

Response

**from the Government of Gibraltar
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Gibraltar**

from 13 to 17 November 2014

The Government of the United Kingdom has requested the publication of this response. The CPT's report on the November 2014 visit to Gibraltar is set out in document CPT/Inf (2015) 40.

Strasbourg, 19 November 2015

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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London, September 2015

A. Law enforcement agencies

2. Ill-treatment

11. The Committee recommends that it should be made clear that all forms of ill-treatment (be they at the time of police apprehension, transportation or during subsequent questioning) are absolutely prohibited, and that the perpetrators of ill-treatment will be punished accordingly.

Further, the CPT recommends that police officers should be reminded regularly, and in an appropriate manner, of the need to respect the above-mentioned basic principles when effecting an arrest.

The use of handcuffs is governed by the Royal Gibraltar Police policy on unarmed defence tactics, which is subject to the principle of the use of reasonable force, which itself is encapsulated in the Criminal Procedure and Evidence Act 2011. Handcuffs are therefore not placed on persons at time of arrest as a matter of course but rather when there is a reasonable need to do so. It is a regrettable consequence of the use of handcuffs in this instance that reddening of the wrists has occurred. This ordinarily occurs as a result of the struggle. There is mention in the preliminary Statement that the CPT received a number of complaints of this. Our understanding is that there was only one instance where this issue was brought to the attention of the CPT.

Officers are trained at recruitment on their powers and one of these is the use of reasonable force. This is reinforced during regular Unarmed Defence Tactics (UDT) training events.

3. Safeguards against ill-treatment

14. The CPT welcomes this initiative (Duty Solicitors scheme) and recommends that the Gibraltarian authorities pursue these discussions with a view to ensuring that all persons arrested by the police are guaranteed an effective right to a lawyer as from the outset of their deprivation of liberty.

HM Government of Gibraltar is discussing the introduction of the scheme in conjunction with the Bar Council.

15. The CPT recommends that appropriate steps be taken to ensure that this requirement is met. Further, detained persons should be expressly informed of their right of access to a doctor in all cases. The CPT recommends that the authorities guarantee the right of access to a doctor in law.

This matter has been reviewed and incorporated into the standing procedures, Prisoners' Rights and Custody Training as per the CPT recommendation.

HM Government of Gibraltar will consider the enshrining of this right in law.

19. The CPT recommends that information about the complaints procedures and mechanisms available should be included in the initial written information given to detained persons on arrival; and the provision of a locked complaints box with relevant confidential complaints forms should be available and emptied regularly by an independent police body.

This matter has been reviewed and incorporated into the standing procedures, Prisoners' Rights and Custody Training as per the CPT recommendation. No locked complaint box has been implemented as we were unaware of this requirement. We will look into this.

4. Conditions of detention

21. The CPT recommends that the Gibraltarian authorities take the necessary steps to remedy these deficiencies (regarding material conditions in New Mole House police station).

When the Royal Gibraltar Police headquarters were relocated to New Mole House, the custody cells were built to UK Home Office standards. There are plans underway to relocate the Police headquarters to a new location, and the building will again be built to this standard. Suitable tamper-proof designs for call bells and water fountains can be incorporated into the plans for the new headquarters.

In the interim period, even though there is no drinking water or call bell within the cells at New Mole House, there is a water fountain in the Custody Suite, which is used to provide detainees with fresh water upon request and at every meal time. There is also manned CCTV coverage in the cells, which includes audio. Bearing in mind the low volume of prisoners, the short holding periods and the visitation regimes in place whenever persons are detained at New Mole House, the requirement to retrofit call bells and water fountains in cells may seem a disproportionate step to take at this stage.

The above comments are also relevant to the point made about structural modifications to cells in order to gain access to natural light. Suitable tamper proof designs can be incorporated into the plans for the new headquarters.

21. The CPT recommends that the authorities put in place the necessary regulatory framework for in-cell video surveillance and that steps be taken to ensure that the privacy of detained persons in police custody cells is preserved.

