COUNCIL OF EUROPE CONSEIL DE L'EUROPE

CPT/Inf (2005) 1

Report to the Government of the United Kingdom on the visit to the United Kingdom and the Isle of Man carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 12 to 23 May 2003

The United Kingdom Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2005) 2.

Strasbourg, 4 March 2005

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Copy of the letter transmitting the CPT's report

Strasbourg, 27 November 2003

Dear Madam,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of the United Kingdom drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the United Kingdom and the Isle of Man from 12 to 23 May 2003. The report was adopted by the CPT at its 52nd meeting, held from 3 to 7 November 2003.

The CPT requests the authorities of the United Kingdom to provide within six months a response containing an account of action taken to implement the Committee's recommendations and setting out their reactions to its comments and requests for information. The recommendations, comments and requests for information are set out in **bold type** in the text of the report and are listed in Appendix I. It would be most helpful if the authorities of the United Kingdom could provide a copy of the response in electronic form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully,

Silvia CASALE
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the United Kingdom and the Isle of Man from 12 to 23 May 2003. The visit formed part of the Committee's programme of periodic visits for 2003. It was the CPT's fifth periodic visit to the United Kingdom and its second visit to the Isle of Man[1].

2. The visit was carried out by the following members of the CPT:

- Ingrid LYCKE ELLINGSEN, Head of the delegation
- Aleš BUTALA
- Laszlo CSETNEKY
- Mario FELICE
- Eugenijus GEFENAS
- Günsel KOPTAGEL-ILAL.

They were supported by the following members of the CPT's Secretariat:

- Jan MALINOWSKI
- Hanne JUNCHER

and were assisted by:

- Bertel ÖSTERDAHL, former Director General of the Swedish Prison and Probation Administration, Sweden (expert).

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[1] The CPT's previous periodic visits to the United Kingdom took place in July-August 1990 (England), May 1994 (England and Scotland), November-December 1999 (Northern Ireland) and February 2001 (England and Wales). Apart from these, the CPT has also carried out ad hoc visits in July 1993 (Northern Ireland), September 1997 (England and the Isle of Man) and February 2002 (England).

B. Establishments visited

3. The delegation visited the following places:

England

Prisons

- Liverpool Prison
- Pentonville Prison, London
- Winchester Prison

Scotland

Police establishments

- Helen Street Police Station, Glasgow
- Lanark Police Station

Prisons

- Barlinnie Prison, Glasgow

Psychiatric establishments

- The State Hospital, Carstairs, Lanark

Detention facilities for children

- St Mary's Kenmure Secure Accommodation Service, Bishopbriggs, Glasgow

Isle of Man

Police establishments

- Douglas Police Headquarters
- Lower Douglas Police Station

Prisons

- Isle of Man Prison, Douglas

Detention facilities for children

- White Hoe Secure Care Home, Douglas.

C. Consultations held by the delegation

4. The CPT's delegation held discussions in England with Martin NAREY, Commissioner for Correctional Services, and Phil WHEATLEY, Director General of the Prison Service.

During the visit to Scotland, the delegation met with Tony CAMERON, Chief Executive of the Prison Service, and Andrew McLELLAN, Chief Inspector of Prisons. It also held talks with a number of other senior officials from the Scottish Executive and its agencies.

5. In the Isle of Man, the delegation met with Richard CORKILL, Chief Minister, Philip BRAIDWOOD, Minister for Home Affairs, and Clare CHRISTIAN, Minister for Health and Social Security. Further, the delegation met Neil KINRADE, Deputy Chief Constable and a number of senior Manx officials.

6. A list of the national authorities and non-governmental organisations with which the delegation held talks is set out in Appendix II to this report.

D. Cooperation between the CPT and the authorities of the United Kingdom and the Isle of Man

7. The cooperation received by the CPT's delegation from the United Kingdom authorities, as well as from the management and staff in the establishments visited, was on the whole excellent. The delegation had rapid access to the places of detention visited, and, during the visits to those places, received the information and assistance required to carry out its task.

8. One exception to this otherwise excellent cooperation concerns Winchester Prison, where the delegation's medical doctor was refused access to the medical records of one particular patient, presented to the delegation as being seriously mentally ill and unable to give his consent to such access. As a result, the delegation was not able to assess the care provided to the patient in question; according to the medical staff, the patient was not receiving and had not been offered treatment.

The CPT regrets this incident. However, it may not be unrelated to the fact that the health-care services at Winchester Prison as a whole appeared to be in a state of transition (cf. paragraph 38).

9. The information requested was refused with reference to the second sentence of Article 8, paragraph 2, sub-paragraph d, of the Convention which states that, in seeking information which is necessary for it to carry out its task, "the Committee shall have regard to applicable rules of national law and professional ethics".

The CPT stressed in the report on its 1994 visit to the United Kingdom that the second sentence of Article 8, paragraph 2, sub-paragraph d, simply lays down procedural rules to be respected by the Committee in gaining access to the information requested; it should not be used to justify a refusal to grant access to the information requested, nor access under such conditions as would be tantamount to a refusal. **In cases where national law or professional ethics represent a potential impediment to the effective provision of information which is necessary for the CPT to carry out its task, it is for the State concerned to ensure that it can, nonetheless, meet its obligations under the Convention**[2]**.**

10. The cooperation received from the Isle of Man authorities both before and during the 2003 visit was excellent, at all levels.

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2 Cf. CPT/Inf (96) 11, paragraph 9.

II. UNITED KINGDOM

ENGLAND

A. Prisons

1. Ill-treatment

11. The CPT's delegation heard no allegations of ill-treatment of inmates by staff in **Liverpool and Winchester Prisons** and gathered no other evidence of such treatment in those establishments. Moreover, inmates on the whole spoke favourably about staff, and the delegation found a positive atmosphere.

12. In **Pentonville Prison**, one prisoner complained of excessive use of force and threatening behaviour by a member of staff a few days previously. The delegation was also informed that allegations had been made of assaults by prison officers on three inmates in March 2003. Further, during the visit to Pentonville the delegation observed that some members of staff on occasion used harsh and inappropriate language when addressing inmates.

13. The delegation was informed that the March 2003 allegations of assault, which involved punches to the face, excessive use of force and verbal abuse, had been promptly investigated, and two prison officers suspended. The CPT welcomes this approach.

As indicated in the report on the Committee's 2001 visit to the United Kingdom, the diligent examination of complaints of ill-treatment and, where evidence of wrongdoing emerges, the imposition of appropriate penalties, will have a considerable deterrent effect[3].

14. Following the 2001 visit, the CPT recommended that the authorities at central and local level reiterate vis-à-vis staff at Pentonville the clear message that abuses of authority by prison officers are not acceptable and will, if discovered, be dealt with severely; it further recommended that prison officers in that establishment be reminded that force should only be used as a last resort and must not be more than is strictly necessary[4]. **The CPT recommends that the aforementioned precepts be recalled to prison officers at Pentonville.** Further, **training in inter-personal communication skills, including in-service training, should be widely available to prison officers, in particular at Pentonville Prison**[5].

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3 Cf. CPT/Inf (2002) 6, paragraph 46.

4 Cf. CPT/Inf (2002) 6, paragraphs 42 and 44.

5 Cf. CPT/Inf (2002) 6, paragraph 45.

15. As regards inter-prisoner intimidation and violence, at Winchester Prison, the delegation heard some complaints of bullying and intimidation among prisoners; it appeared that prisoners of foreign origin were particularly vulnerable in this respect. Some inmates claimed that staff were fully aware of the problem but were failing to intervene.

Tackling this phenomenon requires that prison staff be alert to signs of trouble and be both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of secure custody and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. Further, prison staff must be placed in a position, including in terms of staffing levels, to exercise their authority and their supervisory tasks in an appropriate manner.

