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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

from 14 to 19 March 2004

The United Kingdom Government has requested the publication of this response. The report of the CPT on its March 2004 visit to the United Kingdom is set out in document CPT/Inf (2005) 10.

Strasbourg, 9 June 2005

RESPONSE BY THE GOVERNMENT OF THE UNITED KINGDOM TO THE REPORT BY THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT FOLLOWING ITS VISIT TO THE UK FROM 14 MARCH TO 19 MARCH 2004

Introduction

1) Following its visit to the United Kingdom from 14 March to 19 March 2004 to examine the treatment of persons detained under the Anti-Terrorism, Crime And Security Act 2001(ATCSA), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued an immediate statement to the United Kingdom Government pursuant to article 8, paragraph 5 of the European Convention for the Prevention of Torture. The Government responded to that statement on 11 June 2004. The CPT issued its final report on the visit on 23 July 2004.

2) The Government welcomes the opportunity to respond to this report and would like to assure the Committee that the delay in making a formal response is not due to any disregard of the Committee's findings. The delay does, however, allow the Government to bring the CPT up to date with the new legislative measures that it has introduced in the Prevention of Terrorism Act 2005 which replaces the ATCSA Part 4 powers which has resulted in significant changes in circumstance for the individuals in question, who are now no longer detained in prison. Further details are provided below.

3) The Government set out the general context of the introduction of the ATCSA, and the subsequent certification and detention of suspected terrorists in its response of 11 June 2004. The Part 4 powers were exceptional immigration powers which enabled the Home Secretary to certify and detain foreign nationals who were suspected of involvement in international terrorism and who were believed to present a risk to national security but who could not, at that time, be removed from the UK. This was primarily because of fears that if returned to their countries of origin those detained would suffer torture, putting the United Kingdom in breach of Article 3 ECHR, the United Nations Convention Against Torture (UN CAT), and the International Covenant on Civil and Political Rights (ICCPR). Since detention in these circumstances was arguably contrary to Article 5 of the European Convention on Human Rights (ECHR), the UK derogated from that Article (in accordance with Article 15 ECHR), as well as from Article 9 of the International Covenant on Civil and Political Rights (ICCPR).

4) Only 17 people were certified under this power (16 certified and detained, and one certified but detained under other powers). Those certified had a right of appeal to the Special Immigration Appeals Commission (SIAC), and all 17 exercised their right. SIAC has heard 16 appeals (one is outstanding) and upheld the Home Secretary's decision to certify in all but one of the cases. The determinations for the first ten appeals were handed down together. The appellants (A et al) were given leave to appeal to the Court of Appeal, which was heard in July 2004 and the judgment given on 11 August 2004. The Court of Appeal upheld the position taken by the Home Secretary.

5) The legality of the derogation sought in relation to the ATCSA Part 4 powers has also been separately challenged in the Courts. On 30 July 2002 SIAC upheld the Home Secretary's conclusion that the Part 4 powers remained a necessary and proportionate response by the Government in view of the public emergency threatening the life of the nation within the terms of Article 15 of the ECHR. SIAC however considered that the provisions of the Act were discriminatory contrary to Article 14 ECHR in so far as they permitted detention of suspected international terrorists in a way that discriminated against them on the ground of nationality. The Court of Appeal reversed this decision on 25 October 2002 (but also upheld the Home Secretary's conclusion that the Part 4 powers remained a necessary and proportionate response by the Government in view of the public emergency threatening the life of the nation).

6) The case was subsequently taken to the House of Lords. On 16 December 2004 the Law Lords quashed the derogation order and concluded that section 23 ATCSA was incompatible with Articles 5 (deprivation of liberty) and 14 (prohibition of discrimination) of the ECHR. The basis for the decision was that detention of foreign suspected nationals was discriminatory and disproportionate in that (a) the measures targeted foreign nationals alone and (b) it could not be said that measures short of detention would not adequately meet the threat posed by international terrorists.

7) In the light of the House of Lords judgment, the Government introduced measures that could apply to UK and foreign nationals alike and which did not involve imprisonment. The Prevention of Terrorism Bill 2005 was enacted on 10 March 2005 introducing a new system of Control Orders.

8) The Act provides for the imposition of "control orders" upon individuals who are involved in terrorism-related activity. These "control orders" are preventative orders which impose one or more obligations upon an individual which are designed to prevent, restrict or disrupt his or her involvement in terrorism-related activity. The legislation is applicable to all individuals regardless of nationality or perceived terrorist cause.

9) The orders themselves are based on a menu of options that can be employed to tackle particular terrorism activity on a case by case basis. This could for example include measures ranging from a ban on the use of communications equipment to a restriction on an individual's movement. The Act therefore allows for a flexible range of preventative orders to be employed in order to disrupt an individual's activities. This allows for orders to be tailor made and therefore proportionate to the threat that the individual actually poses.

10) The Act provides for two types of order: 'non-derogating control orders' in which the obligations imposed do not amount to a deprivation of liberty within the meaning of Article 5 ECHR; and 'derogating control orders', which impose obligations that do amount to a deprivation of liberty. The Government does not intend for the present time to seek a derogation from Article 5 of the ECHR.

11) 'Derogating control orders' can only be served where the pre-conditions set out in the Act have been met. First, there must exist a derogation from Article 5 that has been designated by an order approved by both Houses of Parliament. Second, the derogating obligations in the control order must be of a description set out in the designation order. A 'derogating control order' is made by a court, on application by the Secretary of State. If a control order is made amounting to a deprivation of liberty within the meaning of Article 5, but in circumstances where the pre-conditions explained above have not been met, the courts may quash that order.

12) The court procedures for 'non-derogating orders' are different in that the Secretary of State makes a control order after seeking permission from the court. However, in certain cases (including cases of urgency), the Secretary of State can make a non-derogating control order without first seeking the permission of the court but he must refer it immediately to the court for confirmation. There will subsequently be a full hearing before the High Court or Court of Session, at which the individual will be represented by an advocate of his choice; in so far as it is necessary for the court to consider "closed material", the individual's interests will be represented by a special advocate. At the hearing, the court will apply the principles applicable on an application for judicial review.

13) Significantly, the new orders seek to address the threat without detention in prison. However, a breach of any of the obligations of the control order, without reasonable excuse, is a criminal offence punishable on indictment with a prison sentence of up to five years or a fine or both and on summary conviction (in England and Wales) with a prison sentence of up to 12 months or a fine or both. It is also an offence intentionally to obstruct a person exercising a power of search or entry for the purpose of serving the control order upon the individual, punishable (in England and Wales) by imprisonment for up to 51 weeks.

14) The circumstances since the CPT's visit have changed for the individuals detained under the former Part 4 powers in that they have all been released from prison and had Control Orders served on them. However, the United Kingdom wishes to respond to the criticisms raised in the Committee's report. In particular the conditions of detention and provision of medical facilities are matters that the government takes very seriously for all prisoners.

