is well advanced since the Committee's visit . Staff allocation to Maghaberry regimes has been ring-fenced to ensure consistent and high quality delivery. A Personal Officer system there is also helping to underpin this. Similar arrangements operate at Magilligan where a new Induction Centre was opened in May 2000. At a corporate level, plans are advanced for the introduction of accreditation of programmes.

*Para 76 The CPT invites the United Kingdom authorities to pursue their efforts to expand the sentence-planning scheme, particularly as regards inmates serving long sentences at Maghaberry Prison.*

46. In Maghaberry, sentence management planning arrangements have been revamped. Both Magilligan and Maghaberry are well placed to meet agreed targets on sentence planning for eligible prisoners. The target for this year is for 50% of eligible prisoners to be working to a sentence plan. Sentence planning enables prisoners to exercise greater personal responsibility in choosing the programmes and activities that will help them achieve their goals and best facilitate reintegration into the community.

*Para 79 The CPT wishes to stress that association restrictions under Rule 32 should only be applied when absolutely necessary, and for the shortest possible period of time. In order to ensure that this is the case, it considers that the formal procedural safeguards offered to inmates to whom this rule is applied should be strengthened. It recommends that any prisoner against whom the measure of removal from association for reasons of good order and discipline is applied should have a 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.*

47. The NIPS applies arrangements that comply with the recommendations. i.e.:-

- The prisoner has the right to be informed in writing for the reasons of loss of association;
- He has the right to present his views on the matter to the deciding authority;

- He has the right to lodge an appeal to the relevant authority against the decision on removal of association and against any renewal of that decision

*Para 84 Maghaberry Prison's management intimated that they were dissatisfied with the regime in Erne 5, which they considered lacked a sound legal basis; apparently it had been decided that the close supervision regime" should be reviewed. The CPT recommends that steps be taken, without delay, to bring the regime in Erne 5 into accordance with the criteria set out by the ECPT in paragraph 82.*

48. The use made of Erne 5 has been changed. The so-called "close supervision landing" has been discontinued.

*Para 86 The CPT recommends that further efforts be made to resolve the predicament of vulnerable prisoners; the objective should be to address their fears by providing them with a secure environment and to encourage the to fully participate in the normal regime.*

49. A Vulnerable Prisoner Unit (VPU) has now been established and is in operation in Maghaberry. This was set up to hold prisoners who are under threat due to their offence or for prisoners who are prone to being bullied. Prisoners there enjoy the same regime as other houses at Maghaberry. They receive Visits, Gym, Education etc.

50. At Magilligan, specially designed wings offer a secure environment. Also, prisoners there are advised, on induction, as to what measures to take should they feel under pressure from others in the establishment. The imminent introduction of an anti-bullying strategy and a high profile campaign to introduce it should give anyone feeling isolated an assurance that bullying or intimidation will not be tolerate. In addition the introduction of a Personal Officer scheme would give vulnerable individuals confidence that there is someone who could deal with their problems on a one to one basis, and as such a scheme has begun being introduced into all prison establishments in the Northern Ireland Prison Service. It became effective in Maghaberry in December 2000 and will be introduced into Magilligan within the next month.



51. Similar arrangements are in place at HM YOC.

*Para 87 Attempts should continue to be made to persuade the persons concerned [a small number of prisoners held in connection with the activities of dissident paramilitary groups] to rejoin the prison community and, in the meantime, to provide them with purposeful activities and appropriate human contact.*

52. Appropriate efforts are made to encourage such prisoners to rejoin the prison community. This is done on the basis of risk assessments. There are currently no prisoners in self-imposed isolation.

*Para 89 The CPT recommends that the existing immigration detainee placement policy in Northern Ireland be reviewed, having regard to these remarks, and to the general criteria enunciated by the CPT in its 7<sup>TH</sup> general report. For so long as immigration detainees continue to be held at Magilligan Prison, the CPT recommends that they be strictly separated from persons suspected or convicted of criminal offences.*

53. The Government agrees that the current arrangements, where male detainees are accommodated with convicted prisoners is far from ideal. The UK Immigration Service has commenced a review of detention in Northern Ireland which it expects to complete later this year.

54. The review has had to take into account the needs of the detainees, their friends, relatives and representatives, but the solution must also be cost effective. Various meetings and discussions have taken place but there is still more work to do. The Government will, of course, make known the intended course of action when this has been decided.

