



CPT/Inf (2003) 19

**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 17 to 21 February 2002

The United Kingdom Government has requested the publication of the CPT's report on the visit to the United Kingdom in February 2002 (see CPT/Inf (2003) 18) and of its response. The Government's response is set out in this document.

Strasbourg, 12 February 2003

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Human Rights Division
Lord Chancellor's Department
October 2002

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The Appendices to the response are not reproduced in this document.

INTRODUCTION

This is the 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) following its visit to the United Kingdom from 17 to 21 February 2002.

This response follows the order of issues raised in the CPT's report. Extracts from the CPT's report are reproduced in bold typeface with paragraph references.

Human Rights Division
Lord Chancellor's Department
October 2002

A. GENERAL OBSERVATIONS

- a) Her Majesty's Government is grateful to receive the report of the CPT delegation following their visit to the United Kingdom in order to view the treatment of persons detained under the Anti-Terrorism, Crime and Security Act 2001 ("the 2001 Act").
- b) The report of the CPT visit has been of great value in assisting Her Majesty's Prison Service to formulate a strategy for the appropriate care and custody of persons detained under the 2001 Act.
- c) The UK is pleased to note that the Committee recognises several very positive features in the treatment of persons detained under the 2001 Act and persons detained under the Terrorism Act 2000, notably that:
 - The delegation heard no allegations of physical ill-treatment by police officers (or immigration service officials) of persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001(Paragraph 10)
 - Given the short time that had elapsed between arrest and arrival in prison, satisfactory arrangements had been made for notification of close relatives, and for medical screening of those detained (Paragraph 14)
 - The conditions offered to detainees were on the whole acceptable from a material standpoint.(Paragraph 20)
 - The delegation heard no allegations of ill-treatment by law enforcement officials or by prison officers from others detained on charges of a terrorist nature (Paragraph 34)
 - Other persons detained on criminal charges of a terrorist nature were provided with the three basic safeguards against ill-treatment by the police advocated by the CPT (rights of notification of custody, access to a lawyer and access to a doctor) (Paragraph 35)
- d) The 2001 Act is a new development for Her Majesty's Prison Service, and its impact has necessitated a review of some existing procedures. This review is being supported at the highest level of the Prison Service and is at the forefront of the Directorate of High Security Prisons' commitment to providing the most appropriate care and detention of those in prison custody.
- e) The Director of High Security Prisons has commissioned a team to address the concerns and possible areas of development identified within the report. The Directorate Project Manager has taken the lead in investigating these areas, and in formulating a strategy to enable the Service to manage most appropriately the care and detention of persons held under the 2001 Act.
- f) Her Majesty's Government is pleased to address and clarify the concerns raised within the Committee's report, and to appraise the CPT of the strategies being formulated in line with the CPT recommendations and with Her Majesty's Prison Service's commitment to decent, secure and healthy custody.

B. INDIVIDUAL ISSUES WITHIN THE REPORT

CONTEXT OF THE VISIT

- 1) **(Paragraph 4) While terrorist activities rightly meet with a strong response from State institutions, under no circumstances should that response be allowed to degenerate into violations of fundamental rights by those institutions or by State officials.**
 - a) The United Kingdom is in full agreement with this statement and intends that actions taken by its institutions and officials to combat terrorism and to preserve a democratic society will at all times be in accordance with the fundamental human rights of any person against whom action is taken.

COOPERATION RECEIVED AND CONSULTATIONS UNDERTAKEN DURING THE VISIT

- 2) **(Paragraph 6) The CPT's delegation had rapid access to the detention facilities visited and to the persons it wished to interview. However, on one occasion, the delegation's work was delayed by a rigid attitude displayed by officers at Belmarsh Prison (who refused to open cell doors during their teatime).**
 - a) Although there is no official record, the recollection of a governor present at the time of the Committee's visit is that members of the Committee wished to see the prisoners while the prison was in what is known as a "patrol state" – i.e. with fewer available staff on hand than when prisoners are out of cell. It was necessary for additional staff to be made available to supervise the meeting. This led to a delay of twenty minutes. This was not a question of a rigid attitude by staff, but the consequence of a need for staff to comply with security procedures. HM Prison Service regrets the delay but, in view of the Committee's otherwise positive comments on speed of access, it does not think it was excessive or obstructive.

- 3) (Paragraph 9, footnote 4) The Anti-terrorism, Crime and Security Act 2001 does not specify the places where suspected international terrorists may be detained and the regime that should apply to them, and no directions have been issued concerning these important matters.**
- a) The power to detain immigrants is derived from the Immigration Act 1971 [See Appendix 1].
 - b) The decision as to where a person who is to be detained should be held is an operational matter for the Immigration Service. Detained persons may be held in Immigration Service Removal Centres, Prison Service establishments, hospitals or (for very short periods only) police cells.
 - c) The current Immigration Service Removal Centres are Campsfield House, Tinsley House, Harmondsworth, Haslar, Lindholme, Dungavel, Yarl's Wood (operations temporarily suspended). The Detention Centre Rules 2001 [see Appendix 2] govern the operation of all these centres.
 - d) With the exception of Haslar and Lindholme, which are run by the Prison Service, removal centres are run under contracts with the private sector.
 - e) Prisons are not used routinely to hold immigration detainees. However, individual detainees who present a control or security risk would normally be held in prison. In addition, there will be some immigration detainees who are in dual detention while serving a prison sentence, or while awaiting deportation at the end of such a sentence.