The current design of the Custody Suite precludes the adoption of what the CPT is recommending. Although there are instructions dictating that whenever there is a female prisoner, a female officer monitors and vice versa, this is inadequate. There is no intention to black out any area of the cell CCTV feed - prisoner welfare and the risk of self-harm remain uppermost in our rationale for not doing so. That said, we have already included separate female and juvenile detention facilities in our plans for the new police building. The management of in cell CCTV is governed by the Custody Officers' Manual of Guidance, the CCTV and Call Management System Policy and Standing Instructions.

22. The CPT recommends that steps be taken to ensure that all detained persons held for 24 hours or more in police custody at New Mole House be offered outdoor exercise.

The current design of the Custody Suite precludes the adoption of what the CPT is recommending. Any outdoor exercise presents a flight risk and is therefore unsuitable. This will, however, be incorporated in the design for the new police building. The comments in the preliminary submission are accurate in terms of numbers of persons being held for over 24 hours.

23. The CPT recommends that every effort be made to avoid detaining mentally ill persons in New Mole House Police Station. Further, police officers should be provided with basic training on how to care for mentally ill persons for those occasions when they are called upon to intervene and transport such persons to hospital.

We agree with this recommendation. Although the Mental Health Act [s. 75 (6)] stipulates that the police station is a place of safety, the reality is that it is wholly inadequate for these purposes. The new facilities at Ocean View have minimised this risk although this may require legislation at a later date.

5. Gibraltar customs

25. The CPT would like to receive more information about any pending amendments to the legislation and the envisaged timeframe that would authorise customs officials to detain persons in a holding room, designated as a place of custody. Further, the CPT wishes to receive confirmation that the safeguards contained in the CPEA as well as the right of access to a doctor apply equally to all persons detained by Gibraltar Customs.

CPT rightly states that they were informed that the detention facilities available to Customs for this purpose had not been used for a number of years. In fact they have not been used since the introduction of the Criminal Procedure and Evidence Act precisely because the rooms do not comply with the requirement of the Act. No decision has yet been taken as to whether Customs will have its own designated station in the future and, if so, it will not be in this 'holding room' but rather in a new facility which will comply with the Criminal Procedure and Evidence Act codes of practice.

25. Further, the Committee would like to be informed if there are any special procedures in place at New Mole House police station for dealing with body packers and, in particular, whether suspected body packers have immediate access to a healthcare professional whether day or night.

Persons arrested or detained by Customs are immediately and without delay informed of all their rights, including the right to make a phone call, contact a lawyer, and receive medical attention. Customs will contact an appropriately qualified and registered Forensic Medical Examiner to provide services relating to the assessment, monitoring, emergency management and further referral of detainees who are known or suspected to be harbouring drugs within their body. If it is known or suspected at the time of arrival in custody that a detainee has or may have swallowed or packed (concealed in a body orifice) drugs, the detainee is regarded as being in need of medical attention and referred without delay to the Forensic Medical Examiner. Detainees are conveyed to a designated custody suite (New Mole House Police Station) as soon as is practicable and without delay. This includes body stuffers and swallowers, despite the provisions of the Imports and Exports Act.

We have no recent instances of persons arrested under these provisions of detention of the Imports and Exports Act. Although we do have the specialised toilets to deal with swallowers and stuffers, we are aware that we do not have the adequate facilities to deal with detained persons and it is for this reason that we use New Mole House.

26. Should the pending amendments to the relevant legislation come into effect authorising detention by Customs officials of up to 96 hours, the CPT recommends that the abovementioned holding room not be used as a designated place of custody and alternative arrangements be made for keeping detained persons.

Although we are working with the Government to enhance our accommodation facilities, including the provision of purpose built offices and stores, no decision has yet been taken about having or otherwise our own Designated Custody Station. Future detainees (swallowers etc.) could be handed over to the Royal Gibraltar Police Custody Suite, and when there is a need to use the toilets, for the detainee to be brought down to the specialised Customs toilets.