The United Kingdom authorities have previously made reference to the development by the Prison Service of violence reduction and anti-bullying strategies[6]. **The CPT recommends that efforts to implement these strategies be strengthened at Winchester Prison.**

2. Prison overcrowding

a. general remarks

16. The issue of prison overcrowding has received considerable attention in the course of the on-going dialogue between the CPT and the United Kingdom authorities over the past decade. It has a direct bearing on conditions of detention in prison and is therefore at the heart of the Committee's concerns. The CPT has stated that an overcrowded prison entails, inter alia, cramped and unhygienic accommodation; a constant lack of privacy (even when performing such basic tasks as using a sanitary facility); reduced out-of-cell activities, due to demand outstripping the staff and facilities available; overburdened health-care services; increased tension and hence more violence between prisoners and between prisoners and staff[7]. These effects were clearly visible in the establishments visited by the CPT's delegation in 2003. As the Committee has pointed out, for as long as overcrowding persists, the risk of prisoners being held in inhuman and degrading conditions of detention will remain[8].

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6 Cf. CPT/Inf (2002) 7, paragraph 48.

7 Cf. CPT/Inf (2000) 1, paragraph 67.

8 Cf. CPT/Inf (2000) 1, paragraph 76.

17. The CPT had for some time been receiving reports from various sources concerning the manner in which increasing occupancy levels were affecting conditions of detention in prisons in England. The Committee decided to examine the situation during its 2003 periodic visit, and for this purpose selected three local prisons, Liverpool Prison[9], Pentonville Prison[10] and Winchester Prison. In addition to the general issues raised in this section as regards prison overcrowding, the CPT will make some remarks concerning specific shortcomings observed in those establishments which require action on the part of the authorities (cf. paragraphs 27 et seq.).

18. Following the 1994 visit, the CPT was led to conclude that the assumption shared until then by the Committee and the United Kingdom authorities that the significant prison building programme undertaken, coupled with other policies, would lead to an end to overcrowding by the mid-nineties, was no longer valid. The CPT stated that, consequently, the authorities had to be prepared to make more radical efforts to address the problem of overcrowding. The Committee recommended that a very high priority continue to be given to measures designed to bring about a permanent end to overcrowding[11].

In 1997, the CPT found that the situation had not improved; it recommended that the United Kingdom authorities redouble their efforts to develop and implement a multifaceted strategy designed to bring about a permanent end to overcrowding[12].

19. Since then, the prison population has continued to rise and overcrowding is blighting a growing number of establishments in England and Wales, in particular local prisons. At the time of the May 1994 visit, the prison population stood at 48,400; on 16 May 2003 the figure was 72,971, an increase of 50% in less than 10 years. Projections for the next six years put the prison population at between 91,000 and 109,000[13].

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9 Liverpool Prison was visited by the CPT in 1994 (cf. CPT/Inf (96) 11, paragraphs 70 to 74).

10 Pentonville Prison was visited by the CPT in 2001 (cf. CPT/Inf (2002) 6, paragraphs 52 to 58).

11 Cf. CPT/Inf (96) 11, paragraph 79.

12 Cf. CPT/Inf (2000) 1, paragraph 77.

13 Cf. "Projections of long term trends in the prison population to 2009" for England and Wales. National Statistics, 9 December 2002. This does not include estimates of the effect of the Criminal Justice Bill currently under consideration.

20. The CPT has indicated in the past that operational capacities[14] should not be allowed to become a benchmark[15]. However, the design capacity, or Certified Normal Accommodation (CNA)[16], would seem at present to be of limited practical relevance in local prisons in terms of determining occupancy levels. According to the information available to the Committee, the overall prison population in April 2003 was 111% compared to the in-use CNA. Thirty-four prisons were operating at capacities 25% or more above their CNA; nine of those were 50% or more above their CNA.

This is a most regrettable state of affairs. In fact, even with an occupancy level of 95% of the total design capacity of a prison estate, it becomes nigh impossible for a prison service to deliver what is required of it, and, more particularly, to ensure respect for inmates' human dignity.

21. A new Prison Service Order sets out the cell occupancy levels which can be certified for operational capacity[17]. In the CPT's opinion, the cell capacities approved by the Prison Service are too high; in particular, placing two persons in cells measuring as little as 6.5 m², including the sanitary facilities, cannot be considered acceptable (cf. as regards the establishments visited, paragraph 29). It should be recalled that, following the 2001 visit, the Committee recommended that cells measuring 8.5 m² or less be used to accommodate no more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone)[18].

22. As regards activities, the objective should remain to ensure that all prisoners spend a reasonable part of the day (eight hours or more) outside their cells, engaged in purposeful activities of a varied nature[19]. However, the ability to provide activities also suffers as a result of overcrowding (cf. as regards the establishments visited, paragraphs 31 to 33). The Prison Service's overall Key Performance Indicator for average weekly purposeful activities is 24 hours, i.e. at best an average of 4 to 5 hours per day. Local targets are often set considerably lower.

23. One of the principal elements in the authorities' efforts to deal with overcrowding has been the creation of more prison places. The authorities stated in their reply of 12 May 2003 to the CPT's letter of 5 May 2003 that "by providing additional prison capacity, together with reforms to the sentencing framework, the Government will continue to provide the places necessary to accommodate those sentenced by the courts", and in its Corporate Plan 2003-2004 to 2005-2006 the Prison Service includes among its objectives to "provide capacity". In this connection, the CPT has noted that some 12,000 new places have been provided since 1995 and the prison building programme is continuing[20].

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14 The Prison Service defines operational capacity as the maximum safe, overcrowded capacity.

15 Cf. CPT/Inf (2000) 1, paragraph 76.

16 The Prison Service defines CNA as the in-use uncrowded capacity.

17 Prison Service Order No. 1900 on Certified Prisoner Accommodation.

18 Cf. CPT/Inf (2002) 6, paragraph 52.

19 Cf. CPT/Inf (2001) 6, paragraph 75.

20 Some 23 new prisons have been opened since 1990 (cf. also CPT/Inf (2002) 7, paragraph 39).

24. The CPT has previously indicated that in those European countries which enjoy uncrowded prison systems, the existence of appropriate policies to limit and/or modulate the number of persons being sent to prison has tended to be an important factor in maintaining the prison population at a manageable level. It remains unconvinced that providing additional accommodation will, alone, offer a lasting solution to the problem of overcrowding; to address that problem successfully will almost certainly also require solutions to be sought at the legislators' and sentencers' levels.[21]

For its part, the United Kingdom government has recognised that an effective means of easing the pressure on establishments is to reduce the number of short-term stays[22]. Further, the authorities acknowledged in their response to the 1997 visit report that overcrowding needed to be tackled not just by building additional accommodation but by ensuring that prison is not used when there are other more appropriate penalties available[23]. In this connection, schemes such as Home Detention Curfew and Drug Treatment and Testing Orders, as well as the proposals for new sentencing options contained in the Criminal Justice Bill (e.g. "Custody Plus"), are positive initiatives which should be developed further[24].[25]

25. Committal practices must be matched by the necessary infrastructure in the form of an appropriate prison estate and sufficient financial and staff resources. Following its 1997 visit, the CPT stated that it is a fundamental requirement that those committed to prison by the courts be held in safe and decent conditions. The United Kingdom authorities subsequently set as an "uncompromising" objective holding all prisoners in a safe, decent and healthy environment. In 2001, the Committee concluded that much remained to be done to achieve this objective.[26] The CPT's findings during the 2003 visit do not permit it to reach a different conclusion.

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21 Cf. CPT/Inf (96) 11, paragraph 79, and CPT/Inf (2000) 1, paragraph 77.

22 Cf. in this connection Chapter 6 of the July 2003 White Paper entitled "Justice for All".

23 Cf. CPT/Inf (2000) 7, paragraph 61.

24 The Prison Service Business Plan 2003-2004 includes under key actions to "exploit fully the scope for extending use of Home Detention Curfew and other measures that help with population management".