PERSONS DETAINED PURSUANT TO THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

ILL-TREATMENT

- 4) (Paragraph 10) Certain of the persons interviewed by the delegation claimed that some of the police officers involved had addressed them in a harsh and provocative manner.**
- a) Without specific details it is difficult to provide useful comment. However, the Home Office is not aware of any complaints, either directly by the detainees or by their legal representatives, about the police officers who carried out the arrests.
 - b) The conduct of police officers engaged in detention is governed by the Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (Code C) [see Appendix 3].

- 5) (Paragraph 11) With one exception, none of the persons interviewed complained of physical ill-treatment by prison officers. The above-mentioned exception concerned a person who alleged that, several weeks before the visit, he had been restrained in a painful manner by prison officers at Belmarsh Prison after he became agitated, and that one officer had punched him in the chest. He affirmed that health care staff had noted the bruising that he had sustained as a result of the alleged ill-treatment; however, at the time of the visit, the delegation's doctor found no record of injuries in his medical file.**
- a) In the absence of more specific information, it is assumed that this complaint refers to an incident at HMP Belmarsh, when the arms of one of the detainees were restrained in order to prevent him from inflicting further harm to himself. This restraint occurred during an association period. Staff had observed the detainee repeatedly harming himself, and were unable to persuade him to desist.
 - b) Concerned for the welfare of the detainee, who was causing himself injury, and mindful of the distress this was causing other prisoners within the Unit, officers intervened and held his arms to prevent further self-injury. This intervention was under the authority and supervision of the Unit Governor, who was called and remained present throughout the incident. No form of arm lock or mechanical restraint was applied; each arm was held by an officer until staff were able to calm the detainee and gain assurance that the immediate risk of self-harm had abated. The Unit Nurse was present throughout, and a Doctor examined the detainee upon de-escalation of the incident.
 - c) There is no record that the detainee suffered a punch to the chest.
 - d) Arrangements were made for this detainee to be seen by members of the National Council for the Welfare of Muslim Prisoners, who were present in the building seeing other prisoners. Members of the Council saw the detainee in his cell shortly after the events took place. The incident is documented.
 - e) The Directorate of High Security Prisons is kept informed of identified risks and actual instances of self-harm, and of the individual care plans implemented at HMP Belmarsh.

6) (Paragraph 11) Some of the persons interviewed claimed that prison staff had addressed them in an offensive way making reference to the reasons for and the indefinite nature of their detention.

- a) This allegation does not specify an individual, location or event. The Unit Governor at Belmarsh believes that this may refer to an incident when one of the detainees complained that he had been interrupted during prayer. However, no formal complaint was made.
- b) An examination of the Unit Governor's diary reveals that a Racial Incident Reporting Form was issued to the complainant. The Unit Governor reports that the detainee declined to submit the form. He further reports that he personally explained to the detainee the avenues of complaint available to him should he wish to pursue the matter formally. The Establishment Race Relations Liaison Officer was informed. The matter was resolved informally following mediation.
- c) Following this incident, steps have been taken to increase staff awareness of cultural and religious diversity in order to prevent any unwitting discrimination or offence. These measures have included staff training; a notice to staff on Islamic religious practices and greetings (published 6 February 2002); and placement within the Staff Information Room of a guide: "Practising Islam in Prison".
- d) HMP Belmarsh has continued to improve its awareness training for staff on Islamic issues. A diversity week is to be held during late October, during which the imam will be discussing Islamic practices and beliefs with staff.
- e) Any suggestion of a use of offensive manner or language is clearly of great concern both to the Directorate of High Security Prisons and to the HMP Belmarsh Senior Management Team. Any instance of religious or racial offence, or improper discrimination on any grounds will not be tolerated and must be subject to a Prison Service investigation.
- f) Any allegations made are investigated as and when they are reported.
- g) Should grounds for a complaint be established, appropriate action will be taken in keeping with Prison Service policy.

- 7) (Paragraph 12) The CPT recommends that prison officers in the High Security Unit at Belmarsh Prison be reminded that force should only be used as a last resort and must not be more than is strictly necessary.**
- a) The Prison Service has strict regulations regarding any use of physical restraint, as laid out in Prison Service Order 1600 - The Use of Force [see Appendix 4].
 - b) All staff are aware of the rules governing the use of force. Since the beginning of the year (2002) there has only been one occasion when Control and Restraint techniques had to be used by staff in the High Security Unit.
- 8) (Paragraph 12) The Committee also trusts that police and prison officers dealing with persons detained pursuant to the Anti-terrorism, Crime and Security Act 2001 will bear in mind that all forms of ill treatment, including verbal abuse, (are) not acceptable.**
- a) See paras 4b, 6c, 6e, and 7b above.