B. Windmill Hill Prison

1. Preliminary remarks

29. The Committee recommends that the Gibraltarian authorities review the current arrangements for accommodating persons detained for immigration offences.

Prisoners awaiting deportation are typically kept in the remand section of the prison. Any further separation would be difficult to implement due to the number of available sections or wings in the prison. Additionally, local conditions mean that any such detainees, if kept entirely separate from other categories of prisoner, would in most instances be isolated on their own or with only one or two other prisoners. This could result in further restrictions to their regime. Immigration detainees share the same regime as prisoners awaiting sentence.

2. Ill-treatment

30. The CPT recommends that clear written procedures be put in place to address and prevent inter-prisoner violence and intimidation.

Prison management welcomes the CPT's comments that they observed a relaxed atmosphere in the prison and that there is no systematic inter-prisoner violence or intimidation. The management accepts that there is a need for a more robust anti-bullying policy and is looking at what is required to make the necessary improvements.

3. Conditions of detention

31. The CPT recommends that the Gibraltarian authorities take the necessary steps to remedy the remaining deficiencies and to ensure that no more than one prisoner is accommodated in a cell of less than 8m²; if necessary Section 23 of the Prison Act should be amended to reflect this requirement.

Prison cells cannot be used for the confinement of prisoners unless their size (among other parameters) is certified as adequate by the Chief Environmental Health Officer under Section 23 of the Prison Act 2011. As far as prison authorities are aware there is no provision for a particular size that cells must conform to. Therefore, as long as the cells at Windmill Hill Prison have been duly certified as fit for use then they are deemed suitable.

Aside from 2011 and 2012, when the prison population peaked, average population figures have remained at around half occupancy or less. Under such circumstances prison authorities are flexible in regards to cell occupancy. Inmates are allowed to remain in single occupancy or double up if they so wish (this being a common occurrence locally). Double occupancy is only imposed when there is no alternative due to population numbers. Additionally, and unlike in many jurisdictions, all prisoners in HMP Windmill Hill enjoy an open regime, inclusive of daily association periods. All prisoners who are not undergoing any form of punishment or initial induction are out of cells each day, from 08:00 to 11:30, from 14:00 to 16:30 and from 17:30 to 19:30. Some prisoners with additional privileges are out of cells even longer.

Taking into consideration the fact that all prisoners spend at least 8 hours out of cells every single day, prison authorities take the view that the size of 8m², though cramped, is suitable under local conditions.

32. The CPT recommends that the Gibraltarian authorities continue to expand the range of – and opportunities for – prisoner activities, with a view to ensuring that all prisoners spend a large part of the day engaged in purposeful activity of a varied nature. In particular, greater efforts should be made to provide female prisoners with more meaningful activities outside the

female unit and to ensure that they enjoy access to activities on an equal basis with male prisoners. Consideration might also be given to offering activities in which both male and female prisoners may participate together.

Prison management is actively considering ways and means of enhancing the range of activities available for prisoners. The Prison Board has recently touched on the subject and has offered some positive suggestions, including bringing in guest speakers to address inmates on a number of topics and life experiences. The prison is also currently in the advanced stages of a resources review. Once this is completed it may provide further opportunities to enhance the availability and quality of activities available to prisoners.

33. The Committee recommends that all inmates must be offered a minimum of one hour of outdoor exercise every day. Further, it recommends that the authorities examine the feasibility of installing a shelter in the yard from inclement weather.

All inmates are offered the recommended time for exercise each day and, where possible, they are offered provisions to shelter themselves from inclement weather.

34. The CPT invites the Gibraltar authorities to ensure the proactive involvement of prison officers in drawing up and implementing sentence plans, and to take steps to ensure that all prisoners have a sentence plan and that such plans are reviewed regularly; this is especially important for those serving long or life sentences.