15) In particular, the Government views with grave concern the Committee's assertion at paragraphs 19 and 20 of the report that, at the time of the visit, the situation of some detainees "could be considered as amounting to inhuman and degrading treatment", which implies that the United Kingdom was in breach of its Article 3 obligations under the ECHR. The Government categorically rejects that assertion and maintains that throughout their detention under the ATCSA powers, the individuals received humane and decent treatment and the appropriate levels of medical and psychological care. These fundamental concerns are addressed in more detail in paragraphs 45-54 in this response.

16) The detainees were held under the same regime as other standard risk category A prisoners, which was considered the appropriate security classification on the basis of the risk that they posed. They had access to family and friends, were able to associate with other prisoners, make telephone calls, write and receive letters. They had access to an Imam. Most importantly they had the same access to their lawyers as any other prisoner. They were not incommunicado and if they were being tortured or otherwise ill treated they could have brought proceedings to stop it and claim damages. They had all the options provided by administrative and civil law and the bail provision in the Act also provides a remedy in relation to the conditions or consequences of detention.

17) This paper builds on the information provided in the response by the United Kingdom to the statement made by the Committee on 19 March 2004. It deals with the recommendations, comments and requests for information made by the Committee in the order that they occur in the Report.

Issues Raised by the Committee

Section A: Ill Treatment

18) The Government is pleased that the Committee found at Woodhill Prison "unanimous" approval by the detainees of the staff's "positive attitude" towards them. However, it does not accept that the staff's conduct towards the detainees held in Belmarsh Prison amounted to "ill treatment." HMPS believes that the treatment received by the detainees was the best possible in the circumstances, and never fell below the standards of humanity and decency under which it always seeks to operate.

(CPT (2004) 49, Paragraph 9) In their response dated 11 June 2004, the authorities confirmed that this person had been placed in the intensive-care "suite" for a very short period for his "safety", without, however, specifying the practical conditions. **The CPT would like to obtain clarification of this point, in particular with regard to whether it is possible for patients to be left in this room without clothing.**

19) A prisoner would be placed in the intensive care suite only if there were urgent medical reasons for doing so, for example, if staff had concerns about the risk of serious self-harm. There was only one occasion when a detainee was located in the intensive care suite: this was for one night only because of concerns for his health after he had indicated intent to harm himself. He was not placed in the intensive care suite without clothing and no complaint to this effect was ever received either from the detainee or from a lawyer acting on his behalf.

(CPT (2004) 49, Paragraph 9) . . . the delegation observed for itself in situ that certain staff members used abusive and aggressive language towards patients or laughed with derision while watching a patient in the room through a camera; this demonstrated that the risk of the situation getting out of hand is far from theoretical. **The CPT recommends that staff at Belmarsh Prison be reminded that ill-treatment of any form, including threats, abusive or aggressive language and mockery, will not be tolerated and will be the subject of severe sanctions.**

20) The intensive-care suite has a CCTV camera in place so that any person located there can be monitored. Pictures are relayed to a monitor located in the staff control station, which is a busy office dealing with many matters, some 10 metres away. A possible explanation for this incident is that conversations on other issues between staff who were in the area were misinterpreted by the Committee. If the Committee could provide further detail on this allegation, HMPS would investigate it thoroughly.

21) HMPS aims to deal with all those in custody fairly and with decency. Any allegations of staff using threatening behaviour, abusive language, or mockery are treated seriously and are thoroughly investigated. Staff are reminded during daily briefings of the importance of maintaining the highest standards of prisoner care and decency. Inappropriate behaviour by staff is not tolerated and Belmarsh prison has taken disciplinary action against staff that have fallen below the high standard of conduct demanded of them (e.g. exhibiting behaviour towards other staff or prisoners not deemed appropriate for an officer working within a high security prison). There was never a need to take disciplinary action against any of the staff in relation to their treatment of detainees held under the ATCSA powers.

22) All those detained in prison custody are able to make complaints either through the internal prison complaints system or through their legal representatives. Some ATCSA detainees and their legal advisers used both complaints channels, for a range of issues including relatively minor matters such as a delay in receiving a particular newspaper. HMPS can confirm that every complaint was investigated, responded to and appropriate action taken.

23) The complaints system is readily accessible and subject to independent examination by a Prisons and Probation Ombudsman. Prisoners (including the detainees) also have access to the courts, should they consider they are not being treated with fairness or decency.

(CPT (2004) 49, Paragraph 10) Persons detained under the ATCSA in Belmarsh Prison also claimed that they were sometimes victims of racist behaviour by other prisoners, with staff failing to intervene. In this regard, **the CPT trusts that as part of the anti-bullying strategy developed by the Prison Service over several years, the United Kingdom authorities will take the necessary steps to ensure that Belmarsh Prison staff are alert to the risk of such conduct towards these persons and intervene appropriately whenever necessary.**

24) The detainees' representatives made no complaints of this nature. Had there been reports of any incidences of racism, they would have been rigorously investigated. All Prison Service staff are trained to be aware of the need to address racist conduct whatever its source. Prisoners are encouraged to report any such conduct to a member of staff without delay so that appropriate action can be taken. A Racial Incident Reporting System exists to facilitate this. Where reports of such conduct are made, the matter is always investigated. Appropriate action is taken when necessary, including the use of disciplinary action against staff or prisoners.

25) All prisons in England and Wales have a Race Relations Liaison Officer and a Race Relations Management Team (RRMT) and at Belmarsh and Woodhill the Governor chairs the meetings of the RRMT. The RRMT at Belmarsh includes prisoner representatives, and some of the detainees were involved in this body. There is nothing in the records of the RRMT meetings to indicate any general concern about race relations in the prison.

Section B: Response to the immediate observation pursuant to Article 8, paragraph 5, of the Convention in relation to three persons detained under the Anti-Terrorism, Crime and Security Act 2001

(CPT (2004) 49, Paragraph 11) In the light of the delegation's request and of the conclusions and proposals of the Broadmoor Special Hospital [now Broadmoor High Secure Hospital] medical team and other expert reports, **the CPT recommends that the United Kingdom authorities take the necessary steps to ensure that this patient [placed in Broadmoor Special Hospital], whose mental health has deteriorated seriously whilst in detention, benefits without further delay from the whole range of treatment required by his condition in care facilities that correspond to his clinical profile.**

The CPT would also like to receive precise information on the individualised treatment plan for this patient drawn up since the delegation's visit.

26) The Committee questioned whether it was appropriate for the patient detained in Broadmoor to remain there, suggesting that his medical needs could be met by local psychiatric services. The Responsible Medical Officer did request an assessment for medium secure services, but no response was received and no assessment could be arranged before the patient was discharged. The Home Secretary received a number of medical reports on 'X', some of which came to different conclusions about his diagnosis and his need for treatment in hospital. The Home Secretary took the view, having considered these reports, that 'X' should be transferred from prison to hospital for treatment. In such cases, it is for the Home Secretary to decide the appropriate level of hospital security required. Due to the risk presented by 'X', the Home Secretary decided that he should be transferred to Broadmoor, a high security hospital. That evidence was accepted by the Mental Health Review Tribunal (MHRT) at a hearing on 9 January 2004. The MHRT is an independent judicial body, which has powers under the Mental Health Act 1983 to discharge restricted patients. The Tribunal's decision was upheld by the High Court on 23 July 2004 (*R (A) v Mental Health Review Tribunal and Others CO/1747/2004*).