SAFEGUARDS AGAINST THE ILL-TREATMENT OF DETAINED PERSONS

Notification of custody, access to a lawyer and access to a doctor

- 9) (Paragraph 13) The Anti-Terrorism, Crime and Security Act 2001 contains no reference to the right to notification of custody and to the rights of access to a lawyer and of access to a doctor, which the CPT regards as fundamental safeguards for detained persons (cf. also the report on the 1994 visit to the United Kingdom - CPT/Inf (96) 11, paragraph 36).**
- a) Persons detained under the Anti-Terrorism, Crime and Security Act 2001 are provided with the opportunity for a telephone call to a legal adviser normally within one hour of their arrival into the place of detention on completion of essential reception procedures. They are then seen by a Legal Aid Officer.

10) (Paragraph 13 and footnote 6) In response to the CPT's requests for information, the United Kingdom authorities indicated that the above-mentioned rights are guaranteed to immigration detainees in general and that, as a result, they also apply to persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001. However, the United Kingdom authorities have to date failed to provide clarification as to the precise legal provisions which guarantee those rights.

⁶ The CPT already raised the question of the status of the provisions dealing with fundamental safeguards offered to immigration detainees following its 1994 visit to the United Kingdom (cf. CPT/Inf (96) 11, paragraphs 233 and 234).

- a) Fundamental rights and safeguards for immigration detainees are embodied within the Detention Centre Rules 2001 [SI 238/2001], a copy of which is attached at Appendix 2.
- b) Once in prison, custody of detainees is governed by Prison Rules [Appendix 5].

11) (Paragraph 13) At the time of their arrest, the persons detained under the Anti-Terrorism, Crime and Security Act 2001 were served documents informing them of the possibility to seek assistance from solicitors specialising in immigration matters. However, it emerged that, in practice, the operation of this and the other fundamental safeguards advocated by the CPT resulted only from the application of the Prison Rules 1999.

- a) It is not immediately clear what point the Committee is making here. Persons detained under the 2001 Act are in the unique position of being committed directly into prison custody upon arrest. The Act does not require their removal to a police station prior to commitment to prison.
- b) The detainees' custody began in prison establishments, which are governed by Prison Rules [see Appendix 5]. Rule 30 states that: "The legal adviser or representative of any detained person in any legal proceedings shall be afforded reasonable facilities for interviewing him in confidence, save that any such interview may be in the sight of an officer."

12) (Paragraph 15) Access to a lawyer had not been guaranteed as from the outset of detention.

- a) Initially, speed of access to solicitors was variable. For example, the first group of detainees arriving at Woodhill were unable to contact their solicitors for the first few days. Procedures are now in place which ensure rapid contact with a solicitor.

13) (Paragraph 15) None of the persons interviewed by the delegation had seen a solicitor on the day of their arrest and, apparently, it was only as a result of the insistence of the solicitor(s) concerned that a few of them were able to see a lawyer on the following day. Most of the detainees complained that they had been made to wait for up to one week or more before they were allowed to have a first contact with a solicitor.

- a) The CPT report notes that the Detainees were informed at the time of arrest that they could seek assistance from solicitors specialising in immigration matters. However, it also notes that difficulties were experienced due to prison procedures; specifically the security requirement to carry out verification checks of solicitors' telephone numbers.
- b) Practice at the time was to ask for solicitors' and family members' telephone numbers upon reception into custody. These numbers were then faxed to Prison Service Headquarters so as to complete the security clearance procedures at the earliest opportunity.
- c) The Directorate of High Security Prisons has devised a discrete comprehensive induction process to take account of the particular circumstances of those persons detained under the Act. Previous procedures have been improved by establishing a database of solicitors specialising in immigration matters. Their telephone numbers are verified in advance, enabling immediate access to initial legal advice. In general the detainees use the same solicitors.
- d) The management team of HMP Belmarsh has maintained frequent communication with the Detainees' legal representatives to facilitate detainees' access to appropriate legal advice, within the necessary security requirements of the establishment. This approach has been formalised with the publication of a guide for Detainees' solicitors, outlining the procedures for arranging legal visits, the receipt of urgent faxes and so on. The efficiency of these procedures is monitored by use of a legal visits record. This documents the frequency with which visits are requested, arranged, facilitated or cancelled.
- e) It is worth noting that, working under new procedures, and recognising the particular circumstances of the detainees, establishments have shown flexibility in facilitating appropriate legal access.

14) (Paragraph 15) The delegation was informed that delays (in providing telephone calls to solicitors) had been the result of clearing procedures applied to Category A prisoners. Complaints were also received, including from solicitors, that subsequent professional visits had on occasion been hindered.