*Para 90 The remote location of Magilligan Prison also created certain difficulties, in particular as regards access to lawyers and contact with relatives and friends. Further, the CPT's delegation was told that, upon receipt of an order to that effect, the prison service had to release immigration detainees, but had no further former legal obligation towards them. It would appear that, as a result, certain foreigners had found themselves outside the prison walls with no resources, and had to rely on the goodwill of prison officers or other third parties to pay for their transport. The CPT would like to receive the comments of the United Kingdom authorities on this subject.*

55. Any detainee who has the means to reach his proposed destination will make his own travel arrangements. However, any detainee who does not have sufficient means to do so is provided with a travel warrant in accordance with the arrangements for convicted prisoners who are released. The Northern Ireland Prison Service is not aware of any case where a destitute detainee was left without the means of onward travel.

*Para 95 The CPT would like to receive confirmation that [separate accommodation and daytime facilities for psychiatric patients at Maghaberry] has been [established].*

56. Patients at Maghaberry Prison's psychiatric unit now have separate accommodation and daytime facilities.

*Para 96 The CPT recommends that the level of psychiatric input for Magilligan's inmate population be reinforced.*

57. This matter will be addressed in a report on the provision of healthcare in prisons in Northern Ireland which it is expected will be available in the summer of 2001. In the meantime the Chief Medical Adviser is monitoring the situation.

*Para 97 The CPT recommends that steps be taken to remedy this deficiency. A mentally ill prisoner should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system. Whichever course is chosen, the accommodation capacity of the psychiatric facility in question should be sufficient to avoid prolonged waiting periods before necessary transfers are effected. The transfer of a mentally ill prisoner to a psychiatric facility should be treated as a matter of the highest priority.*

58. Discussions have taken place with the professionals concerned with a view to reducing delays. There are no prisoners currently awaiting transfer.

### Juvenile Justice Centres

*Para 105 At Lisnevin, the delegation gather information concerning several complaints lodged by children against members of staff in recent times. Moreover, one child who was interviewed during the visit alleged that he had been grabbed by the throat by a member of staff and pushed into his cell. The CPT understands that this case was the subject of an investigation shortly before its delegation's visit; it would appreciate receiving information on the outcome of that investigation.*

59. This case has been fully investigated at a number of levels. Following a police investigation, the Department of Public Prosecutions determined that the member of staff had no criminal case to answer. An internal investigation concluded that, in the absence of any substantial corroborative evidence, no further action should be taken.

60. Both of these investigations were reviewed under the inter-agency joint protocol arrangements in which Social Services and, in this case, the Social Services Inspectorate participated. The young person and his mother and the member of staff were given the opportunity to state again their version of events, to comment on the investigation process and to indicate the outcome with which they would be content. While both parties adhered to their original statements, the young person and his mother indicated that they did not wish to pursue the matter any further. In the absence of any conclusive evidence in support of either party's case, the joint protocol team concluded that the investigation should end there.

*Para 110 The CPT shares the reservations about the suitability of Lisnevin which have been expressed in the juvenile justice consultation paper, and by the Criminal Justice Review Group. For so long as the Centre remains in service, the CPT recommends that efforts be made to render inmate accommodation more attractive and welcoming (e.g. permitting residents to keep a reasonable amount of personal belongings and to personalise their living environment). The Committee would also like – in due course – to be informed of the outcome of the review of the juvenile justice estate.*

61. The limitations of the accommodation at Lisnevin are acknowledged. The Review of the Juvenile Justice Centre Estate has concluded that Lisnevin (and St Patrick's in West Belfast) should close and that a modern, purpose-built centre should be located on the existing Rathgael site. The new centre will take around four years to build.

62. In the interim, operations will be consolidated on the existing Rathgael campus. However, as facilities there will require substantial up-grading, Lisnevin will need to remain operational for the next 12-15 months. During this period essential safety work involving the installation of a new sprinkler system will be undertaken and attention will be paid to the decorative condition of the building.

*Para 113 The CPT recommends that measures be taken to ensure that all children in juvenile justice centres are guaranteed the possibility to take outdoor exercise for at least one hour every day.*

63. Exercise and physical activity are encouraged and promoted among the young people in custody. At the time of the Committee's visit to Rathgael there was a particular problem with a number of girls who posed a serious risk of escape. This had the effect of limiting their movement around the Centre to avoid placing them and others at further risk.

64. More typically, children at Rathgael participate not only in activities in the Centre but also in team and individual activities away from the Centre, such as the Duke of Edinburgh Award. The improved facilities planned for Rathgael will ensure that even those children who pose a risk of escape will have access to exercise and recreational activities.