27) The patient was cared for in a psychiatric hospital in a ward staffed by registered mental health nurses, supported by healthcare assistants. The Clinical Team responsible for his care included a Consultant Forensic Psychiatrist, an experienced Associate Specialist, a Psychologist, an Occupational Therapist and a Social Worker, all of whom were involved in his individual treatment. The team kept this patient's case under regular review until his release. For example, as the Committee points out, soon after their visit he was transferred back to Canterbury Ward, which is used for treatment of less dependent patients.

28) All reports prepared for Care Programme Approach meetings (six monthly reviews of patient's care), MHRT meetings and SIAC were translated into Arabic for the patient. One of the Clinical Nurse Managers was able to interpret for the patient and he met regularly with staff and the patient to discuss all aspects of his treatment plan.

29) It would be inappropriate for Broadmoor Hospital to provide a copy of the individualised treatment plan since the patient has now left their care and the hospital must comply with the rules regarding medical confidentiality. In general terms the plan included: one-to-one work with a psychologist, with a particular focus on anger management, which commenced in June 2004; continued sessions with his primary nurse to support his cultural and spiritual needs (including supported attendance at the Mosque on Fridays); and continued attendance at off ward activities, particularly sports and leisure sessions. He was also referred to the Skills Development Unit to assess his ability to engage in work and vocational opportunities. He was treated with anti-depressant medication. Broadmoor believes that the treatment this patient received did meet his particular needs.

30) On 31 January 2005 SIAC decided to grant bail in principle to this individual. He remained in detention pending a hearing to set bail conditions, for which the Government was particularly keen to ensure an appropriate health care plan was in place. He was bailed on 11 March and then served with a Control Order the following day with conditions broadly similar to those previously agreed for his bail.

(CPT (2004) 49, Paragraph 12) The CPT notes in connection with the allegations of verbal abuse by staff that disciplinary proceedings have been launched against one staff member while in two other cases the allegations were found after investigation to be unsubstantiated. **It would like to receive in due course the results of the disciplinary proceedings in the first mentioned case, as well as further details concerning the grounds for the conclusions reached in the two other cases. It would also like to be informed of the response of the National Health Service to the other complaints submitted by the patient.**

31) A formal disciplinary hearing did take place. The allegations against the member of staff in the first case were upheld and appropriate actions were taken against this staff member. It is not possible to provide further detail due to staff confidentiality.

32) The two other formal complaints made in December 2003 where the patient alleged verbal abuse were investigated under the Trust complaints procedure. Neither was substantiated: in the first case there was insufficient evidence; in the second case the patient withdrew his complaint.

33) During the patient's admission to Broadmoor Hospital, 30 issues were raised in 12 letters of complaint by the patient, or by a relative on his behalf. These complaints mainly relate to:

Attitudes of staff, including the three complaints of verbal abuse mentioned above
Problems with family visit arrangements
Issues to do with telephone access
Issues to do with access to religious and cultural needs

34) Each complaint was investigated under the Trust complaints procedure. Appendix 1 lists all thirty complaints and their outcomes.

(CPT (2004) 49, Paragraph 13) Finally, for so long as this patient is held in Broadmoor, **the CPT trusts that all possible steps will be taken to ensure that he can practise his religion and receives food which is in keeping with his dietary habits.**

35) Broadmoor strongly believes in respecting the diverse religious and cultural needs of all its patients. The multi-disciplinary team responsible for the patient's care ensured that his religious and cultural needs were met within the limitations of high security including ensuring that he was able to attend the Mosque each week.

36) In relation to dietary needs, the Trust seeks to provide a range of meal options for patients to meet a variety of dietary needs. However, it recognises that the range of specialist food in the patients' shop in the hospital is limited. In view of these limitations, Broadmoor did permit the patient's family to bring food to share with him during their visits. Contracts are currently being reviewed to identify whether alternative providers might be able to offer an extended range.

(CPT (2004) 49, Paragraph 15) For so long as this person [known as 'P'] is deprived of his liberty, **the CPT calls on the United Kingdom authorities to take the necessary steps, without delay, to address the risk of permanent damage, in accordance with the request made by its delegation at the end of the visit.**

37) Shortly after the Government responded to the Committee's statement, 'P' was assessed by the Belmarsh mental health team as requiring in-house treatment for his mental disorder and was transferred to Broadmoor Hospital. He stayed here until SIAC granted a Bail Order on 11 March 2005.

38) Notwithstanding the transfer to Broadmoor, the Authorities at Belmarsh Prison disagree with the Committee's evaluation of 'P's' treatment at Belmarsh. While 'P' was detained in Belmarsh he was offered daily nursing care to assist with the everyday needs of a person with such a disability such as toileting, feeding, bathing, cell cleaning and tidying. In addition, 'P' had access to a well-equipped health care centre to address any problems he demonstrated. Belmarsh took the initiative to address his disability and to encourage him to use the prostheses obtained by them. At no time was any force exerted on 'P' to make him use the prostheses.

39) Belmarsh Prison does not accept that staff threatened 'P' and withdrew nursing assistance necessary for him to perform his everyday functions. From February 2004 until his transfer to Broadmoor 'P' was provided with assistance from a carer for up to six hours a day. In many instances 'P' declined to accept all the assistance on offer. Assistance with his everyday needs was withdrawn only following 'P's' refusal to co-operate with the agency nursing staff engaged specifically to provide that assistance.

Section C: The mental and physical well-being of other persons detained under the Anti-Terrorism, Crime and Security Act 2001

1. Situation observed in the prisons visited

(CPT (2004) 49, Paragraph 16 (3)) They [the authorities at Belmarsh] stated, moreover, that this restriction applied to all Category A inmates and that waiving it for one individual or group of individuals would only disadvantage the other inmates. The CPT does not share this view, which fails to take account of the specific status of persons detained under the ATCSA. Moreover, it represents a much more rigid attitude than that adopted in Woodhill Prison.

40) The security category of those detained under the ATCSA was determined on the basis of intelligence information supplied to the Prison Service and by the reason for their detention, namely that they were suspected international terrorists within the meaning of the ATCSA. It is necessary to identify a security category for every person held in a prison regardless of their legal status, and every person is assessed individually on the merits of their own case. Category A was considered the appropriate security category for these detainees and where a person is so classified they will be held in a high security prison and have appropriate restrictions imposed on them. The definition of a person classified as Category A is one whose escape would be highly dangerous to the public or the police or the security of the State and for whom the aim must be to make escape impossible.

41) The Committee considered that a "much more rigid attitude" was adopted towards the restrictions applied to Category A inmates in Belmarsh, than in Woodhill Prison. These restrictions have to be managed within the framework of each prison. There are two levels within Category A: high risk or standard risk. The detainees were originally classified as high risk, but this was reviewed and changed to standard risk, which was the minimum security classification necessary to manage the detainees within the prison system. The solicitors for some of the detainees did appeal the classification, but the categorisation was upheld.