25 Reference might be made to Committee of Ministers' Recommendation R (99) 22 concerning prison overcrowding and population inflation and more particularly to recommendations 11 and 12, according to which "the application of pre-trial detention and its length should be reduced to the minimum compatible with the interests of justice. […] The widest possible use should be made of alternatives to pre-trial detention, such as the requirement of the suspected offender to reside at a specified address, a restriction on leaving or entering a specified place without authorisation, the provision of bail or supervision and assistance by an agency specified by the judicial authority. In this connection, attention should be paid to the possibilities for supervising a requirement to remain in a specified place through electronic surveillance devices." Further, recommendation 20 states that "rationales for sentencing should be set by the legislator or other competent authorities, with a view to, inter alia, reducing the use of imprisonment, expanding the use of community sanctions and measures, and to using measures of diversion such as mediation or the compensation of the victim."

26 Cf. CPT/Inf (2002) 7, paragraph 37, CPT/Inf (2002) 6, paragraph 36, and the Prison Service Corporate Plan 2003-2004 to 2005-2006.

The CPT is concerned that the authorities appear no longer to consider an end to overcrowding an achievable goal. In the government's response to the 1997 visit report, the Prison Service stated that there was no realistic prospect of the prison population and available accommodation coming into balance in the foreseeable future[27]. Indeed, at present, in the words of the Prison Service, the focus is on managing overcrowding as a "chronic feature" of the system. The Committee has serious misgivings about such an approach.

26. In light of the above, **the CPT calls upon the United Kingdom authorities not to abandon the objective of bringing available accommodation and the inmate population into balance; on the contrary, this objective should be pursued vigorously with a view to eradicating overcrowding at the earliest opportunity.**

Further, **the CPT recommends that the authorities revise the standards as regards cell occupancy levels, in accordance with the Committee's criteria** (cf. paragraph 21).

b. impact of overcrowding in the establishments visited

i. introduction

27. The CPT's delegation found that high occupancy levels had a significant negative impact on the quality of life in all three prisons visited and on the establishments' ability to deliver basic services. Especially affected were the material conditions and regimes offered to prisoners and the provision of health care. Further, overcrowding prevented work being done with individual prisoners on rehabilitation and resettlement, one of the declared objectives of the Prison Service with a view to reducing reoffending.

28. Liverpool Prison had a CNA of 1,190 and an operational capacity of 1,508. On the first day of the visit, it was holding 1,409 prisoners (1,246 convicted and 163 on remand).

Pentonville Prison had a CNA of 889 and an operational capacity of 1,205. On the first day of the delegation's visit, the prison was accommodating 1,200 inmates (754 convicted and 446 on remand).

Winchester Prison had a CNA of 371 and an operational capacity of 550. It was holding 547 inmates on the day of the visit (348 convicted and 199 on remand).

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[27] CPT/Inf (2000) 7, paragraph 56.

ii. material conditions

29. As already indicated, cells measuring 8.5 m² or less are acceptable for one person but provide only cramped accommodation for two. The majority of prisoners at Liverpool and Pentonville, and two thirds of inmates at Winchester, were doubled up in cells measuring from 7 m² to 8.5 m² which, with the exception of Liverpool's A Wing where sanitation had been installed using the "3-cells-into-2" model, included partially screened sanitation.

The conditions observed in J Wing and parts of the health-care centre at Liverpool Prison, where cells used for double occupancy measured 7 m² including sanitation, were extremely cramped. It should be recalled that, following the 1994 visit, the CPT recommended that J Wing be used for single occupancy only[28]. **Immediate steps should be taken to ensure that cells measuring 7m² or less are never used to accommodate more than one person**.

30. The three prisons visited all dated from the late 19th century and presented concomitant challenges in terms of design and facilities, for prisoners and staff alike. Further, the high number of persons passing through the establishments increased the general wear and tear to which the physical environment was subjected.

The premises were on the whole clean and in a good state of repair in Winchester and Pentonville Prisons. However, in the latter establishment, conditions in Wings A and D left something to be desired. Liverpool Prison was generally run down, and cells and communal areas in certain sections (especially Wings H and K) were very dilapidated; the delegation saw many cells with windowpanes missing and rising damp. Further, mattresses were often well past their natural life spans, especially at Liverpool and Pentonville. As regards hygiene, prisoners in those two establishments complained about the presence of insects and mice in their cells.

The CPT recommends that steps be taken to remedy these shortcomings.

iii. regime

31. The overall Key Performance Indicator for average weekly purposeful activity of 24 hours (cf. paragraph 22 above) was not being met in any of the prisons visited.

Winchester presented the best picture in terms of the proportion of prisoners engaged in purposeful activity. At the time of the visit, 70% of the total population were participating in work or education. However, the level of activity provided was modest: an average of 17 hours of purposeful activity per week, compared to a local target of 20.[29]

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28 Cf. CPT/Inf (96) 11, paragraph 72.

29 In all the prisons visited, "purposeful activity" included work and education, as well as activities such as visits, gym and resettlement and counselling sessions.

At Liverpool Prison, there was "full-time" work for 460 prisoners and education for 240 prisoners.[30] This left at least 700 prisoners - close to half of the total population - without any work or educational activities. The average time spent in purposeful activity was 17 hours per week.

At Pentonville, some 25% of the full-time jobs available were not filled, primarily due to the many short stays at the establishment and the time required to carry out the necessary security clearance. On the day of the visit, 43% of the population were working. Against a local target of purposeful activity of 16 hours per week, the establishment was delivering a mere 14 hours on average.

32. The CPT welcomes the fact that, at Winchester and Liverpool Prisons, there were sufficient work places for prisoners categorised as "vulnerable". The delegation was informed that, at Pentonville, this category of inmates could be given work to do in their cells. Vulnerable prisoners had some access to education at Liverpool and Winchester, but not at Pentonville. The least developed regimes were invariably those of remand prisoners, the majority of whom were not involved in either work or education.

33. Average out-of-cell time was said to be 9 hours per day at Winchester and 6 to 8 hours at Liverpool and Pentonville. However, prisoners in all three establishments complained that it was frequently considerably less, in particular at weekends. It appeared that out-of-cell time for remand prisoners could be as little as 2 hours per day. Sentenced inmates at Pentonville and Winchester were offered daily association, whereas those at Liverpool could associate only twice a week. Prisoners in the three establishments had access to outdoor exercise every day (weather permitting), and to the gym once or twice per week; however, many complaints were heard that access to the gym was limited and/or erratic. When the days without association and gym coincided with inclement weather, prisoners who did not have activities were locked in their cells for 23 hours or longer. Such a situation is completely unsatisfactory.

34. **The CPT recommends that steps be taken to increase the number of prisoners taking part in purposeful activities outside their cells, as well as the amount of time prisoners spend on such activities. In this respect, particular efforts are required vis-à-vis remand and vulnerable prisoners.**

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[30] Full-time work posts lasted from 4.5 or 4.75 hours (Liverpool and Winchester) to 6.5 hours (Pentonville) per day, five days a week. Education lasted on average from 1.5 hours (Pentonville) to 2 or 2.5 hours (Liverpool and Winchester) per day, five days a week.

iv. outdoor exercise

35. The CPT has previously made it clear that it regards the entitlement of at least one hour of outdoor exercise per day as an essential requirement, a principle also laid down in Rule 86 of the European Prison Rules. The United Kingdom authorities have indicated in their response that "ideally time in the open air should be an hour a day, but not normally less than half an hour"[31]. During the 2003 visit, the delegation once again heard complaints that outdoor exercise could be limited to half an hour per day, especially at Pentonville. **The CPT reiterates its longstanding recommendation in this respect**[32].

v. visits

36. Inmates in all three establishments complained that the slots available for visits were insufficient as compared to the number of prisoners. At Liverpool Prison, management was considering introducing evening visits to help address the problem. **The CPT would like to receive the authorities' comments on this point.**

vi. reception procedures

37. The high numbers of receptions were a source of concern for staff and management in all three establishments and, despite the good intentions in evidence everywhere, reception procedures varied in quality. They worked well at Winchester. However, at Liverpool, and especially at Pentonville[33], pressures appeared to be such that not all first-time prisoners went through the full induction.