- a) Some delays did arise in providing immediate legal access when detentions were first carried out under the Act. Such delays do not occur now.
- b) Naturally, there will continue to be rare occasions when there is delay in gaining access to an establishment such as when matters arise beyond the control of the prison authorities – e.g. a fire alarm.

15) (Paragraph 16) The CPT recommends that steps be taken to ensure that, in case of any further detentions pursuant to the Act, the right of access to a lawyer is guaranteed as from the very outset of custody.

- a) Custody begins when detention is authorised. The detentions under the Act meant that the detainees were brought by police officers directly to prison facilities, and custody was authorised there by Prison Service personnel. Therefore initial access to a lawyer needed to be arranged by the prison service.
- b) Current induction procedures have been discussed at paragraph 13 d).

Other procedural safeguards

16) (Paragraph 17) The CPT is concerned to note that the Special Immigration Appeals Commission (SIAC) may consider evidence against a person without disclosing it and can exclude the interested party and his/her lawyer from hearings.

- a) The Committee's concern on this issue is surprising. The procedure involving the appointment of a Special Advocate who can see any sensitive material which cannot for security reasons be shown to the detainees and make submissions to SIAC on behalf of the detainee was referred to without disapproval by the European Court of Human Rights in *Chahal v UK* (1996) 23 EHRR 413 [Appendix 6]. It is based on a Canadian model and is widely considered, despite its obvious shortcomings, the fairest that can be devised. Paragraph 131 of the Court's judgement in *Chahal* reads:

"This example [viz: the Canadian model] illustrates that there are techniques which can be employed which both accommodate legitimate security concerns about the nature and sources of intelligence information and yet accord the individual a substantial amount of procedural justice"

17) (Paragraph 18) Some detainees told the delegation that, in principle, they would have no objection to returning to their country of origin or going to another country willing to receive them. However, they also stated that they had been wrongfully profiled as “international terrorists” and that, if they accepted to leave the United Kingdom, they would relinquish the possibility to reinstate their reputation and clear their name. They also expressed regret that, at present, they were not being offered the possibility effectively to contest the broad accusations made against them. This was a source of considerable distress.

The CPT would like to receive the comments of the United Kingdom authorities on the above remarks.

- a) The detainees are free to leave the UK whenever they want. They can go home or to any third country that will accept them;
- b) Two of the detainees have left the UK and are appealing against certification from abroad;
- c) They have a full right of appeal, which they have all exercised, to the Special Immigration Appeals Commission (SIAC). These appeals are likely to be heard in May.
- d) They also have a right to contest the derogation from Article 5 ECHR which underpins Part 4 of the Act, which they have also done.

18) (Paragraph 19) Section 28 of the Anti-Terrorism, Crime and Security Act 2001 stipulates that a person will be appointed to review the operation of Sections 21 to 23 of the Act. The CPT would like to receive information on the precise terms of reference and powers that will be given to the person in question, as well as information on the procedure proposed to select that person and further particulars concerning the impartiality and objectivity of the review.

- a) The Secretary of State appointed Lord Carlile of Berriew on 22 November 2001 to review the operation of sections 21-23 of the ATCS Act, in view of his existing role as independent Reviewer of the Terrorism Act 2000.
- b) Lord Carlile’s terms of reference are:
 - i) To review the workings of Sections 21-23 of Part IV (Immigration and Asylum) of the Anti-Terrorism, Crime and Security Act, considering whether they have been applied fairly and properly during the reporting period, taking into account the need to ensure that there are both effective powers to deal with terrorism and adequate safeguards for the individual and

- ii) To report to the Secretary of State within fourteen months of passage of the Act in order that he can lay a report before Parliament in accordance with Section 28 of the Act.
- c) Lord Carlile's role is entirely independent. He does not have powers as such. His role is to make recommendations to the Home Secretary in light of his findings. Although he does not have powers of investigation as such, the Secretary of State has made it clear that he should be able to make inspections and have access to the detainees as necessary.

Conditions of detention

- 19) **(Paragraph 21) None of the persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001 were being offered work, educational or cultural activities, and only some of them had just received permission to use the gym. The only organised activity offered to them was the Friday prayer.**

Detainees were being offered between two hours (at Belmarsh Prison) and four hours (at Highdown Prison) of out-of-cell time. . . the already modest out-of-cell time could on occasion be reduced further due to "operational requirements" (staff shortages or agreed working conditions), e.g. to a mere 30 minutes of outdoor exercise. The delegation was told that the situation of some inmates had been better before their transfer from Woodhill Prison, where they had enjoyed up to six hours of out-of-cell time every day and had been offered some organised activities.