42) The UK Government did, however, seek to take account of the special circumstances of the detainees. Lord Carlile, a respected barrister and judge and a member of one of the opposition parties was the independent reviewer of the operation of Part 4 of the ATCSA. (He is also the independent reviewer of both the Terrorism Act 2000 and recently the operation of the new Control Orders scheme under the Prevention of Terrorism Act 2005). The Home Secretary took Lord Carlile's recommendations seriously and in response asked the prison service to set up a new secure unit that would enable those detained under the Act to have a more relaxed regime offering greater internal freedom of association and activity that reflected their unique status but which was compatible with the need for security. A unit was identified at Woodhill Prison which was refurbished and staff were trained to run the unit.

43) The detainees were given the option of moving to the Unit on a voluntary basis but none chose to do so. The Government does not accept the criticisms of the Unit outlined in paragraph 25 of the Committee's report (for which a specific response is provided below at paragraph 57) and considers that the Unit would have been an appropriate facility for the detainees. The Government did not wish to compel the detainees to transfer since it had advised them from the early planning stages that this would be a voluntary move only. Since they chose to remain in Belmarsh prison the staff had to treat them according to the rules in place for all prisoners of the same security classification. The detainees therefore had to comply with the regime in place, as it was not possible to provide two separate regimes within the same accommodation. The Committee's concerns about educational activities and other facilities are dealt with in paragraphs 60-63.

(CPT (2004) 49, Paragraph 19) In fact, the information gathered during the 2004 visit reveals that the authorities are at a loss at how to manage this type of detained person, imprisoned with no real prospect of release and without the necessary support to counter the damaging effects of this unique form of detention. They also highlight the limited capacity of the prison system to respond to a task that is difficult to reconcile with its normal responsibilities. The stated objective, in the response to the CPT's report on the February 2002 visit, of formulating a strategy to enable the Prison Service to manage most appropriately the care and detention of persons held under the 2001 Act, has not been achieved.

44) HMPS does not accept that officials were "at a loss" as to the management of those detained under the ATCSA. Whilst the detainees had not been convicted of any offence, they were lawfully detained in accordance with the ATCSA and had to be managed within the existing prison system. They did have a unique legal status, but HMPS has other experience of dealing with individuals outside its "normal responsibilities" who have not been convicted of any offence, such as prisoners on remand and individuals detained pending extradition. On the recommendation of Lord Carlile, a strategy was formulated to allow some flexibility to the way Category A prisoners were held, which involved setting up the separate unit at Woodhill prison as outlined above. The unit at Woodhill was an alternative way of managing the detainees as Category A prisoners – it was not a way to circumvent this security classification. The detainees were given every opportunity to move to the specially refurbished unit but when they chose not to it was used for other purposes. HMPS considers the detainees were treated humanely and decently at all times while held in prison custody, and treated with the same standard of care as is afforded to all prisoners.

(CPT (2004) 49, Paragraph 19) Two years after the CPT visited these detained persons, many of them were in a poor mental state as a result of their detention, and some were also in poor physical condition. Detention had caused mental disorders in the majority of persons detained under the ATCSA and for those who had been subjected to traumatic experiences or even torture in the past, it had clearly reawakened the experience and even led to the serious recurrence of former disorders. The trauma of detention had become even more detrimental to their health since it was combined with an absence of control resulting from the indefinite character of their detention, the uphill difficulty of challenging their detention and the fact of not knowing what evidence was being used against them to certify and/or uphold their certification as persons suspected of international terrorism. For some of them, their situation at the time of the visit could be considered as amounting to inhuman and degrading treatment.

45) Although the Government respects the conclusions reached by the delegates of the Committee based on the observations on the day of the visit, it categorically rejects the suggestion that at any point during their detention the ATCSA detainees were treated in an "inhuman or degrading" manner that may have amounted to a breach in the United Kingdom's international human rights obligations. The Government firmly believes that at all times the detainees received appropriate care and treatment in Belmarsh and had access to all necessary medical support, both physical and psychological, from medical support staff and doctors. The Government accepts that the individuals had difficult backgrounds prior to detention, but does not accept that "detention had caused mental disorders." Some of the detainees had mental health issues prior to detention, but that did not stop them engaging in the activities that led to their certification and detention. Mental health issues do not prevent an individual from posing a risk to national security.

46) Belmarsh has in custody a wide range of prisoners with difficult backgrounds and varying needs and the medical facilities that are available are able to address such needs. More detailed information on health care provisions is provided at paragraphs 52-54.

47) The Government does not accept that those certified under the ATCSA part 4 powers were detained without any prospect of their release. The powers were immigration powers which enabled, under the conditions set out in the Act, an individual to be detained because they could not, at that time, be removed from the country. By January 2005, only 11 of the 17 individuals certified under the part 4 powers remained in prison under ATCSA detention. Those who remained the subject of a certificate did so because they continued to pose a threat to national security. The detainees were free to leave the United Kingdom voluntarily at any time and two individuals chose to do so.

48) There was a wide range of safeguards which protected the rights of the detainees and kept open the prospect of their release:

- Detainees had a right of appeal to SIAC, a Superior Court of Record, against their certification as a suspected international terrorist under the Act;
- Detainees had the right to apply to SIAC for bail at any time;
- There was also statutory review process. Certifications had to be reviewed by SIAC six months after certification or, if the individual appealed, six months after the date on which their appeals against certification were finally determined. Certification was then reviewed every three months thereafter. On a review, SIAC was obliged to cancel the certificate if it considered that there were no longer reasonable grounds for the Secretary of State's belief or suspicion;
- Detainees also had the right to challenge the United Kingdom's derogation from Article 5 of ECHR which underpinned Part 4 of ATCSA;
- The ATCSA part 4 powers had a sunset clause and were subject to annual renewal by Parliament;
- A Committee of Privy Counsellors (senior members of both Houses of Parliament), headed by Lord Newton of Braintree, was appointed to review the operation of the Act;
- The working of Sections 21 to 23 (certification and detention) of Part 4 of the ATCS Act was also subject to independent annual review by Lord Carlile of Berriew.

49) The Government maintains that the detention powers were an appropriate response to the public emergency that this country faced following the events of September 11th. The powers were judged by Parliament to be necessary to protect national security in the United Kingdom.

50) On no occasion did SIAC, or any other court, find that the conditions of detention breached the absolute obligation imposed upon the Government by Article 3 of the ECHR. It is the Government's view that, given the extensive judicial safeguards available to the detainees, the Government would not have been able to maintain the detention of these individuals had the powers breached the detainees' Article 3 rights in any way. To suggest otherwise would be to ignore the extensive contact the detainees had with the British judicial system and the absolute obligation upon the judiciary to protect against any such breach.

2. Assessment and Action Proposed

51) In the light of the fact that the individuals are no longer detained in prison, the recommendations in this section, particularly with regard to effecting more specific health care provisions and undertaking a "fundamental review" of the approach towards managing the ATCSA detainees more generally, are no longer valid. However, the findings that prompted these recommendations do merit close examination.