Sentence planning for every prisoner was introduced some years ago by the Probation Service. This included an individual plan for each and every prisoner, setting appropriate goals and reviewed regularly. Interviews were held with every prisoner by a team of professionals, headed by the probation officer. Unfortunately, this service was withdrawn by the probation service some time ago due to resource issues. Prison management accepts that this is necessary, particularly for long sentence prisoners. We will consider what changes could be put in place.

4. Juveniles

37. The CPT would like to be informed of the content of the revised induction programme.

In respect of juvenile induction, consideration is given to the learning styles of young offenders; these may be different and vary from adult prisoners. Induction needs to be pitched so that it is understandable to all. A Young Offender/Juvenile Reception is carried out by an experienced officer who completes a reception form and hands the prisoner a copy of the 'Information for Prisoners Handbook'. During the completion of said form the officer is simultaneously assessing the prisoner, attempting to allay any concerns whilst receiving as much information, which will be passed on to management if a need is detected.

Directly after this the duty Hospital Officer conducts a medical reception from which is derived vital information on alcohol/substance abuse, medical history and any sign of self-harm or admission of depression. If at any of these stages an officer detects or suspects any cause of concern then this is passed to the duty Principal/Chief Officer who will direct staff observations accordingly. On the next working day the Young Offender/Juvenile is seen by the Chief Officer (Head of Custody) who:

- a) Explains the charges
- b) Explains the regime
- c) Enquires into any concerns
- d) Ensures that the juvenile's family, parent, or guardian is aware of the juvenile's imprisonment
- e) Breaks down the sentence if convicted

- f) Provides an overview of the activities available – educational classes, gym, workshop, etc.
- g) Offers counselling services (generic, or on alcohol/substance abuse)
- h) Explain the Voluntary Drug Testing Compact Scheme (which has been reduced in the period of eligibility)
- i) Revisits any concerns of a medical nature
- j) Explains the ‘Information for Prisoners Handbook’ along with the functions of the Prison Board

From this interview the Chief Officer will maintain the prisoner’s status/conditions/orders or vary them accordingly to reflect any information/intelligence derived from the interview.

38. The CPT recommends that staff working with juveniles receive the appropriate training and supervision. Further, where staff do not have a knowledge of the languages spoken by inmates at Windmill Hill Prison increased use of translation services should be available to facilitate communication.

Training needs are being reviewed as part of the overall resources review for the service. This is expected to be concluded shortly. Once this is done, management expects that specialist training, including dealing with juveniles, will be possible.

As a result of a gradual rise in the need to impart information to non-English or Spanish speaking prisoners, the prison has identified www.languageline.co.uk, from where we can conduct live telephone translations. This is a useful tool that allows prisoners to be interviewed by the prison, for the prisoner to request information about his status/case/family and from a medical point of view. Language Line Solutions provide service users with a comprehensive suite of translation and localisation services. They are fully BS EN ISO9001:2008 certified.

39. The CPT recommends that the Gibraltar authorities draw up specific regulations for the discipline and security of juveniles in prison.

Prison management is happy to discuss this with the Minister for Justice.

40. To this end, the CPT recommends that the Gibraltar authorities develop a strategy for addressing the specific needs of juveniles deprived of their liberty, which might include establishing a small unit with a few secure places. The experience of other similar jurisdictions such as Guernsey and Jersey may be instructive.

As long as juveniles are kept in Windmill Hill Prison, the CPT recommends that additional efforts must be made to provide them with a full range of purposeful activities and socio-educative support.

Prison management agrees. Further efforts should be made to secure services from local agencies to enhance the juveniles’ regime. A full time teacher for juveniles should be available and also greater involvement from social services professionals.

5. Health-care services

a) somatic care

41. The CPT recommends that the authorities completely review the provision of healthcare at Windmill Hill Prison with a view to assessing the somatic, psychiatric, dental and health-care needs of the prison, in light of the above remarks, and to inform the Committee accordingly. This will necessitate increasing the attendance of a doctor at the prison and ensuring the

recruitment of the equivalent of one full-time registered nurse. In parallel, the Gibraltarian authorities should progressively abolish the practice of involving 'hospital officers' in the performance of health-care duties at Windmill Hill Prison.