- a) Detainees were held at HMP Highdown only temporarily, due to population pressures within the area. This was terminated at the earliest opportunity.
- b) Regrettably, at the time of the Committee's visit, HMP Belmarsh had been running a limited regime for all prisoners, due to staffing difficulties. The closure on health and safety grounds of an external sports and games facility which needed repair also had an adverse impact. However, at no point had the regime been so restricted as to deny any prisoner their basic requirements or their entitlement to inhabit a clean, decent and healthy environment.
- c) In the High Security Unit the Detainees have had access to:
 - outdoor exercise
 - indoor association
 - worship and prayer facilities
 - gym equipment
 - IT facilities

- d) Within the constraints of the Unit, the regime afforded to the Detainees has been consistent with the CPT recommendations made in its 1994 report in respect of Special Units: “Persons held in such units should, within the confines of the unit, enjoy a relatively relaxed regime (able to mix freely with the small number of fellow prisoners in the unit; allowed to move without restriction within what is likely to be a relatively small physical space . . .)”
- e) However, the Directorate accepts that, because of the limitations already mentioned, at the time of the Committee’s visit it had been unable to offer the wide range of activities recommended in the above report.
- f) A revised daily regime for all prisoners has now been introduced improving the regime and activities on offer to all prisoners at HMP Belmarsh.
- g) Prisoners within the High Security Unit are offered education and gym facilities during “lock-up” periods within the normal working day. Gymnasium is currently offered during the mornings on lock-up, subject to staff availability.
- h) A review is being undertaken into how gym facilities can be provided when no Physical Education instructor is available. At present plans are in place to undertake work within the gym in the High Security Unit. These include the development of the storeroom in order to lock away all loose weights. This will enable staff to supervise prisoners when Physical Education instructors are not available. It is expected that this work will be completed in the near future.
- i) A two-week sport and games course for staff will take place on 18 November. On completion, the trained staff will take prisoners on one of the exercise grounds provided for sports and games.
- j) Education is offered to prisoners during the afternoon on lock-up.
- k) Prisoner consultation meetings take place between staff and prisoners once every three months. Two prisoners from each spur attend a meeting with unit management and staff to discuss procedures, developments and changes within the High Security Unit.

20) (Paragraph 21) Radios available could only receive a limited number of radio stations (and, in particular, no broadcasts in Arabic)

- a) Prisoners are allowed personal radios. However, for security reasons, such radios are not allowed to be tuned to receive transmissions on the VHF or UHF bands. This applies to all prisoners in Belmarsh and Woodhill.

21) (Paragraph 22) The material conditions and regime offered to (the detainees) should take due account of the fact that they have not been accused or convicted of any concrete criminal offence and of the indefinite nature of their detention.

- a) The 2001 Act is a new development for the Service, and its impact has necessitated a review of some existing procedures. This review is being supported at the highest level of Her Majesty's Prison Service and is at the forefront of the Directorate of High Security Prisons' commitment to providing the most appropriate care and detention of those in custody.
- b) HM Prison Service has commissioned a team to address the concerns and possible areas of development identified within the Committee's report. The Directorate Project Manager has taken the lead in investigating these areas, and in formulating a strategy to manage most appropriately the care and detention of those persons held under the 2001 Act.

22) (Paragraph 22) As regards out-of-cell time and activities, the situation . . . leaves a great deal to be desired. The objective should be to ensure that persons detained pursuant to the Act spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activities of a varied nature (work, education, sport, recreation/association).

- a) See remarks at paragraph 19 above.

23) (Paragraph 22) Security measures adopted in respect of persons detained pursuant to the Act should be based on individualised risk - and needs - assessments.

- a) The detainees are classed as Category A. Category A is one of four security categories for prisoners. The others are B, C, and D. Category A relates to those prisoners 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.
- b) All placements of individuals classed as Category A are based on individual security risk assessments.
- c) All Category A prisoners have their escape risk assessed. This can be 'exceptional', 'high' or 'standard' - 'standard' being the lowest risk. Assessment of any individual's risk of escape is a continuous task.
- d) Efforts have been made to locate within the main prison those held under the Anti-Terrorism, Crime and Security Act 2001 who are considered to be "standard risk".

24) (Paragraph 22) At Belmarsh, consideration was being given to moving persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001 to a newly renovated landing, where they would be offered improved access to association and to activities.

- a) In a significant development since the CPT visit the detainees have been re-located to a residential houseblock with improved facilities and a wider range of activities.
- b) This offers a wider regime, including access to education, a library and a multi-faith room. The houseblock also has improved facilities such as in-cell electricity and in-cell televisions. Numbers of telephones have been increased to reduce waiting time and improve telephone access. The houseblock has both single and shared cells, giving the detainees the opportunity to share accommodation where preferred. Significant benefits of the houseblock are increased privacy, reduced supervision, and the positive impact of a newly modernised environment.
- c) The Unit Governor is currently carrying out a review of the Unit's regime. This will benefit detainees in future by introducing within the unit education facilities, increased access to sources of reference and Information Technology, a gymnasium, and improved facilities for worship.

25) (Paragraph 23) The CPT recommends that the situation of persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001 be reviewed, having regard to the remarks made in paragraphs 21 and 22.

- a) See Paragraphs 21 and 24 above.