(CPT (2004) 49, Paragraph 22) In the report on its 2002 visit (paragraphs 25 to 27), the CPT had anticipated some of these risks and had recommended that consideration be given to the specific needs – both present and future – of this category of detainee in terms of psychological support and/or psychiatric treatment and that steps be taken to ensure that they received appropriate care in order to meet those needs. It must be said that this has not happened.

(CPT (2004) 49, Paragraph 23) It is essential that ATCSA detainees whose state of health so requires benefit, without further delay, from treatment appropriate to their specific needs, in or with the support of appropriate care facilities capable of offering the therapeutic environment necessary for such treatment and a proper doctor-patient relationship. **The CPT calls upon the United Kingdom authorities to take the necessary steps to this effect.**

52) These comments in relation to the provision of health care at Belmarsh will be addressed together. Belmarsh Prison does not accept that the level of health care supplied was deficient but considers that the medical needs of the detainees were met. As the Committee is aware, the prison has a fully equipped Health-Care Centre, with a Consultant Psychiatrist in post, providing a wide range of medical facilities and specialist services. There is also access to additional health care facilities at the local hospital. The Prison has a video link with the local hospital enabling medical consultations to take place without the need for prisoners to leave the prison. The Prison will arrange for any prisoner to have a medical consultation with an independent doctor chosen by the person concerned should this be required. Any recommendations arising from such consultations are carefully considered, provided they are made available to the prison authorities. This is a routine procedure and such arrangements were made on a number of occasions for ATCSA detainees.

53) In 2004 the Deputy Director General of the Prison Service commissioned the Department of Health to review the healthcare available to ATCSA detainees at both Belmarsh and Woodhill prisons. The purpose of the Review was to ensure that the detainees had proper access to all relevant healthcare services. The Review was carried out by a team of five independent health professionals. The team reviewed the systems in place at both prisons against the current service standards for the delivery of primary and secondary health care services to prisoners. In the course of these reviews, various members of staff were interviewed and all medical papers were examined, including link records (non-medical records read in conjunction with medical notes).

54) The review team found that a wide range of health care facilities and clinics was available at Belmarsh. The service was of a good quality with no significant gaps in provision. The review team found that a basic range of health care facilities was available at Woodhill. The team also found that there was clear evidence of partnership-working with the local Primary Care Trust which would bring about a further improvement in the current services and the delivery of new ones. The mental health in-reach team was providing a good quality service but that would be improved by the appointment of a permanent psychiatrist, as was the case at Belmarsh. The Review concluded that the health care services available to detainees at Woodhill and at Belmarsh were equivalent to those available to other Category A prisoners. Whilst ATCSA detainees were a unique group, the circumstances of their detention and their backgrounds are not significantly different from individuals on remand or detained pending extradition. HMPS seeks to ensure that all prisoners receive appropriate healthcare to address their individual needs.

55) Within England and Wales healthcare in the community is undergoing considerable changes, with the establishment of Primary Care Trusts (PCTs) who will be the responsible body within their local area. The PCTs are established within communities with Boards whose composition reflects both the local community and the professionals who deliver their healthcare. The PCTs will deal with both primary care and mental health issues with separate trusts designed to deliver both aspects of healthcare.

56) A decision has been taken to transfer the responsibility for the healthcare of prisoners to the PCTs who will be totally responsible for the delivery of both primary and specialist services for prisons in their areas. The recommendations from international instruments have always been that healthcare in prisons should as near as possible reflect that which is delivered in the community. The transfer, which will be completed in 2006, is seen as a way of improving the delivery and quality of healthcare in prisons as well as reflecting the delivery and standards of care in the community. This will be monitored against standards by the Healthcare Commission, an independent body established for auditing and monitoring clinical standards in all healthcare establishments, including prisons.

(CPT (2004) 49, Paragraph 25) For its part, the CPT is not surprised by the detainees' reaction. Indeed, the layout of the Unit is based on a high security concept and creates a claustrophobic and oppressive atmosphere, a state of affairs which is exacerbated by the fact that the unit would function quasi-autonomously with the detainees rarely leaving its confines. Whatever efforts might have been made to establish an extended and varied regime of activities, this could not have offset the aforementioned negative features. Moreover, incarceration in such a unit – which is reminiscent of the Belmarsh high security unit – could only serve to reinforce the ATCSA detainees' sense of stigmatisation and isolation, and their fear of being totally abandoned. The CPT can only welcome the authorities' decision not to continue down this path.

57) As considered in paragraphs 42-44 above, HMPS set up the new unit at Woodhill on the basis of Lord Carlile's recommendations. The detainees were given the option of moving to the unit on a voluntary basis but, as the Committee notes in its Report, none chose to do so. HMPS does not accept that the layout of the Unit "create[d] a claustrophobic and oppressive atmosphere" which would have reinforced the "ATCSA detainees' sense of stigmatisation and isolation, and their fear of being totally abandoned." It was designed to be a high security unit to reflect the requirements of managing Category A prisoners. Although initially this Unit was intended to operate separately from the remainder of the prison under a more relaxed regime with a different timetable, HMPS intended to consider whether it was possible for the detainees and other prisoners to mix on occasions. The decision of the detainees not to move to the new unit meant that this potential development was never pursued.

(CPT (2004) 49, Paragraph 26) If security measures are deemed to be necessary, they must be based on an individualised assessment of the risks and needs, and not on a classification generally imposed by the central prison service. In practical terms, this requires that the authorities establish for each individual ATCSA detainee whether the imposition or continuation of Category A status is justified, and if the associated high security constraints are also justified.

58) The report raises a number of concerns relating to the security classification and status of the individuals detained under the former Part 4 powers. These have been addressed in paragraphs 40-42 above. Those certified under ATCSA were assessed on the basis of risk they posed to national security and detention was necessary to mitigate that threat. Within this context it was therefore necessary to place restrictions on the detainees, such as with telephone and visitor access, and Category A was the minimum classification available within the prison's framework. There is a Category A committee that reviews the risk category for all prisoners annually. The committee reviewed the categorisation of the detainees and considered the representations made by their legal representatives. The committee confirmed that standard risk Category A was appropriate.

(CPT (2004) 49, Paragraph 26) The CPT recommends that the United Kingdom authorities review their approach to managing persons deprived of their liberty under the Anti-Terrorism, Crime and Security Act 2001, having due regard to the guidelines set out above. Should the prison system be unable to meet these needs, alternative approaches must be found.

59) As outlined in the introductory section of this Response, the Government has reviewed its approach to dealing with individuals suspected of international terrorism and replaced the ATCSA Part 4 powers with the Control Orders scheme. Whilst the Act provides for the imposition of restrictions that amount to a deprivation of liberty within the meaning of Article 5 ECHR, the Government has not sought a derogation from Article 5 for the present time. This is because the Government believes that the measures that have been put in place meet the threat that the UK currently faces.