Further, overcrowding meant that prisoners were being allocated according to space available, rather than based on the most appropriate allocation for the inmates in question, having regard to their status or circumstances (e.g. remand, convicted, life-sentenced, undergoing detoxification).

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31 Cf. CPT/Inf (2002) 7, paragraph 83.

32 Cf. CPT/Inf (2002), 6, paragraph 58.

33 In 2002, Pentonville Prison had over 40,000 admissions.

vii. health-care services

38. The number of general practitioners could be considered adequate at Winchester (2 full-time equivalent). However, it was scarcely sufficient at Pentonville (3.5 full-time equivalent) and clearly inadequate at Liverpool (2 full-time equivalent).

Despite the adequate number of general practitioners at Winchester, records showed that inmates could wait five to six days to be seen by a doctor, and on occasion considerably longer; an audit of the establishment's health-care centre was under way at the time of the visit, inter alia, to optimise the contribution of the two general practitioners. At Pentonville Prison, the delegation heard a few complaints about considerable delays in being seen by a general practitioner. Further, the delegation observed that general practitioners in that establishment were seeing more than 15 patients per hour during wing clinics. Evidence of overcharged wing clinics was also found at Liverpool. Moreover, the high turnover of health-care staff in that establishment (10 general practitioners had been employed in the course of one year to fill two posts) had rendered all the more difficult the provision of adequate health care.

The CPT recommends that the health-care services at Liverpool, Pentonville and Winchester Prisons be reviewed, in the light of the above remarks.

39. Both somatic and psychiatric in-patients in health-care centres in the three establishments visited had very limited out-of-cell time; they were not guaranteed outdoor exercise every day. The CPT is particularly concerned that seriously mentally ill patients at Liverpool and Winchester Prisons had only 1.5 hours out-of-cell time per day; these patients were not offered any therapeutic activities. **The CPT recommends that the situation of in-patients in the health-care centres be reviewed.**

40. In all three establishments, new prisoners were medically screened by a nurse upon admission and seen by a general practitioner within 48 hours. However, at Pentonville Prison new arrivals were not physically examined; the governor informed the delegation that the establishment was "de-medicalising" the screening of newly arrived prisoners in order to concentrate on identifying those at risk of suicide or self-harm. The CPT fully agrees that the latter task should be a priority; however, it should be complementary to, not at the expense of, proper medical screening. **The CPT recommends that the medical screening on admission at Pentonville include a physical examination by a doctor or by a nurse reporting to a doctor.**

41. Beds in a prison's health-care centre are often included in the establishment's CNA; this was the case in the three establishments visited. At Pentonville and Liverpool, the delegation observed that healthy prisoners were being accommodated in the health-care centre to ease overcrowding in other parts of the establishments. This led to inappropriate placements and caused bottlenecks; for example, there was a waiting list for prisoners requiring in-patient care at Pentonville. Measures should be taken to avoid such situations. The CPT considers that health-care centre capacity should not be included in an establishment's CNA. **The CPT would like to receive the authorities' comments on this point.**

SCOTLAND

A. Police establishments

1. Preliminary remarks

42. The basic rules concerning detention by the police in Scotland which were summarised in the report on the CPT's 1994 visit[34] remain broadly unchanged. The provisions now in force stipulate, inter alia, that a person can be held by the police for a maximum of six hours before being charged and, if the suspect is to be brought before the competent judicial authority, i.e. sheriff, he may continue to be detained on police premises until the next working day.[35] As regards persons detained under the Terrorism Act 2000, they can be held by the police, on their own authority, for a maximum of 48 hours and a warrant for further detention may be obtained from a judicial authority; in all, terrorist suspects can remain in police custody for seven days.[36]

The delegation which carried out the May 2003 visit to Scotland visited two establishments of the Strathclyde police force, namely Helen Street Police Station in Glasgow, including its distinct custody suite for terrorist suspects which serves Scotland and the North of England, and Lanark Police Station. The delegation interviewed several persons being held in those establishments at the time of the visit; further, it interviewed many persons, particularly at Barlinnie Prison, about their recent experience in police custody in Scotland.

2. Ill-treatment

43. In the course of the visit, the delegation heard no allegations of severe ill-treatment of detained persons by police officers and gathered no other evidence of such treatment.

However, as had been the case during the 1994 visit, a few allegations were received of use of excessive force by police officers at the time of arrest, including rough treatment, punches and kicks. Some complaints were also heard about handcuffs being applied too tightly and about the inconsiderate manner in which transport vans had been driven by police officers.

Further, information published in the context of the ongoing consultation and review process concerning the handling of complaints against the police suggests that about 40% of some 2,000 yearly complaints lodged against the police involve allegations of assault[37].

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34 Cf. CPT/Inf (96) 11, paragraphs 278 et seq.

35 Cf. the Criminal Procedure (Scotland) Act 1995, Sections 13 et seq.

36 Cf. CPT/Inf (2003) 18, paragraph 36.

37 Cf. Consultation Paper on Complaints Against the Police in Scotland, July 2001, paragraph 9.

44. The persistence of allegations of ill-treatment by police officers underlines **the importance of the authorities at central level and senior police officers delivering the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions if it occurs**[38].

As regards the allegations of ill-treatment at the time of arrest, the CPT recognises that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for their being struck by police officers. **The CPT invites the authorities to remind police officers of these precepts.**

45. As the CPT indicated in the report on its 1997 visit to the United Kingdom[39], the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment.

46. Information about the avenues available to complain about the conduct of a police officer is widely available to the general public (and to detained persons) in a range of languages.

Disciplinary matters are in principle dealt with within each police force, but the investigation of a particular complaint may be entrusted to officers of another force; if it concerns a chief officer, the disciplinary matter is handled by the police authority. Complaints handling processes are examined by the Inspectorate of Constabulary and, at the request of the complainant concerned, the Inspectorate can also examine the manner in which an individual complaint has been dealt with.

Moreover, a "report, allegation or complaint […] from which it may reasonably be inferred that a [police officer] may have committed a criminal offence" must be referred to the prosecution service, i.e. the competent procurator fiscal[40]. A custody officer met during the visit indicated that any complaints of ill-treatment/assault received by him would systematically be referred to the procurator fiscal without delay. **The CPT would like to receive confirmation that complaints of ill-treatment of detained persons by police officers are always construed as reasonably inferring that an officer may have committed a criminal offence and must therefore be systematically referred to the prosecution service.**

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38 Cf. CPT/Inf (96) 11, paragraph 280.

39 Cf. CPT/Inf (2000) 1, paragraph 9.

40 Police (Conduct) (Scotland) Regulations 1996, Section 7, and Police (Conduct) (Senior Officer) (Scotland) Regulations 1999, Section 9.

47. **The CPT would also like to receive up-to-date statistics on complaints lodged of ill-treatment by police officers, disciplinary and/or criminal proceedings initiated as a result of such complaints, and the outcome of the proceedings.**

48. If a police complaints mechanism is to enjoy public confidence, it must both be, and be seen to be, independent and impartial. In this respect, it is desirable that investigative work concerning complaints against the police is entrusted to an agency which is demonstrably independent of the police. Furthermore, the CPT considers that an investigation into possible ill-treatment by police officers should offer guarantees of effectiveness, promptness and expeditiousness.

As already indicated, there is an ongoing consultation and review process concerning the handling of complaints against the police in Scotland; the declared objective is to enhance the independence of the complaints system.

The options being considered are an ombudsman-type body (with competence to examine maladministration in response to complaints and with a possible overview capacity in respect of the handling of all non-criminal complaints) and an independent police complaints body (with responsibility for handling all complaints in the first instance). In the view of the CPT, without prejudice to the ultimate competence of the procurator fiscal in respect of complaints involving a criminal offence, **the creation of a fully-fledged independent investigating agency would be a most welcome development.**

The CPT would like to be kept informed of developments as regards the review process concerning the handling of complaints against the police in Scotland.