26) (Paragraph 23) The CPT also recommends that immediate steps be taken to ensure that all prisoners are guaranteed the basic requirement of at least one hour of outdoor exercise every day (cf. also the report on the 2001 periodic visit to the United Kingdom - CPT/Inf (2002) 6, paragraph 58).

- a) The CPT report appears to suggest that Detainees at HMP Belmarsh had been denied their right to outdoor exercise. Examination of establishment records does not bear this out. A period of exercise in the open air is offered daily unless inclement weather necessitates postponement. If the period of exercise is curtailed, then this is recorded in the observation book, which is kept in every area. Examination of Unit and Establishment security records reveals that during the month of January, such a postponement occurred on five occasions. On these five days no outdoor exercise was offered due to inclement weather. Considering the time of year, this appears reasonable.
- b) Prisoners at Woodhill are offered exercise every day, subject to weather conditions.

Health care

27) (Paragraph 24)The CPT’s delegation heard complaints, particularly at Highdown Prison, of delays in having access at later stages to health care staff and, more particularly, to a doctor. The medical files examined by the delegation’s doctor tended to confirm these allegations. Further, several of the persons interviewed by the delegation at Belmarsh Prison complained that treatment which had been initiated before their detention had been discontinued following their arrival in prison, and that medical consultations and examinations took place in the presence of custodial staff.

- a) The Directorate of High Security Prisons is pleased to note that the CPT welcomed the prompt medical screening of the detainees upon their reception into custody. Current practice, as experienced by the detainees, entails an initial healthcare assessment upon reception and a comprehensive clinic-based assessment within twenty-four hours of reception. The initial assessment assesses any immediate healthcare requirements, including the need for any medication or treatment and an assessment of any risk of self-harm. There follows a comprehensive, nurse-led assessment of medical history and requirements. From this assessment an individual care plan is devised, with referrals to medical and psychological specialists as appropriate.
- b) The Committee’s suggestion that some detainees may have experienced a delay in obtaining later access to a doctor is not borne out by examination of the current practice and facilities offered to the detainees. Throughout their stay on the Unit at HMP Belmarsh, the detainees have been afforded the following medical access:
 - A nurse attends the unit three times daily, visits residential areas to speak to the men, and is available for individual consultation
 - A Clinical Psychology Nurse (CPN) attends the unit on alternate days by routine and is available throughout the week for referrals or private appointments.
 - A doctor attends the unit twice weekly by routine and is available throughout the week for referrals or private appointments. Appointments with the doctor can be obtained via the Nurse, via an Officer or by direct application.
 - A psychiatrist is available through above procedures.
 - A monthly “Well-Man” clinic is available covering general health advice and individual care plans
 - Specialists such as Chiropodists, Dentists etc. are available monthly.

- c) The above refers only to the routine care. In addition there is ready access to emergency intervention and treatment.
- d) Requests for appointments and actual appointments are documented by the Nurse and noted on individual records.
- e) Staff were surprised that there was any suggestion of limited access to the doctor. Indeed, when one of the detainees was perceived by staff to be in need of a medical and psychiatric assessment, Unit officers made appointments without any application being made by the detainee. This individual is currently being regularly re-assessed as part of a care plan designed to reduce the risk of self-harm.
- f) The Unit remains committed to meeting the healthcare requirements of the detainees and is in regular communication with Prison Service Headquarters on this subject.
- g) It is difficult to comment without specific identification of the persons alleged to have been examined in the presence of custodial staff. In general all medical consultations take place in private between patient and doctor. However, on the rare occasions when medical consultations take place in an outside hospital, staff will need to be present for security reasons.

28) (Paragraph 25) It has apparently been recognised that at least some of (the detainees) have previously been the victims of torture or inhuman or degrading treatment or punishment. As already indicated, the belief that they had no means to contest the broad accusations made against them also was a source of considerable distress, as was the indefinite nature of detention. The limited out-of-cell time and impoverished regime offered to them did little to alleviate the situation. Further, at least two of the detainees had been diagnosed as suffering from post-traumatic stress disorder, and one (the person referred to in paragraph 11, second sub-paragraph) had a psychiatric history, including attempted suicides and in-hospital treatment.

- a) The special needs of any prisoner are always taken into account. The detainees are no exception. When any detained person needs access to additional facilities, whether their need is medical or physical (for instance if they are disabled) then this is provided. The age of the prison building may sometimes be a limiting factor, but medical care is made available either in-house or from local hospitals.

29) (Paragraph 26) All persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001 would - and should - benefit from psychological support. Moreover, some of them require psychiatric care. However, the delegation's doctor gained the impression that such care was, at the time of the 2002 visit, organised in a rather haphazard way. As regards medication, the records examined by the delegation's doctor on occasion contained no indication of the reasons for prescribing psychotropic drugs, their dosage, or the person who had prescribed them.