[**(CPT (2004) 49, Paragraph 26) It [the Committee] also recommends that the shortcomings identified in paragraphs 16 [educational activities] and 17 [contact with the outside world] above be remedied.**

60) In terms of the "material conditions of detention and the regime," decisions on how the detainees were able to "manage their daily lives", were necessarily weighed against their need to comply with the operational needs of a high security prison. However, the detainees did have access to educational facilities, work (if they so wished), association with other prisoners, and exercise in the open air. They were also able to practise their religion. They were provided with a diet that conformed to their religious needs. The detainees had access to an Imam, who was also able to inspect the food provided to ensure it complied with the detainees' religious requirements. The detainees were able to have regular visitors, make telephone calls to their families and friends, and write letters.

61) Access to facilities available at Belmarsh is determined by the security category of the person being held in custody. The security classification, of necessity, means that detainees at Belmarsh had to comply with rules applicable to all Category A prisoners. While operating within the context of the need to ensure that national security concerns were met within a high security estate, the Prison Service tried to be flexible where possible. As mentioned in paragraphs 42-44 and 57 the detainees, in recognition of their unique legal status and on the recommendation of Lord Carlile, were offered the opportunity to move to a separate unit at Woodhill. Contrary to the Committee's opinion on the physical appearance of the facility, HMPS believes that the unit would have offered a more relaxed regime and greater freedom of association and activity. The detainees chose to remain at Belmarsh and were therefore obliged to live by the rules of prisoners of the same security classification at that prison. Security arrangements at each prison need to take into account the population of the establishment amongst other factors. Any changes to the procedures for the ATCSA detainees would have been at the expense of other persons designated Category A. This would have been both unfair and unreasonable since all prisoners should be equally entitled to all the facilities Belmarsh is able to offer.

62) The Committee's report suggests that visiting periods were reduced at times. The identity of all visitors to those classified as Category A has to be verified before their entry is permitted. Upon verification the visitor then becomes an 'Approved Visitor' and their name placed on the Approved Visitors List. This can take six weeks on average given that part of the verification process relies on the input from other agencies. The Committee's report suggests that visiting periods were curtailed at times. Visitors are always advised to arrive early to ensure that all the appropriate checks and searches can be carried out to maximise visit time. The Belmarsh authorities report that association is now rarely curtailed at the prison.

63) With regard to telephone access, Category A prisoners are only able to make personal calls to people who are on an approved telephone list. It can take a little time to add a new name to the list depending on the nature of the request, and quite likely a few days to add overseas telephone numbers to the list. Telephone access in general is also reported to have improved across all residential areas with the introduction of additional periods during the day when the telephone can be used such as when prisoners are involved in cell cleaning. This has meant less pressure on access to telephones during periods of association and Belmarsh has received many positive responses from prisoners to this change of procedure.

64) To conclude this section, the Government is pleased that the Committee noted, at paragraphs 16 and 17 of its report, certain improvements in the conditions of detention for these individuals between their visits. The authorities at Belmarsh maintain that these developments, effected in part as a result of the Committee's 2002 report, were sufficient to meet the needs of the detainees without having to produce an "individualised support plan" for each person.

Section D: Safeguards for persons detained under the Anti-Terrorism, Crime and Security Act 2001

65) The Government is grateful to the Committee for its recommendations with regard to safeguards for the ATCSA detainees. The individuals are no longer detained, so it is no longer appropriate to offer specific reassurances but the Government wishes to respond to the criticisms in this section of the Report to assure the Committee that an adequate system of safeguards was in place.

(CPT (2004) 49, Paragraph 27) The CPT recommends that it be expressly provided that persons certified under the ATCSA enjoy these three rights as from the very outset of their deprivation of liberty, whatever their place of custody. It should also be expressly provided that, where necessary, the assistance of a qualified interpreter must be organised to enable those concerned to benefit fully from the exercise of those rights.

66) The CPT raised the question of the status of the provisions dealing with fundamental safeguards after the 2002 visit. The Government recognised that there had been a problem on notification of custody in the very early stages following the introduction of the ATCSA, but a procedure had been put in place within a few weeks of the first detainees being received to allow notification to take place within an hour of a detainee's arrival at Belmarsh. It is normal prison procedure that all detainees have the right of access to their lawyers. As with all prisoners, new ATCSA detainees were asked whether they wished to contact a lawyer, and were offered the facilities to do so immediately after initial reception procedures were completed. Access to a doctor is also a fundamental part of normal procedures followed when any person being held in custody first arrives at the prison. Paragraphs 52-54 provide more detail on the health care provisions afforded to all prisoners.

67) Staff at Belmarsh are able to obtain translation facilities readily by telephone and they are also able to arrange for a translator to attend the prison when necessary. If a translator is needed unexpectedly, staff at Belmarsh will attempt to call upon another prisoner and/or member of staff who can speak the language, to assist with translation. It is understood that lawyers visiting the detainees were usually accompanied by translators.

(CPT (2004) 49, Paragraph 28) However, it appeared that at Belmarsh, visits from lawyers were not always subsequently possible during detention, because of either a lack of staff or a shortage of space. Such a situation is unacceptable and the United Kingdom authorities must ensure that it does not happen again.

68) The Governor of Belmarsh fully recognised the importance of the detainees having access to their lawyers. The detainees did have regular access to their lawyers in person and could also contact them by telephone. At Belmarsh there is a system for booking legal visits and bookings can be made up to two weeks in advance – but early booking is advised due to pressures on rooms that are used for legal visits. The solicitors for the detainees were told on many occasions about this procedure. Difficulties occurred when attempts were made to make a booking only a day or so in advance and, while every effort was made to accommodate requests at short notice, this was not possible when all accommodation was fully booked. Lawyers were offered the option of using visiting facilities booked for another of their clients if they wished to do so. However, some advance notice of any such change was still required for administrative and security reasons.

(CPT (2004) 49, Paragraph 29) The CPT recommends that steps be taken to ensure that ATCSA detainees are informed in writing of all their rights in a language they understand.

69) The Prisoners Information Book is available to all prisoners both in prison libraries and on the Intranet. The book provides information to prisoners on Prison Rules and Regulations and is available in 22 languages, including Arabic, which was spoken by the ATCSA detainees.

(CPT (2004) 49, Paragraph 30) The CPT would like to know whether the United Kingdom authorities intend to take measures to remedy the current procedural disadvantage that the Secretary of State's power to object to the disclosure of evidence creates for ATCSA detainees and to improve their possibilities to challenge the certification on which their detention is based.

70) The Government does not accept that the Home Secretary's power to object to the disclosure of evidence created a procedural disadvantage for the former ATCSA detainees and considers that the independent appeals mechanism met its international obligations in this regard.

71) Proceedings before SIAC, a Superior Court of Record, took place in open and closed sessions. In open sessions those formerly certified under the ATCSA part 4 powers were permitted to be present and were represented by legal advisers of their choice. The detainees were aware of the case against them as laid out in SIAC's open determinations. A special advocate was appointed to represent the interests when dealing with closed material. The special advocates are barristers in independent practice of the highest integrity, experience and ability. Both SIAC and the Court of Appeal have singled them out for praise for their conduct of the cases.