3. Safeguards against ill-treatment by the police

a. introduction

49. In the report on its 1994 visit, the CPT examined in detail the formal safeguards against ill-treatment which are offered to persons detained by the police in Scotland. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer, and to have access to a doctor. It is equally fundamental that persons detained by the police be informed without delay of all their rights, including those mentioned above.

b. notification of custody

50. Persons detained by the police in Scotland have a right to have a third party informed without delay of their situation and place of custody. Specific provisions concerning children (under 16 years of age) stipulate that a detained child's parents will be thus informed and, in principle, will be allowed to visit the minor concerned.[41]

The information gathered during the visit shows that requests concerning notification of custody are promptly responded to. No complaints were heard in this connection from the persons interviewed by the delegation who were or who had been detained by the police.

51. The exercise of the right to notification of custody can be delayed by the reasoned decision of the police "in the interest of the investigation or the prevention of crime or the apprehension of offenders"[42].

As indicated in the report on the 1994 visit, the CPT fully recognises that the right to notification of custody may have to be made subject to certain exceptions, designed to protect the interests of justice; however, the Committee also made clear that **any such exceptions should be clearly defined, accompanied by appropriate safeguards and strictly limited in time**[43]. **It should be added that a delay in the exercise of this right should require the approval of a senior police officer unconnected with the case at hand or a prosecutor.**

The CPT has noted the response to the effect that, while the legal provisions in force do not meet the above-mentioned criteria, the Government considers current arrangements satisfactory, in particular because the police must be prepared to justify their actions in court. As far as the CPT is concerned, whether current arrangements are satisfactory will depend on the attitude adopted by the courts on this issue. **The Committee looks forward to receiving information on the outcome of court procedures concerning the use of the power to restrict the right to notification of custody** (cf. paragraph 3 of the letter addressed to the United Kingdom authorities on 5 May 2003).

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41 Cf. CPT/Inf (96) 11, paragraph 287, and Criminal Procedure (Scotland) Act 1995, Section 15 (1)(a) and (4).

42 Cf. Criminal Procedure (Scotland) Act 1995, Section 15 (1)(b).

43 Cf. CPT/Inf (96) 11, paragraph 288.

c. access to a lawyer

52. Persons detained by the police in Scotland also have a right to have a solicitor informed without delay of their situation and place of custody [44].

As was the case in respect of notification of custody, all persons interviewed by the delegation who were or had been detained by the police had been informed of the above-mentioned right at the very outset of their detention, and the records examined suggested that a solicitor had been contacted promptly upon a request being made to that effect. Further, certain of the persons interviewed by the delegation had apparently met a solicitor while in police custody.

53. However, the CPT understands that the legal provisions currently in force continue not to guarantee a fully-fledged right of access to a lawyer as advocated by the CPT. Persons who are not formally charged by the police are not afforded this right, and those who are charged are only "entitled to have a private interview" with a solicitor after completion of police proceedings and prior to their first appearance in court[45], i.e. after they have been in police custody for some time (cf. paragraph 42).

The CPT wishes to stress once again that, in the interests of the prevention of ill-treatment, it considers it essential that all persons in police custody should be entitled to have access to a lawyer from the very outset of their deprivation of liberty; indeed, the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. **It therefore reiterates its recommendation in this respect[46]; the right of access to a lawyer should include the right to contact and to be visited by the lawyer (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right of the person concerned to have the lawyer present during police interviews.**

54. Following its previous visit, the CPT also recommended that a person in police custody have the right to another lawyer when access to a specific solicitor is delayed. In response, the authorities indicated that, if it is considered necessary to delay access to a particular solicitor, every effort is made to ensure the prompt attendance of another solicitor. This is in line with the approach advocated by the CPT. **The Committee looks forward to receiving information on the legal/administrative basis for this practice**[47].

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44 Cf. CPT/Inf (96) 11, paragraph 290, and Criminal Procedure (Scotland) Act 1995, Section 15 (1)(b).

45 Cf. Criminal Procedure (Scotland) Act 1995, Section 17 (2).

46 Cf. CPT/Inf (96) 11, paragraph 291.

47 Cf. paragraph 4 of the letter addressed to the United Kingdom authorities on 5 May 2003.

d. access to a doctor

55. The CPT attaches considerable importance, in the context of the prevention of ill-treatment, to a clearly defined right of persons deprived of their liberty by the police to have access to a doctor. When a detained person requests access to a doctor, such access should always be granted; access to a doctor should not be dependent upon the person complaining of illness.

In response to the CPT's comments and recommendations in this respect following the 1994 visit[48], the authorities indicated that "a person [who] complains or shows symptoms of being unwell" will promptly be seen by a doctor and subsequently clarified that "every person in police custody has the right to see a doctor if they request it and in any instance where there is doubt about the fitness of a prisoner to be detained or the approval and/or prescription of medication the police surgeon must be contacted." However, these arrangements are apparently only governed by procedures established at local police force level.

56. The response also indicates that a medical examination may be conducted within the hearing and/or sight of police officers, if the latter consider that doing otherwise "might impede their investigations". The CPT can see no legitimate reason for such an exception to the confidentiality of the medical examination.

57. Detained persons were systematically informed that they would be seen by a doctor at their request; the information for detained terrorist suspects also offered them the possibility to be seen by their own doctor. Further, Helen Street Police Station was regularly attended by a doctor who examined detained persons who had requested to see a doctor, and appraised, at the request of the police, whether a particular person's state of health was incompatible with detention.

Although the delegation interviewed one person who claimed that his request to see a doctor had not been met, it formed the opinion that current arrangements for access to a police surgeon operate in a satisfactory manner.

Nonetheless, the CPT considers it highly desirable that this matter be the subject of specific legal provisions; **it recommends that the right of access to a doctor be given a firm legal footing, having regard to the remarks made in paragraph 295 of the report on the 1994 visit.** Further, **the right of access to a doctor of the detained person's own choice should be enjoyed by all categories of persons in police custody.**

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48 Cf. CPT/Inf (96) 11, paragraphs 294 and 295, CPT/Inf (96) 12, page 59, and response to the letter addressed to the United Kingdom authorities on 5 May 2003.

e. further remarks

58. As indicated in the foregoing paragraphs, persons in police custody were systematically informed of their main rights, and information sheets were prominently displayed in custody suites and cells. The information was available in a range of languages and, if required, the police had ready access to interpretation services; to facilitate this, they had a language identification card (comprising 49 languages). The CPT welcomes this approach.

59. The CPT has noted the information provided by the authorities concerning the conduct of police interviews[49].

As regards the electronic recording of interviews, the Committee welcomes the fact that, in Scotland, all Criminal Investigation Department interviews are now audio recorded and that police forces are working towards the audio recording of all interviews; **it can only encourage the authorities to have this done at the earliest opportunity.** Further, the CPT has been informed that individual police forces may introduce video recording of interviews if they have the resources to do so.

60. At Helen Street Police Station, with the exception of the inside of cells and shower/sanitary facilities, all parts of the detention areas had closed circuit television monitoring with image and audio recording. The delegation was told that this was becoming a regular feature of police detention facilities in Scotland. **The CPT would welcome further developments along these lines.**

4. Conditions of detention

61. In previous visit reports, the CPT has set out the general criteria it employs vis-à-vis conditions of detention in police stations[50].

62. Conditions of detention were of a high standard at Helen Street Police Station. In particular, cells were of an adequate size (approximately 7 m² for one person), well lit (including some access to natural light) and ventilated, and were equipped with a means of rest (a plinth) and a lavatory. The cells also had a call system, and there were several observation cells for detained persons requiring permanent supervision (e.g. because of self-harm or suicide risk). Detained persons were offered a mattress (with washable cover) and blankets (which were cleaned after each use) and the cells were clean. Arrangements for the provision of food were also entirely satisfactory.