- a) The Belmarsh Mental Health Team is multidisciplinary, consisting of three psychiatrists, three mental health liaison nurses, a social worker, a psychologist, two counsellors and two occupational therapists.
- b) The team takes referrals from all areas of the prison. Access to mental health services is by referral, and referrals are accepted from primary care services and prison staff, with whom mental health teams have regular liaison. The referrals are discussed in detail at a weekly meeting and allocated to the appropriate member(s) of the team. A full assessment and plans for ongoing treatment, including medication, are documented in the medical records of the person concerned.
- c) The Belmarsh team has provided comprehensive care to several of the detainees. Unfortunately it is not possible to comment in detail on the Committee's observations without specific examples.
- d) At Woodhill there is a Senior Medical officer, a registered nurse, a psychotherapist, two locum doctors, a visiting psychiatrist, and a probation counselling service. In addition there is a principal psychologist, two senior psychologists, a higher psychologist and three basic grade psychologists. Like any other prison, Woodhill also has contacts with local hospitals which can provide additional services.

30) (Paragraph 27) The CPT recommends that health care arrangements for persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001 be reviewed, in the light of the remarks made in paragraphs 24 to 26. More particularly, it recommends that consideration be given to the specific needs - both present and future - of detainees in terms of psychological support and/or psychiatric treatment and that steps be taken to ensure that they receive appropriate care in order to meet those needs.

- a) See Paragraphs 27 to 30 above.

31) (Paragraph 27) The CPT also recommends that steps be taken to ensure medical confidentiality. All medical consultations and examinations of persons detained under the Act should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of custodial staff.

- a) In common with all other prisoners needing medical consultation at Belmarsh, detainees have private meetings with their doctors. Although staff are detailed to supervise the consultations, they do so from outside the consultation room.
- b) At Woodhill medical confidentiality is strictly maintained. Consultations with doctors take place in a private room out of the hearing of staff, but within sight (through a window). Exceptions would be made if different arrangements were requested by the doctor.
- c) See also Paragraph 27g above.

FURTHER REMARKS

Staff-related issues

32) (Paragraph 28) In addition to being carefully selected and appropriately trained . . . officials/staff should possess well-developed qualities in the field of interpersonal communication, should be familiarised with the different cultures of the detainees and, at least some of them, should have relevant language skills. Moreover staff selected to deal with persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001 should be taught to recognise possible symptoms of stress reactions displayed by the persons concerned (whether post-traumatic or induced by their current situation) and to take appropriate action.

The CPT recommends that the United Kingdom authorities bear these points in mind when they assign staff to custodial duties vis-à-vis persons detained under the Act.

- a) Staff selected to work within the High Security Unit are first interviewed to assess whether they meet the recognised criteria for working in such an environment. All staff are required to attend a nationally agreed Special Secure Unit training course, which includes training on diversity. A number of staff at Belmarsh are able to speak foreign languages. Their details are held on a database which is updated regularly.

- b) Staff are selected under the following criteria:
- Consistency and evenness of temperament
 - Flexibility
 - Enthusiasm
 - Firmness, assertiveness and fairness
 - Maturity of outlook
 - Ability to construct reasoned replies
 - Working knowledge of unit and national instructions
 - Ability to work as a team member
 - Sensitivity to change in behavioural patterns
 - Integrity
- c) They are taught to recognise possible symptoms of stress as part of their annual training in the prevention of suicide.
- d) Steps have been taken to increase staff awareness of cultural and religious diversity in order to prevent any unwitting discrimination or offence. These measures have included staff training, a notice to staff on Islamic religious practices and greetings (published 6 February 2002), and placement within the Staff Information Room of a guide: “Practising Islam in Prison”.
- e) Staff working in establishments in which detainees are held are given additional diversity and religious awareness training, and brief written guidance on the Act. This facilitates appropriate care and custody and assists staff in answering detainees’ questions.

Information for detainees and interpretation

33) (Paragraph 30) Upon admission to prison, information was also provided to (detainees) about the rules and the regime applied in the establishment. However, the persons interviewed by the delegation stated that interpretation had not been offered at this stage and that those who did not speak English had received no written information in a language which they understood (cf. also CPT/Inf (2002) 6, paragraph 79). The CPT recommends that these shortcomings be remedied. In appropriate cases, recourse should also be had to the services of an interpreter at later stages (including during medical examinations).

- a) Detainees have access to information on the appropriate legislation in a language they understand. The Prisoners’ Information Book is available in the following languages: Arabic, Bengali, Chinese, Dutch, French, German, Greek, Gujarati, Hindi, Polish, Portuguese, Punjabi, Russian, Spanish, Tamil, Turkish, Urdu, Vietnamese and Welsh.

- b) Sources of reference, and establishment-specific information are also available in translation. Access to interpreters is made available throughout the induction process.
- c) Staff at Belmarsh have access to interpreters via the Language Line facility for interviews with any prisoner whose first language is not English.
- d) Facilities for interpretation are also available at Woodhill.
- e) Most detainees at Woodhill can speak English, though some less easily than others. In addition, a member of the educational staff at Woodhill speaks fluent Arabic and is able to converse with the detainees.