If the scheme's continued use is considered justified in the short-term, the CPT invites the authorities to ensure that the 'hospital officers' receive proper first-aid training and their dual role of ordinary prison officers be abolished. Further, the CPT considers that there should always be someone competent on the premises who is trained to provide first aid, including at night and at weekends.

Prison management has taken note of CPT's comments in this respect. Meetings have been set up with the pertinent authorities to discuss potential improvements to the provision of healthcare and to address the CPT's concerns.

42. The CPT recommends that the authorities take steps to ensure that all the health-care equipment is readily available and fully functional and regularly checked. Further, it recommends that an additional room should be made available for the purpose of undertaking health-care consultations.

While prisoners are given as much privacy as possible during health-care consultations, the physical design of the prison estate unfortunately does not allow us to allocate a separate room specifically for this purpose.

43. The CPT recommends that the Gibraltarian authorities take steps to ensure that every newly-arrived prisoner be properly interviewed and physically assessed by a medical doctor, or a fully qualified nurse reporting to a doctor, during the initial screening. Such screening should always take place within 24 hours of a person's admission to prison, and preferably on the day of arrival at the establishment; if necessary, Section 41 of the Prison Act 2011 should be amended accordingly. Further, the prison health-care service should have in place a screening tool to enable it to properly assess the health-care needs of each newly-admitted prisoner.

Management is actively seeking ways in which it can improve the provision of healthcare and thus address the CPT's concerns.

44. The CPT recommends that the authorities review the existing procedures in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the competent authorities (e.g. the prosecutor), regardless of the wishes of the prisoner. The results of the examination should also be made available to the prisoner concerned and his or her lawyer.

The Committee also wishes to recall that any record drawn up after such an examination should contain:

- i. an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);
- ii. a full account of objective medical findings based on a thorough examination;
- iii. the doctor's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

The record should also contain the results of additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment given for injuries and of any further procedures conducted.

The recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the inmate concerned. This should take place in addition to the recording of injuries in the special trauma register. Further, a copy of the record should be made available to the prisoner concerned and his or her lawyer.

Prison management agrees with the observations made in this respect and will review its procedures in respect of injury and ill-treatment allegations policy accordingly.

b) deaths in custody

45. The CPT recommends that the Gibraltar authorities institute a practice of carrying out thorough autopsies and inquiries into all deaths in custody with a view to learning lessons and improving operating procedures within the prison. If necessary, the legislation should be amended accordingly. It also requests a copy of the report into any inquiry that might have been conducted into either of the above-mentioned deaths in Windmill Hill Prison.

A copy of the judgement and findings of the Coroner's inquest into the death in custody of female prisoner [REDACTED] was provided to the CPT during its visit to HMP Windmill Hill.

c) suicide prevention

46. The CPT recommends that the Gibraltar authorities take the necessary steps to ensure that an adequate screening algorithm be introduced to assess the risk of suicide and self-harm in the prison. It also recommends that drug and/or alcohol dependence are adequately taken into account in the screening process as factors potentially heightening the risk of suicide. Further, the CPT recommends that regular systematic monitoring of prisoners with (severe) ethanol withdrawal symptoms be introduced.

Prison management will look into this.

6. Other issues

a) prison staff

48. In light of these comments, the CPT invites the prison authorities to look into ways in which to help prison staff maintain adequate distance in their professional lives to be able to maintain a constructive and positive approach towards inmates while at the same time ensuring that they treat prisoners fairly. The CPT invites the authorities to consider rotating staff between wings more frequently and to establish mixed sex staffing in the female wing of Windmill Hill Prison.

Once the Prison Review Working Group concludes its resource review, resulting changes may allow management to consider the CPT's recommendations in this respect.

b) disciplinary procedures

51. The CPT wishes to recall that in its view a punishment of solitary confinement for a disciplinary offence should not exceed 14 days and it recommends that the Gibraltar authorities amend the legislation accordingly.