72) The legitimacy of domestic tribunals having regard to closed material has been frequently confirmed at the European Court of Human Rights (ECtHR) at Strasbourg. Importantly, a tribunal operating these special procedures is positively required under Article 13 of the Convention. SIAC was itself set up on the model approved by the ECtHR in *Chahal v UK*, and approved again by the ECtHR in *Tinnelly & McElduff v UK* and as called for by the ECtHR in *Al Nashif v Bulgaria*.

CPT (2004) 49, Paragraph 30) The CPT would like to be informed of the steps taken to improve the possibilities of contacts between the special advocate and the detainees and/or their own lawyers. It would also like to receive precise information on the other measures taken in response to the Carlile Report's proposals (paragraphs 72 to 76) to improve the quality and functioning of the institution of the special advocate.

73) The Government does not accept any suggestion that either the special advocates system or the quality of the current special advocates is deficient in any sense. In cases before SIAC, one of the most important roles of the special advocate is to examine all evidence and to try to persuade the Court that it would be proper to disclose some or all of that evidence. The Home Secretary can argue against disclosure, but any decision on disclosure is for the Court. If the Court does order disclosure, it is then for the Secretary of State to consider whether he wishes to rely on the evidence as part of his case. It should be noted that the only case where SIAC has overturned a certification, was one where the appellant's case was argued by the special advocate and in which the appellant's advocate of choice opted to play no part.

74) In the ATCSA detainees' cases the open material was served in advance of the closed material. The special advocates could have contact with the detainees, until the point at which the special advocate received the closed material. The detainees were permitted to meet with the special advocate and provide information to them if they so wished. In some cases the detainees opted not to see the special advocate appointed to their case – that was a matter for them and their legal advisers to decide. Once closed material had been served, the special advocate could have no further direct contact with the detainee, but it was still possible to communicate with the detainee or his legal representatives through SIAC, which happened on occasion. This procedural rule was necessary in the interest of national security to prevent the inadvertent disclosure of sensitive material.

75) The Government has carefully considered the comments made by Lord Carlile in relation to training of special advocates and agree that it is important that they receive the training necessary to enable them carry out their role efficiently. A cross-Government group has been established to identify training needs and how these might best be delivered. Arrangements have now been put in place for better support facilities for special advocates including a security cleared solicitor.

76) The special advocates system has been retained in the Prevention of Terrorism Bill 2005 in relation to the appeals process for individuals who have been served with Control Orders.

(CPT (2004) 49, Paragraph 31) During the 2004 visit, several persons whom the delegation met were very concerned that the SIAC could apparently take into consideration evidence that might have been obtained elsewhere by coercion, or even by torture. Such an approach would contravene universal principles governing the protection of human rights and the prohibition of torture and other forms of ill-treatment, to which the United Kingdom has adhered. **The CPT would like to receive the United Kingdom authorities' comments on this matter.**

77) The Government of the United Kingdom unreservedly condemns the use of torture and has worked hard with its international partners to eradicate it. The law contains extensive safeguards in relation to evidence obtained by torture. Those safeguards are found in the common law; they flow from the Human Rights Act; and they are contained in statute. Evidence obtained as a result of any acts of torture by British officials, or with which British authorities were complicit, would not be admissible in criminal or civil proceedings in the UK. It does not matter whether the evidence was obtained here or abroad.

78) The issue of 'torture' evidence was raised in the case of *A et Al v Secretary of State*. Ten appeals were heard between May and July 2003 and judgments were given on 29 October 2003. The Home Secretary presented his case as follows: a 'generic' element included detailed evidence about the Al Qaeda threat posed to the United Kingdom and other Western interests. It contained an exhaustive analysis of the disparate international terrorist organisations around the world with an explanation of how they interlocked or associated with each other. That substantial case was deployed in each of the appeals. In addition, the Secretary of State adduced evidence concerning each individual, explaining what was known of his particular activities and how he fitted into the picture painted by the generic case. Much of the material relied upon by the Secretary of State was given publicly with full access to the appellants. But there was also evidence given in 'closed' sessions from which both the appellants and the public were excluded.

79) Within those 'closed' sessions, the appellants' interests were represented by special advocates. One of the functions of the special advocates was to check the closed material and argue, if appropriate, that parts of it should be made public. It was for the Court to determine whether material had to be kept closed in the public interest.

80) The issue of whether or not material contained in the Home Secretary's case might have been obtained by torture in third countries, and then passed on in diplomatic and security agency exchanges of information, was raised in the 5th appeal (that of 'E'). The point was adopted by all of the appellants. In the appeal of 'E' SIAC emphatically rejected any suggestion that any evidence relied upon by the Home Secretary was or even might have been obtained by torture – or indeed by any inhuman or degrading treatment. In so far as SIAC made a finding in 'E's' case that there was no such evidence, it encompassed the generic evidence in all the other cases. Had SIAC found that any evidence relied on by the Secretary of State had been improperly obtained by third countries, it would undoubtedly have said so. The approach of SIAC to the question of improperly obtained evidence was upheld by the Court of Appeal, Lord Justice Laws asserting that it was "plain that there was no evidence in any of the appeals which should have persuaded SIAC that any material relied on by the Secretary of State had in fact been obtained by torture or other treatment in violation of ECHR Article 3. Nor did SIAC think there was." This issue will now be heard before the House of Lords, sitting in their judicial capacity, in October 2005.

81) The Government has already confirmed to the CAT Committee the Home Secretary's intention not to rely on, or present to Special Immigration Appeals Commission or to the Administrative Court in relation to control orders, evidence which he knows or believes to have been obtained by a third country by torture.

(CPT (2004) 49, Paragraph 32) In its response to [the Newton] report, the Government emphasised that individual cases were kept actively under review. **The CPT would like to receive information regarding the manner in which this review is carried out in practice. It would also like to receive detailed information on the number and dates of certification reviews undertaken by the SIAC, and the outcome of these reviews.**

82) A table listing all 17 appeals and their outcomes is attached at Appendix 2 and also available at http://www.hmcourts-service.gov.uk/legalprof/judgments/siac/siac.htm. This demonstrates that all individual cases were kept under active review which will serve to assure the Committee that adequate judicial safeguards were in place.

83) The ATCSA Part 4 powers were used sparingly: a total of 17 people were certified under this power, of whom 11 remained in detention when these powers lapsed on 13 March 2005. Individuals detained under the part 4 powers were free to leave the United Kingdom voluntarily at any time and two individuals chose to do so. One was French; the other chose to return to Morocco. Those certified had a right of appeal to SIAC, and all 17 exercised this right. SIAC has heard 16 appeals and upheld the Home Secretary's decision to certify in all but one of the cases.

84) The Act provided for statutory review. Certifications had to be reviewed by SIAC six months after certification or if the individual appealed, six months after the date on which their appeals against certification were finally determined. Certification was then reviewed every three months thereafter. As part of this review process, the Home Secretary reconsidered the circumstances of each ATCSA detainee on the basis of all the information available to him. The Home Secretary, like SIAC, was concerned with circumstances as they applied at the time of his review in order to make a judgment on whether the risk posed by the individual was sufficient to justify continued detention.