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49 Cf. response to the letter addressed to the United Kingdom authorities on 5 May 2003.

50 Cf. CPT/Inf (96) 11, paragraph 24.

The situation in the custody suite for detained terrorist suspects was similar to that described above, the most significant differences being that cells were sound-proof and that they were sterilised for forensic evidence-gathering purposes. The delegation was informed that ordinary detainees were relocated to other police detention facilities whenever the custody suite for terrorist suspects had to be used.

Out-of-cell facilities included a reasonably-sized exercise yard and showers. However, the outdoor facility was reserved for detained terrorist suspects (who were offered two exercise periods of 20 minutes every day). Further, the detained persons interviewed by the delegation stated that they had not been informed that they could take a shower.

The CPT invites the authorities to explore the possibility of offering outdoor exercise every day to all detained persons who remain in custody at Helen Street Police Station for an extended period (24 hours or more) and to inform persons in custody that they can use the shower facilities.

63. Although the cell layout and equipment was comparable to that observed at Helen Street Police Station, the situation at Lanark Police Station was less favourable.

The delegation was informed that cells, measuring 7 to 8 m² and equipped with only one plinth, could be used to accommodate three or more persons. In the CPT's opinion, cells of such a size should preferably only be used to accommodate one person overnight; this is all the more important as regards the cells at Lanark Police Station given that in-cell lavatories had no partitioning.

On the whole, the cells were clean and in a reasonable state of repair. However, ventilation was very poor, resulting in significant humidity and condensation on the walls and floor. In this connection, the practice of making detained persons leave their shoes outside their cells was a source of discomfort for them and of potentially unhealthy conditions.

It should also be noted that the detention facility of Lanark Police Station had no showers or outdoor exercise area for use by detained persons.

The CPT recommends that conditions of detention at Lanark Police Station be reviewed, in the light of the above remarks.

B. Prisons

1. Preliminary remarks

64. According to information provided to the CPT's delegation, as at 9 May 2003, the Scottish Prison Service was catering for 6,420 prisoners, i.e. an occupancy level 9% above its available cellular capacity of 5,822 places (cf. in this respect paragraph 20, second sub-paragraph). Of the 16 prison establishments in service in Scotland, only six were operating within their capacities; five establishments had occupancy levels 10% or above their cellular capacities, and three of these more than 30%.

At the time of the visit, about 21% of Scotland's prison population were not guaranteed ready access to a lavatory (particularly at night) (as compared to more than half in 1994[51]) and, as a consequence, many prisoners had to discharge human waste in a chamber pot or bucket and to slop out. As the CPT has already had the opportunity to point out[52], such a situation, when combined with overcrowding, a very poor regime and little out-of-cell time (cf. also paragraphs 78, 79 and 84), amounts, in its view, to inhuman and degrading treatment[53].

65. The Scottish Executive is striving to modernise the Scottish prison estate and its operation, in particular by providing a sufficient number of prison places for Scotland's present and future inmate population, ending the practice of slopping out, and developing throughcare with a view to reducing recidivism. For this purpose, a thorough estate review and a wide consultation process have been undertaken.

Measures already taken in this connection include building additional detention units and upgrading some of the existing ones, increasing staffing levels in certain establishments with a view to facilitating prisoners' access to a lavatory at all times, and enhancing the treatment programmes offered to prisoners. Efforts are also being made to broaden the use of alternatives to imprisonment, in particular through the use of community-based sanctions, restriction to liberty orders and electronic tagging, as well as by setting up drug courts and developing the use of drug treatment and testing orders, extending in certain cases children's hearings to 16- and 17-year old persons (cf. paragraph 131), and reconsidering the question of imprisonment of fine defaulters.

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51 Cf. CPT/Inf (96) 11, paragraph 349.

52 Cf. for example, CPT/Inf (96) 11, paragraph 343.

53 The CPT understands that a Scottish judge has upheld a prisoner's claim that his conditions of detention (two to a cell without integral sanitation and the ensuing slopping out process, coupled with an impoverished regime) amounted to degrading treatment, in violation of Article 3 of the Human Rights Act 1998 and of the European Convention on Human Rights, and ordered that the situation be remedied. At the time of the visit, the matter was apparently pending an appeal by the Scottish authorities.

66. More particularly, it is envisaged that by 2006-2007 the Scottish Prison Service's cellular capacity will reach some 7,000 places. That said, in their response to the 1994 visit report[54], the Scottish authorities still envisaged the possibility of holding in exceptional circumstances three prisoners in an 8 m² cell. The Committee would recall its recommendation that steps be taken to ensure that prisoners never be held three to a cell of such a size; **it would like to receive clarification on this point. The CPT recommends that the highest priority be given to bringing available prison places into line with the inmate population** (cf. also, in this connection, paragraph 25).

At the time of the 1994 visit, the target date for eradicating slopping out was 1999[55]. The CPT has now been informed that it is intended that slopping out will be eradicated by 2007-2008. The continuing delay in meeting this basic requirement is highly unsatisfactory. **The CPT calls upon the authorities to redouble their efforts with a view to eradicating slopping out within the next two years (i.e. by the end of 2005).**

67. The delegation visited **Barlinnie Prison**, an establishment which received a first visit by the CPT in 1994. The general characteristics of the establishment have been described in the report on that visit.[56]

Since the CPT's first visit to Barlinnie, considerable renovation work had been carried out to several of the detention units and a new prefabricated 77-cell unit (without integral sanitation), Letham Hall, had been brought into service; other improvements included new visiting facilities. At the time of the 2003 visit, one of the detention units, E Hall, was unoccupied. As a result, the prison had an available capacity of 843, based on one prisoner per cell. It was holding 1,157 inmates, of whom 508 were untried inmates and 83 young offenders (i.e. under 21 years old).

It might be added that, in the medium term, it is intended that Barlinnie be transformed into a 530-place remand prison.

2. Ill-treatment

68. The overall impression of the CPT's delegation was that staff-inmate relations at Barlinnie Prison were relaxed.

69. However, it met one prisoner who, through his lawyer, had complained to the prison's management that, the previous day, he had been ill-treated by a prison officer outside a holding room next to the visiting area. He alleged that his head had been banged several times against the wall. He further claimed that, before assaulting him, the officer concerned had looked around, apparently to ensure that they were out of reach of the closed circuit television monitoring system.

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54 Cf. CPT/Inf (96) 12, page 69.

55 Cf. CPT/Inf (96) 11, paragraph 349.

56 Cf. CPT/Inf (96) 11, paragraph 341. The 1994 visit to Barlinnie was not a full visit. The primary purpose was to interview prisoners who had recently been in police custody; however, it permitted the CPT's delegation to examine certain issues, in particular as regards the situation in C Hall (which, at the time, accommodated newly admitted remand prisoners), the segregation unit and the reception unit.

The complaint had been promptly referred to the police; while interviewing the prisoner (in the presence of the delegation), a police officer noted that the inmate in question displayed a 3 to 4 cm lump, 2 to 3 mm high, in the lower back of the head.

70. Moreover, information provided to the delegation shows that a number of prisoners had lodged complaints of assault by staff in recent times at Barlinnie (5 complaints between January and March 2003, and 26 in 2002), including in one case of sexual assault. In some of the above-mentioned cases, the records examined by the delegation showed that the prisoners concerned had displayed injuries (e.g. cuts, grazes, abrasions, swellings) following the alleged assault. In a further case, in February 2003, a nurse had drawn the attention of the establishment's management to the rough manner in which an inmate had apparently been treated by a prison officer.