The CPT recommends that the Gibraltar authorities review the disciplinary practices at Windmill Hill Prison, in the light of the foregoing remarks.

This recommendation has been noted.

53. The CPT would like to receive a copy of these instructions.

Management accepts that there was an issue with how the segregation procedure forms were collated and kept. This has now been corrected. A short circular to principal officers was issued reminding them of the importance and need to properly fill in and hand in such forms to senior management for safekeeping.

c) prison induction procedures

54. The CPT welcomes this development and would like to be informed of the precise content of the induction process.

In respect of adult prisoners, the induction process has been reviewed and reduced to 48 hours. During this time, the induction takes a similar form as that described for juveniles, save that the information given is tailored to the circumstances and requirements of adult prisoners

55. The Committee looks forward to receiving confirmation of the languages that will be available and confirmation that these information packs are being systematically distributed to all prisoners. Further, the Committee invites the authorities to consider establishing a registration system or log to record that every prisoner has received such an information pack. The CPT welcomes this information and recommends that prisoners be clearly informed about this possibility.

Information for the prisoners' booklet will be translated into additional languages starting with Arabic. Translation into Arabic is currently under way and a completed copy is expected shortly. Prison management will implement a log to ensure that every prisoner receives a copy of the information booklet.

d) contact with the outside world

56. By communication of 2 February 2015, the Gibraltarian authorities informed the CPT that Windmill Hill Prison offers evening visits to cater for those prisoners with children of school age or working relatives and visitation time is available to both male and female inmates. The CPT welcomes this information and recommends that prisoners be clearly informed about this possibility.

This recommendation has been noted and we will action it.

e) complaints and inspections procedures

58. The CPT recommends that the authorities review the internal complaints procedures in Windmill Hill Prison, in the light of the above remarks.

Management agrees that the internal complaints procedure needs to be improved. This is being investigated, and a new system will be implemented shortly.

59. The CPT invites the authorities to examine avenues to strengthen prisoner confidence in the current monitoring system. Further, it would like to be informed whether the Gibraltarian authorities intend to invite Her Majesty's Inspectorate of Prisons or other similar independent bodies from the United Kingdom to carry out periodic inspections.

HM Government of Gibraltar will consider this recommendation.

C. Court holding cells

61. The CPT welcomes this development and requests information as to when precisely the custody register will come into effect.

I can confirm that said register became operational on 28 April 2015.

D. King George V Mental Health Hospital

1. Preliminary remarks

62. The CPT would like to be informed about the current policy regarding juveniles who require in-patient psychiatric treatment.

At present juveniles under the age of 16yrs requiring admission are either nursed in accommodations provided by social services or in our paediatric ward. Patients between the ages of 16-18yrs are nursed in a self-contained multifunctional suite in Ocean Views mental health facility. All the above listed options are used only as a provisional placement to ensure the patients' safety whilst a more appropriate long term placement in a specialised unit is organised if required.

2. Living conditions and treatment

64. The CPT would like to receive confirmation that all patients have been transferred to the new mental health facility and that the King George V Mental Health Hospital is now closed.

On the 7th February 2015, all the residents of King George V hospital were successfully transferred to their new premises, Ocean Views Mental Health Facility. The old facility was officially closed soon after.

65. The CPT would like to be informed about the range of treatment now offered to patients at the new facility, and the amount of time they are allowed in the garden areas every day.

The range of available mental health treatments has increased substantially since the move, one of the major visible changes has been the introduction of a rehabilitation ward and the work that is now beginning to happen with many of our long term patients. There has been an increase in talking therapies and a greater focus on recovery.

We are pleased to inform the CPT that since May we have been operating an open door policy in both the acute and rehabilitation wards, which has meant that patients have free and uncontrolled access to all garden and recreational areas throughout the day, until 10:30pm when the doors are locked for the night. Patients may still request to be allowed out after this time. Due to the nature of the client group in the Enduring Mental Illness ward this area continues to operate a locked door policy, patients in this area are escorted throughout the day to the garden areas. An average of two hours daily are spent in the garden areas with organised activities.