85) On a review, SIAC had to cancel the certificate if it considered that were are no longer reasonable grounds for the Secretary of State's belief that the person's presence in the United Kingdom was a risk to national security and his suspicion that the person was a terrorist.

86) In the case of two of the individuals, the Home Secretary decided on the basis of the material and advice available to him, most of which cannot be made public, that the informal network of individuals with which the individuals were linked had been disrupted to such an extent that their ability to re-engage, if at liberty, had been significantly reduced. In those circumstances the Home Secretary concluded that it was no longer necessary to detain the individuals and so he revoked their certificates (one in September 2004 and one in January 2005). In none of the other cases did he reach the same conclusion as in this case.

87) Those certified and detained under the part 4 powers could also apply to SIAC for bail at any time. SIAC was also able to review a certificate on the application of an individual detainee, provided it considered that a review was necessary due of to a change in circumstance.

(CPT (2004) 49, Paragraph 32) for so long as the extraordinary powers conferred on the United Kingdom authorities by the Act exist, **the Committee calls upon those authorities, to make proactive and constant efforts to guarantee to persons detained under the Act humane and decent treatment preserving their physical and psychological integrity**.

88) As this Response has demonstrated, the Government is satisfied that humane and decent conditions were provided to all detainees held under the ATCSA and that the detainees experienced comparable conditions to others held in prison under Category A security classification. The detainees were visited by members of the National Council for the Welfare of Muslim Prisoners, Lord Carlile, the House of Commons Home Affairs Select Committee, and the Privy Counsellor Review Committee.

89) All prisons in England and Wales are open to regular inspection by Her Majesty's Chief Inspector of Prisons, which publishes reports on its inspections. Both Belmarsh and Woodhill have received full inspections in the last two years. In addition every prison has an Independent Monitoring Board (IMB), which produces an annual report to the Home Secretary commenting upon the operation of the prison and raising any concerns they might have. These reports are published in most cases, but the decision on whether to publish is for the IMB.

Appendix 1

SUMMARY OF COMPLAINTS BY 'X'

NO. & DATE OF COMPLAINT	NATURE OF COMPLAINT	OUTCOME
B/02/000111 22 October 2002	Allegation of inappropriate professional behaviour from a member of staff relating to race and culture	Unsubstantiated
B/03/000007 27 January 2003	Allegation re attitude of a member of staff due to patient's ethnicity.	Unsubstantiated
B/03/000047 06 June 2003	1. Allegation that access to Muslim service denied 2. Allegation that two legal letters were opened by hospital staff.	Unsubstantiated Substantiated
B/03/000087 01 October 2003	1. Allegations by patient's wife in relation to her husband's care and treatment 2. Complaint from patient's wife regarding the management of Luton Ward. 3. Complaint from patient's wife that other patients are being bribed to make trouble.	Unsubstantiated Unsubstantiated Unsubstantiated
B/03/000102 01 December 2003	1. Complaint regarding a named nurse's attitude. 2. Allegation by patient that he had been given the wrong medication. 3. Allegation of swearing by a named nurse.	Insufficient Evidence Withdrawn Unsubstantiated
B/03/000107 19 December 2003	1. Complaint that Hospital Security Department had retained patient's private legal papers for a length of time. 2.* Allegations of bullying by staff. 3. Complaint re length of time to get clearance for phone calls. 4. Allegation of inappropriate professional conduct by staff. 5. Complaint by patient that he waited 6 months for permission to make calls to London mosques. 6. Complaint by patient that he waited 2 months for permission to contact a person on another ward. 7. Patient wishes to have his photo taken to send to his family. 8. Complaint by patient that he is not permitted to meet with patients on other wards. 9. Allegation that staff take written notes during family visits. 10. Complaint that present for patient's wife was not received by her. 11. Complaint by patient that he is not permitted to have audio tapes of Islamic songs	There was insufficient evidence on these items, with the exception of No.2* which is the area of complaint referred to in Para. 12 and the disciplinary investigation.

B/03/000015 12 February 2004	Allegation of inappropriate professional behaviour by nurse.	Substantiated
B/04/000039 06 April 2004	Allegations that phone calls to Amnesty International were recorded	Unsubstantiated
B/04/000046 19 April 2004	1. Complaint that planned visit was not successful due to error by Hospital Reception. 2. Complaints regarding his suspension from Sports and Leisure activities.	Substantiated Unsubstantiated
B/04/000048 26 April 2004	Complaint by patient that his medication was not given to him.	Substantiated
B/04/000064 25 May 2004	1. Allegation of inappropriate treatment during a ward move. 2. Allegation that the Clinical Nurse Manager failed in her duty to provide care and treatment. 3. Complaint by patient that Consultant did not listen to his concerns relating to his care and treatment.	Unsubstantiated Unsubstantiated Unsubstantiated
B/04/000082 26 July 2004	Allegation that nursing staffs' behaviour was punitive.	Unsubstantiated

Appendix 2

SIAC Outcomes

Name	Date of Certification	Date of Appeal	Date of Determination	Result	Reviews	Date of release from Part 4 detention	Comments
Ajouaou	17/12/01	19/05/03	29/10/03	Certification Upheld		22/12/01 (left UK)	Made a voluntary departure
A	17/12/01	19/05/03	29/10/03	Certification Upheld	02/07/04 28/02/05	10/03/05 (bailed)	
B	05/02/02	19/05/03	29/10/03	Certification Upheld	02/07/04 15/12/04	11/03/05 (bailed)	
C	17/12/01	09/06/03	29/10/03	Certification Upheld	02/07/04	31/01/05	Certificate revoked
D	17/12/01	16/07/03	29/10/03	Certification Upheld	02/07/04	20/09/04	Certificate revoked
E	17/12/01	14/07/03	29/10/03	Certification Upheld	02/07/04 15/12/04	11/03/05 (bailed)	
F	17/12/01	21/07/03	29/10/03	Certification Upheld		13/03/02 (left UK)	Made a voluntary departure
G	17/12/01	21/07/03	29/10/03	Certification Upheld	02/07/04 15/12/04	22/04/04 (bailed. Conditions relaxed on 10/03/04)	
H	22/04/02	21/07/03	29/10/03	Certification Upheld	02/07/04 15/12/04	11/03/05 (bailed)	
Rideh	17/12/01	23/06/03	29/10/03	Certification Upheld	02/07/04 15/12/04	11/03/05 (bailed)	
P	15/01/03	15/12/03	27/01/04	Certification Upheld	04/08/04 16/02/05	11/03/05 (bailed)	
Abu Qatada	23/10/02	19/11/03	08/03/04	Certification Upheld		11/03/05 (bailed)	
M	23/11/02	26/01/04	08/03/04	Appeal allowed		18/03/04	
I	22/04/02	07/06/04	02/07/04	Certification Upheld		Detained under other powers	
K	02/10/03	21/06/04	12/07/04	Certification Upheld		11/03/05 (bailed)	
S	07/08/03	12/07/04	27/07/04	Certification Upheld		Detained under other powers	
Q	15/01/03	Awaiting appeal				11/03/05 (bailed)	