71. The CPT has repeatedly highlighted the importance of prison management delivering the clear message that abuses of authority by prison officers are not acceptable and will be dealt with severely[57]. **The CPT recommends that the authorities at both central and local level reiterate this message in an appropriate manner vis-à-vis staff at Barlinnie Prison.**

72. Certain of the complaints referred to in paragraph 70 related to prisoners who had been physically restrained by staff. As the CPT indicated in the report on the 1994 visit[58], prison staff will on occasion have to use force to control violent prisoners. However, the force used should be no more than is strictly necessary and, once prisoners have been brought under control, there can be no justification for their being struck. **The CPT recommends that prison officers at Barlinnie be reminded of these precepts.**

73. As in the context of the police (cf. paragraphs 45 and 48), one of the most effective means of preventing ill-treatment by prison officers lies in the diligent examination of complaints of ill-treatment and the imposition of suitable penalties.

In this connection, the delegation formed the impression that both the authorities at central level and senior management at Barlinnie were determined to take decisive action to eradicate abuse of inmates by staff. The delegation was informed that, in recent times, a number of officers considered unsuited for work in prison had been released from the service; the week prior to the visit, an officer had been suspended following allegations of misconduct vis-à-vis prisoners.

The CPT was particularly pleased to note that complaints of ill-treatment/assault of inmates by staff were systematically referred to the police without delay for independent investigation. The delegation observed that, in the case referred to in paragraph 69 above, the police had taken up the investigation promptly. The delegation was informed that the relevant procurator fiscal is informed of such cases at the outset and supervises the police investigation. Further, the delegation heard that, as an additional safeguard, the procurator fiscal requests that the police interview again any complainant who decides to abandon or withdraw a complaint made against prison staff. The CPT welcomes this approach.

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57 Cf., inter alia, CPT/Inf (2000) 6, paragraph 42.

58 Cf. CPT/Inf (96) 11, paragraph 310.

74. In order to obtain a broader overview of the situation, **the CPT would like to receive the following information for 2002 and 2003:**

- **the number of complaints lodged concerning ill-treatment by prison officers in Scotland and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**

- **an account of the latter complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed).**

75. In the report on the 1994 visit[59], the CPT made reference to the risk that prisoners considered to be violent and/or disruptive may on occasion be the victims of ill-treatment, especially in the aftermath of a major incident.

In the course of the 2003 visit, the delegation had the opportunity to talk to several prisoners who had been transferred from Shotts Prison following an incident in April 2003. The CPT is pleased to note that they had no complaint about the manner in which the incident had been handled by staff or about their subsequent treatment.

76. The CPT's mandate is not limited to the prevention of ill-treatment inflicted by prison staff. The Committee is also very concerned when it discovers a culture which is conducive to inter-prisoner intimidation and violence.

The CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. Addressing the phenomenon of inter-prisoner violence requires that prison staff be alert to signs of trouble, and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of secure custody and care, is a decisive factor in this context.

77. In this connection, the delegation was informed that there had been a threefold increase in the number of inter-prisoner assaults at Barlinnie Prison in the last two years; there were 28 such incidents in the period April 2002 to March 2003, as compared to 9 during the preceding twelve months. The CPT has noted that the establishment's management had decided to step up anti-violence strategies. **The Committee recommends that those strategies be vigorously pursued, and that means of rendering them more effective be explored.**

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[59] Cf. CPT/Inf (96) 11, paragraphs 306 and 309.

3. Conditions of detention

a. material conditions

78. Considerable improvements had been made at Barlinnie Prison since the CPT's 1994 visit.

As already indicated (cf. paragraph 67), several of the detention units - B, C, and D Halls - had been refurbished; cells in those units now included integral sanitation and connections for electrical appliances (e.g. television sets and kettles). Further, a new prefabricated unit - Letham Hall - provided additional temporary accommodation.

Cells throughout the establishment had adequate lighting, including access to natural light, and ventilation; they were suitably furnished and, on the whole, in a satisfactory state of repair and cleanliness. Further, all cells were equipped with a call system.

As regards occupancy levels, many inmates were accommodated in a single cell measuring 8 to 8.5 m²; however, about half of the establishment's inmate population, i.e. some 600 prisoners, were accommodated two to a cell of these dimensions (none were held three to a cell - cf. paragraph 66). As the CPT has already made clear, cells measuring 8.5 m² provide only cramped accommodation for two persons[60].

79. To sum up, B, C and D Halls were capable of offering acceptable material conditions to prisoners; conditions were particularly good at the drug support and the sentence planning units, both located in D Hall. However, the level of partitioning of in-cell lavatories was insufficient and, for many prisoners, overcrowding rendered conditions less satisfactory.

The situation was far from ideal in Letham Hall, where cells had no integral sanitation, and it was simply unacceptable in the unrenovated A Hall, where the lack of access to sanitary facilities at all times was compounded by very limited out-of-cell time[61]. Management and staff stated that prisoners held in those parts of the prison were allowed out of their cells during the day to use the sanitary facilities upon request; however, inmates, particularly in A Hall, complained that these arrangements were not effective. Further, in A Hall, inmates could not use electrical appliances in their cells. It should be noted that A Hall was the first place where newly admitted prisoners were allocated; it also accommodated a number of sentenced prisoners.

In all, about 350 inmates, of whom some 200 in shared cells, were being held in cells without integral sanitation and were not guaranteed ready access to a lavatory. Wire mesh had been placed over the windows in order to curb prisoners' insalubrious practice of removing solid human waste via the window[62]; faced with this situation, many prisoners had now chosen to pack the waste in any material available to them and dispose of it at slop-out times.

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60 Cf. CPT/Inf (96) 11, paragraphs 344 and 348, and CPT/Inf (2000) 1, paragraph 73.

61 E Hall, which as already indicated (cf. paragraph 67) was temporarily out of service, had also not yet been renovated.

62 Cf. CPT/Inf (96) 11, paragraph 345.

80. The CPT has already recommended that efforts be stepped up with a view to eradicating slopping out at the earliest opportunity (cf. paragraph 66, second sub-paragraph). Pending the attainment of this objective, **it recommends that prison officers at Barlinnie Prison (as well as at any other establishment where slopping out remains) receive clear instructions to the effect that, when a prisoner held in a cell without integral sanitation requests to be released from his cell for the purpose of using a toilet facility, that request is to be granted without delay, including at night, unless overriding security considerations exceptionally require otherwise.**

It also recommends that, at Barlinnie:

- **a very high priority be given to plans to refurbish A and E Halls;**

- **efforts continue to be made to reduce overcrowding; more specifically, cells measuring 8.5 m² or less should be used to accommodate no more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone);**

- **the level of partitioning of lavatories in renovated cells be reviewed.**

81. In the report on the 1994 visit[63], the CPT criticised the cupboard-like structures measuring about 1 m², known as dog-boxes, used for holding prisoners in the reception unit at Barlinnie. It indicated that "to subject a newly-arrived prisoner to three successive spells in [them] is unlikely to alleviate the feelings of anxiety and/or depression that he might well be experiencing. Many must find the process extremely humiliating." At the time of the 2003 visit, those facilities remained in use, unchanged.

The CPT fully understands the need at Barlinnie Prison for a structure permitting the processing of a large number of prisoner arrivals (and departures) every day (which total some 48,000 movements per year). However, in view of their size alone, the above-mentioned cubicles are not suitable for detention purposes; **the Committee calls upon the authorities to replace the existing cubicles by larger holding facilities without further delay.**

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63 Cf. CPT/Inf (96) 11, paragraphs 357 to 360.

b. regime

82. In response to the 1994 visit report, the authorities informed the CPT of efforts being made to improve the regime for remand prisoners at Barlinnie Prison and of the existence of a "local target" of 6 hours of out-of-cell time per day[64].

According to information provided to the delegation during the 2003 visit, there were 640 work places available in the prison services (kitchen, laundry, catering, cleaning, etc.) and in the establishment's workshops (woodwork and textiles, metal recovery, paint and decoration, farms and gardening); certain of them provided the opportunity to acquire recognised vocational qualifications. Other activities offered included a comprehensive adult learning programme, organised sports activities, training in anger management, cognitive skills, drug and sex offender programmes, and recreation; these activities involved a considerable number of prisoners. The declared objective was to ensure that "the maximum number of prisoners spend at least 4 hours per day on purposeful activities".