*Para 114 The CPT wishes to stress that the placement of children in conditions resembling solitary confinement must be regarded as a highly exceptional measure. If juveniles are held separately from others, this should be for the shortest possible period of time and, in all cases, they should be guaranteed appropriate human contact granted access to reading material and offered at least one hour of outdoor exercise every day. The Committee would like to receive confirmation that this is the case as regards all categories of persons who may be held in juvenile justice centres [including those detained under Article 8 of the Criminal Justice (Children) (Northern Ireland) Order 1998.*

65. Children are not held in solitary confinement. Where a child is disruptive or is likely to harm themselves or others he or she may be moved to their bedroom or taken to a time-out room to calm down. Segregation or isolation is not used as a punishment and our records show that, in the past six months, the longest period of separation of a child in Lisnevin was two hours.

*Para 117 The CPT would like to receive detailed information about the training which is being provided to staff working in juvenile justice centres.*

66. Staff in the Juvenile Justice Centres come from a variety of professional backgrounds. Some are qualified social workers or teachers and others have a range of relevant vocational qualifications. In service, they receive further training through induction courses and on the application of specific skills such as dealing with bullying, drugs awareness, cognitive behaviour and human rights.

67. In addition, the Government is working through the Criminal Justice National Training Organisation (CJNTO) to establish standards for vocational training which are specifically tailored to the challenging task of working with young people in custody. The move to a single centre is seen as providing an important opportunity further to develop the skills and competences of the staff at all levels.

## ROLES OF THE POLICING BOARD AND THE POLICE OMBUDSMAN under the Police (Northern Ireland) Act 2000

See paragraphs 28 to 32 of the main response.

### The Board

1. The new Policing Board is, as recommended by the Independent Commission on Policing for Northern Ireland (Patten), a body designed to improve the democratic accountability of the police and to involve the community as a whole in the delivery of policing. A significant range and number of powers are given to the Board (some of these build on powers previously held by the Police Authority for Northern Ireland and others are new and unique). The Police (Northern Ireland) Act 2000, which received Royal Assent on 23 November 2000, provides for the Board to:

- secure the maintenance of the police (section 3);
- hold the Chief Constable to account for the exercise of his functions and those of the police, the police support staff and traffic wardens (section 3);
- monitor the performance of the police in carrying out its general duty, in complying the Human Rights Act 1998 and in carrying out the policing plan which the Board issues (section 3);
- keep itself informed as to the working of the police complaints system (section 3);
- assess the level of public satisfaction with the performance of the police (section 3).

2. The principal building blocks in the Police (Northern Ireland) Act 2000 by which the Board is to hold the police to account are:

- through police planning (section 26);
- through the negotiation of the annual policing budget with the Government;
- through the appointment of chief officers and civilian equivalents, as well as having the power to remove them;
- as the disciplinary authority for chief officers and civilian equivalents;
- through the issuing of a code of ethics, laying down standards of conduct and practice expected of police officers (section 52);
- as a statutory consultee in a number of areas, including, for example, on the content of guidance by the use by police officers of equipment designed for use in retaining or restoring public order (section 53).

3. The Policing Board will also have the primary role in promoting the efficiency agenda for the police service (sections 28-31).

4. The Board may also issue a code of practice to the new local accountability bodies (district policing partnerships DPPs) setting out how the DPPs should exercise their functions (section 19). There are a number of other provisions in Part III of the Act setting out the relationship between the Board and DPPs).

5. The Board will be able to require the Chief Constable to submit a report to him on any matter connected with the policing of Northern Ireland as it specifies, subject to certain limitations (when the Chief Constable may ask the Secretary of State to set aside the requirement – the limitations are national security, information of a sensitive personal nature, information which would or would be likely to prejudice proceedings which have been commenced in a court of law or would, or would be likely to prejudice the prevention or detection of crime or the apprehension or prosecution of offenders (section 59);

6. Having considered a report, the Board may, after consulting the Chief Constable, cause an inquiry to be held into a matter arising where it believes the issue is grave or exceptional. This power is not available to police authorities in Great Britain. The same limitations as apply to the report power are included in the legislation. The Board may ask, among others, the Ombudsman to conduct an inquiry and the Ombudsman may comply with such a request and shall do so if directed by the Secretary of State (section 60).

### The Police Ombudsman

7. The Police Ombudsman's powers derive from the Police (Northern Ireland) Act 1998 and these are supplemented by the Act (sections 62-66).

8. The Patten Report supported the independent report on the Northern Ireland police complaints system by Dr Maurice Hayes of 1997. It commented that "the Hayes Report was accepted by all the parties in Northern Ireland and by the police themselves, and its recommendations passed into law in 1998". It did, however, make recommendations concerning the Ombudsman and, where these were not already in the 1998 Act, or needed clarification, the Government sought to reflect them in the Act. For example, the Ombudsman's ability to make reports on police policies and practices (section 63).