66. The CPT recommends that a review of patients on the long-stay ward should be carried out with a view to determining whether they are in need of in-patient psychiatric treatment. Further, the Committee would like to be informed about the existing possibilities for the provision of sheltered housing.

A substantial amount of work has gone into reviewing our existing patients to ensure proper placement in the new facility, this included the assessment of a number of patients to commence a rehabilitation program that incorporated aspects of independent living. There are now two self-contained rehabilitation

flats available in the new facility, one of which houses two long term patients currently completing an independent living program. There are further plans to conduct a gap analysis later on in the year to look at the sheltered housing needs for the community as a whole, and to address these accordingly.

67. The CPT recommends that a central register be introduced for the administration of ECT.

This recommendation has been noted and we will consider its implementation.

68. The CPT recommends that steps be taken to ensure that there is a clear policy for documenting, recording and reporting injuries to patients, and that staff are fully aware of its existence.

Although at present there is a clear process for documenting, recording and reporting injuries to patients, and the staff are fully aware of this, work is still on-going on this and other policies.

3. Staffing

69. The CPT would like to be informed about the staffing complement and shift numbers in the new facility.

Recruitment of new staff is now nearing completion, staffing numbers are as follows:

Acute ward: (13 beds mixed ward) 4 staff members (3 qualified, 1 N/A) from 8am – 8pm, from 8pm – 8am 3 Staff members (2 qualified, 1 N/A)

P.I.C.U./Multifunctional Suite: (5 beds) 3 staff members (2 qualified, 1 N/A) from 8am – 8pm, from 8pm – 8am 3 Staff members (2 qualified, 1 N/A)

Rehabilitation Ward: (14 beds mixed ward) 4 staff members (3 qualified, 1 N/A) from 8am – 8pm, from 8pm – 8am 3 Staff members (2 qualified, 1 N/A)

Enduring Mental Illness Ward: (14 beds mixed ward) 4 staff members (3 qualified, 1 N/A) from 8am – 8pm, from 8pm – 8am 3 Staff members (2 qualified, 1 N/A)

The Activity & Rehabilitation Centre (The ARC): 3 nursing staff members (2 E/N, 1 N/A), 3 Occupational therapy staff members (2 qualified, 1 assistant)

69. The CPT wishes to receive confirmation that the psychiatrists are now based permanently in the new hospital, and that a psychiatrist is present whenever there is an admission of a new patient or special measures have to be applied, such as the placement of a patient in a seclusion room.

At present there are no permanently based psychiatrists in the new facility. Due to short traveling distances, however, a psychiatrist is always present within the hour whenever there is an admission of a new patient or special measures have to be applied.

4. Means of restraint

70. The CPT recommends that a specific register be established to record all instances of recourse to means of restraint (including rapid tranquillisation) and seclusion. This would be in addition to the records contained within the patient's personal medical file. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; and an account of any injuries sustained by patients or staff. Patients should be

entitled to attach comments to the register, and should be informed of this; at their request, they should receive a copy of the full entry. In addition, a doctor should see every patient placed in a seclusion room.

Further, the CPT would like to receive a copy of the policy on restraint in the new mental health hospital, including on issues associated with restraint such as staff training, complaints policy, reporting mechanisms and debriefing.

Although all the above information is presently captured within our existing documentation, a specific register is still to be developed. Our restraint policy is currently in draft format awaiting final amendments and approval.

5. Safeguards in the context of involuntary placement

a) the initial placement decision

72. The CPT recommends that long-term involuntary treatment orders always be based on the opinion of at least one doctor with psychiatric qualifications, and preferably two.

Further, any extension of an involuntary treatment order should require a second independent external opinion prior to the decision on prolongation.

Admission for treatment under clause 3 of the Mental Health Bill 2015 is founded on the written recommendations of two registered medical practitioners. Clause 12 requires that one of these recommendations be given by a practitioner approved for the purposes of that clause by the Minister as having special experience in the diagnosis or treatment of mental disorder.