Contact with the outside world

34) (Paragraph 32) Following their arrival in prison, the persons detained pursuant to the Anti-Terrorism, Crime and Security Act 2001 had apparently encountered significant difficulties in maintaining contacts with their families. Clearing procedures for visits and telephone numbers had in some cases taken several weeks.

- a) Upon initial entry into Belmarsh the detainees made no requests for social visits, even though they were supplied with information advising them how to do so.
- b) Where practical, the Prison Service tries to locate prisoners with due consideration to access to domestic and legal visitors. However, operational requirements may necessitate transfers between prison establishments. Early in the period of detention, population pressures within the area necessitated a temporary transfer of a number of detainees to HMP Highdown. This was terminated at the earliest opportunity.
- c) Her Majesty's Prison Service is committed to promoting and maintaining family ties as a fundamental part of its care strategy. Its Assisted Prison Visits Scheme, which provides financial assistance towards the cost of a domestic visit, is available to all detainees. Application forms for the scheme are available in a number of languages.
- d) The clearing procedures for telephone numbers are discussed at paragraphs 13a to 13d above.

35) (Paragraph 32) At first, access to the telephone was very limited because detainees were not allowed to hold telephone conversations in their own language unless an interpreter was present.

- a) At the commencement of detention, the detainees were classified as “High Risk” prisoners and had their telephone calls monitored in accordance with normal security requirements.
- b) That issue was resolved within a short time. Now telephone calls are recorded through the Personal Identification Number (PIN) phone system, and are subject only to random monitoring, or monitoring on justifiable suspicion of abuse.
- c) Standard Risk Category A detainees are permitted to speak in a language other than English. High Risk Category A detainees are permitted to speak in a language other than English on a pre-booked call so that translation can take place. If pre-booking is not possible, the call is recorded to allow for later interpretation.

36) (Paragraph 32) Many of the detainees continued to complain about the arrangements for visits. They took place under closed conditions (in booths) and were limited to one visit per fortnight. Further, although in principle of about two hours duration, a visit apparently in practice often lasted little more than one hour.

The Committee encourages the United Kingdom authorities to explore the possibility of providing one visit per week to persons detained under the Act. Further, it invites them to verify that visiting time is not being reduced unduly.

- a) Visits to “Standard Risk” prisoners are not held in closed conditions.
- b) At Belmarsh, social visits are available each week between 09:15 a.m. and 11:30 a.m. and between 2:15 p.m. and 4:15 p.m., Monday to Saturday. There are no visits on Sunday morning. Visits on Sunday afternoon are at the same time as on weekdays. All visits must be pre-booked. Visitors are subject to entry procedures, which includes security searching. As this can delay entry, visitors are advised to arrive early.
- c) At Woodhill, visiting is available on seven afternoons per week and on Saturday and Sunday mornings. Under the standard regime unconvicted prisoners are allowed up to three visits per week between 2:15 p.m. and 3:30 p.m. Most of the detainees do not use this full allowance.

PERSONS DETAINED ON CHARGES OF CRIMINAL ACTIVITIES OF A TERRORIST NATURE

Safeguards against the ill-treatment of detained persons

- 37) (Paragraph 35) As regards, more particularly, the question of access to another lawyer when access to a specific lawyer is delayed, in their response to the report on the 2001 visit (cf. CPT/Inf (2002) 7, paragraph 8), the United Kingdom authorities indicated that full account would be taken of the CPT's recommendation that this matter be the subject of a legally-binding provision, when revising the Codes of Practice, which should be published in the Summer of 2002. The CPT looks forward to receiving information on developments concerning this subject.**
- a) The Police and Criminal Evidence (PACE) codes of practice are currently under review and are due to be released in a few months time – hopefully, early in 2003.
- 38) (Paragraph 36) In the course of the visit, the CPT's delegation heard accounts to the effect that persons who had been detained under Section 41 of the Terrorism Act 2000 whose custody had been extended by judicial decision had not been brought physically before a judge while being detained by the police. The CPT would like to receive the comments of the United Kingdom authorities on this matter.**
- a) Under paragraph 33 of Schedule 8 to the Terrorism Act 2000 a person to whom an application for extension relates shall be given an opportunity to make oral or written representations to the judicial authority about the application and, subject to sub-paragraph (3), be entitled to legal representation at the hearing. Under sub-paragraph (3) the person to whom the application relates or anyone representing him may only be excluded from any part of the hearing by a judicial authority.
- 39) (Paragraph 36) The conditions of detention and the regime offered to persons detained on criminal charges of a terrorist nature in prison were, in many respects, comparable with those described in paragraphs 20 and 21, i.e. material conditions were on the whole satisfactory and the regime was poor. They were all classified as Category A prisoners.**
- a) See paragraphs 21 & 24 above

Conditions of detention

40) (Paragraph 37) The CPT recommends that the United Kingdom authorities strive to develop regime activities for these prisoners at Belmarsh and Highdown Prisons.

a) See paragraphs 21 & 24 above