In practice, admission to treatment is always based on the recommendation of one psychiatrist and one general practitioner.

As for any renewal of an initial detention, this requires the procedures set out in clause 25 to be met. Two months prior to the expiration of the initial detention period the responsible clinician must examine the patient and if it appears to him that the conditions for renewal are satisfied he must submit a report to that effect. Before submitting such a report he must consult one or more other persons who have been professionally concerned with the patient's medical treatment. Further, the responsible clinician cannot submit a report unless a person who has been professionally concerned with the patient's medical treatment, and who is of a different profession to the responsible clinician, states in writing that he agrees that the conditions for renewal have been satisfied.

If the patient's detention is renewed, that patient has the right to apply to the Tribunal under clause 91.

73. The CPT would also like to receive information on the number of applications made to the Mental Health Review Tribunal in 2013 and 2014 in relation to patients challenging their involuntary placement and the outcome of such applications.

From 1st May 2014 to 1st May 2015 there were 14 appeal applications, 3 subsequently rescinded, 11 were unsuccessful.

b) safeguards during placement

74. The CPT recommends that the Mental Health Bill 2014 be amended to reflect the right to free and informed consent according to the above-mentioned precepts.

Clause 53 will be amended when the Bill goes before Parliament so that except in the case of urgent treatment, consent should be sought where practicable and the patient's consent, refusal or lack of

capacity to consent to be documented. It is also the Government's intention to publish a code of practice which will set out in more detailed terms what consent means, the information that needs to be provided to the patient and other guidelines for the use of the Mental Health professionals.

75. The CPT would like to receive a copy of the information booklet prepared for patients placed at the new mental health facility.

The information booklets for the new facility are still being produced, a copy will be sent upon completion.

76. The CPT recommends that a regular system of independent inspections be put in place; this may require inviting a health-care oversight body from the United Kingdom on a periodic basis.

The need for regular independent inspections of the service has been highlighted recently during discussions around the introduction of our newly reviewed Mental Health Act. This will need to be reviewed and addressed shortly.

E. Military detention

77. The CPT would like to receive more information about any pending amendments to the legislation and the envisaged timeframe that would authorise the use of the military custody suite of the Royal Gibraltar Regiment. Further, the CPT would like to receive information on the permissible duration and grounds of detention for use of the military custody cells.

The Royal Gibraltar Regiment Bill (to amend the RG Act) was debated by the Gibraltar Parliament on 19th February 2015. Whilst the Bill was passed, we are now waiting for a commencement date to be set. The reason for this delay is that the MOD's Central Legal Services (CLS) have raised some questions which are currently being addressed by our Government Law Office.

On the subject of the Custody Facility at Devil's Tower Camp, the facility will continue to remain unlicensed until such time as the Armed Forces Act 2006 (AFA 06) is brought into Gibraltar Law under the updated RG Act. Once that happens, the Royal Navy's Police Professional Standards will visit the Rock in order to inspect the Devil's Tower Camp Custody Facility and check the relevant qualifications of our unit's Custody Staff. Previous comments made by members of the Professional Standards team lead us to conclude that the Facility will meet the required standards and that they are likely to issue British Forces in Gibraltar with a licence to use it. In the UK, licensed Service custody facilities and staff are subject to periodic inspection by Her Majesty's Inspectorate of Prisons (HMIP). It is envisaged that HMIP's remit will extend to the Devil's Tower Camp Custody Facility in due course.

On the issue of the permissible duration and grounds of detention for use of the military custody cells, this is covered under JSP 837 - Service Code of Practice for the Management of Personnel in Service Custody and Committal to Service Custody Premises and Civil Prisons as well as JSP 830 – Manual of Service Law (Vol 1 – Ch 5 Custody). Additionally Part 4 of the AFA 06, the part that deals with custody, can be found at the following location: <http://www.legislation.gov.uk/ukpga/2006/52/part/4>