83. The CPT welcomes the efforts being made to develop activity programmes for inmates, mostly sentenced prisoners. For some (in the sentence planning unit), this involved upwards of 12 hours of out-of-cell time per day, and for many (e.g. in the drug support unit) about 8 hours engaged in a range of activities (work, learning activities, recreation). However, sentenced prisoners who did not work or participate in learning activities only spent 3 to 4 hours per day outside their cells.

84. The vast majority of remand prisoners were offered nothing remotely resembling a regime. They had an average of about two hours of out-of-cell time per day, something which, according to staff spoken to, could be improved with less overcrowding. For most, remand detention at Barlinnie only lasted a few weeks; despite this, the situation of this category of prisoners was unacceptable. The deleterious effects of the enforced idleness of those held in A Hall and, albeit to a lesser extent, in Letham Hall, was exacerbated by poor material conditions (cf. paragraph 79, second sub-paragraph).

85. The CPT wishes to stress once again the importance of offering a satisfactory programme of activities to all prisoners, remand and sentenced[65]. **The CPT recommends that efforts continue to be made to develop the programmes of activities for inmates at Barlinnie Prison, including remand prisoners.** As indicated in the report on the 1994 visit[66], **the objective should be to ensure that remand prisoners spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with vocational value; education; sport; recreation/association).**

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64 Cf. CPT/Inf (96) 12, page 71.

65 Cf. CPT/Inf (2001) 6, paragraph 75.

66 Cf. CPT/Inf (96) 11, paragraph 351.

4. Health-care services

86. The Scottish Prison Service acknowledges a general responsibility to "maintain and improve the health of prisoners" in a proactive manner[67], and also seeks to "promote positive mental health for all prisoners", inter alia, by "respond[ing] to their care needs and arranging specialist healthcare provision for those with mental illness"[68]. The declared aim is to provide health care in conditions comparable to those enjoyed by patients in the outside community. In this context, in addition to services provided directly, the Prison Service is supported by relevant local authorities and contracts services from private providers.

87. On the whole, the delegation's doctors formed a very favourable impression of the organisation of general and mental health care at Barlinnie Prison, especially as regards the nursing team (and the social worker team). The health-care facilities and residential unit were adequate, screening on admission was quite satisfactory (performed shortly after arrival by a nurse reporting to a doctor who also assessed the state of the prisoner concerned within 24 hours of admission), records were detailed and confidentiality was respected.

The CPT wishes, nevertheless, to make some remarks concerning health-care related issues.

88. As regards health care in general, Barlinnie Prison had contracted from a private provider the equivalent of three full-time general practitioners for attendance during normal working hours, as well as the presence of a general practitioner for two hours every evening and three hours during weekends and bank holidays. Outside those periods, doctors attended the prison on request.

While the scheduled presence of doctors in the prison could be considered sufficient for an establishment of Barlinnie's characteristics and size, the delegation heard accounts (from prison staff) to the effect that the service was not fully reliable, as doctors' actual attendance was on occasion haphazard, leading to the cancellation of appointments and, on occasion, delays in seeing patients. **The CPT would like to receive the comments of the authorities on this point.**

89. The nursing team, in addition to managers, consisted of the equivalent of 26.9 full-time nurses (for 31 posts), including 12 mental health nurses and one nurse specialised in providing care to persons with learning disabilities. Additional input was provided by forensic psychiatric nurses attending the prison two half days per week. The team appeared to be well knit and organised. Nonetheless, **the CPT invites the authorities to fill the vacant nursing posts.**

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67 Cf. The Health Promoting Prison: A Framework For Promoting Health In The Scottish Prison Service, Scottish Prison Service, 2002.

68 Cf. Positive Mental Health, Scottish Prison Service, 2002.

90. Concerning specialist care, a radiologist, an optician and a chiropodist attended the prison regularly. Other specialist services were provided at the local hospital.

With respect to dental care, two dentists attended Barlinnie Prison in all for some 12 hours per week. The delegation was informed that, emergency care excluded, the average waiting period was six to eight weeks, i.e. in many cases considerably longer than the prospective patient's stay in the prison (cf. paragraph 84). In the CPT's opinion, an establishment with Barlinnie's inmate population and turnover requires the equivalent of a full-time dentist; **it recommends that the provision of dental care at Barlinnie Prison be reviewed accordingly.**

91. In respect of mental care, **the attendance of psychiatrists at Barlinnie Prison,** amounting in total to 6 to 8 hours per week, **appeared to be somewhat modest.**

That said, psychiatrists were supported by a sufficient number of specialised nurses (cf. paragraph 84) who provided support to patients on a daily basis and monitored the inmates concerned. In addition, there were two full-time and three part-time psychologists who, inter alia, provided individual and group therapy; the social workers also assisted with group activities for relevant prisoners (e.g. sex offenders).

It might be added that the social workers complained that, due to lack of appropriate facilities, they had to conduct individual sessions in glass-walled booths in the wings, an arrangement that did not provide sufficient privacy.

92. Letham Hall served as a so-called high dependency unit for the enhanced observation of inmates who were considered to be at risk of suicide or self-harm. Inmates requiring closer monitoring (e.g. constant or every 15 minutes supervision) were transferred to the residential health-care unit. The delegation was told that since the introduction of these arrangements suicide and self-harm had decreased considerably at Barlinnie Prison.

5. Other issues

a. segregation

93. The segregation unit remained of an adequate standard, and lavatories had again been fitted in most cells[69]; priority was given to accommodating prisoners in cells equipped with sanitation. The unit had a small gym, for use by inmates removed from association for reasons of good order and discipline (as opposed to disciplinary punishment)[70]; such inmates were offered one hour in the gym every day, and all prisoners held in the segregation unit had one hour of outdoor exercise.

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69 Cf. CPT/Inf (96) 11, paragraph 353.

70 Cf. the Prisons and Young Offenders Institutions (Scotland) Rules 1994, Rules 80 and 95.

It might be added that staff assigned to the unit received additional training, inter alia, in control and restraint and in interpersonal communication techniques, and that the unit (except the inside of cells) had closed circuit television monitoring (which was recorded).

94. At the time of the visit, there was also in operation a special unit holding a single maximum security prisoner. The unit offered material conditions of a far higher standard than other parts of the establishment. It consisted of a suitably furnished cell (including a television set and radio/CD player) with integral sanitation, and had a living room (including features such as a television set and pay-phone), computer/dining room, kitchen and laundry room. The prisoner concerned was locked in his cell at night and during certain day-time periods, but had free access to the remaining facilities in the unit the rest of the time.

The prisoner did not participate in organised activities with other inmates or in association with them. However, he had some contact with staff, spent considerable time with his lawyers and received frequent visits from his consul; the prisoner was also visited regularly by his close relatives. He was offered the opportunity to take outdoor exercise (on his own), use the gym and play football with staff, and, at the time of the visit, he was receiving one-to-one initiation in computing.

To sum up, the situation of this prisoner was satisfactory.

b. drug-related issues

95. The CPT has already pointed out that the presence in prison of inmates with drug-related problems gives rise to a number of particular difficulties for the prison authorities, including health issues and the choice of forms of assistance and programmes which are to be offered to the prisoners concerned[71].

In order to lay down the foundations for continuing progress, inmates who participate in drug-treatment programmes should be offered education and training designed to enhance their social skills, develop working habits and provide them with suitable qualifications. Health-care and psycho-socio-educational services of establishments accommodating significant numbers of prisoners with drug-related problems should be adequately staffed with a closely knit inter-disciplinary team of persons having appropriate expertise and training; due regard should also be given to the potential contribution of prison officers in this context.

96. At Barlinnie Prison, the delegation was informed that about 80% of newly admitted inmates had drug-related problems. During initial screening, nurses attempted to ascertain prisoners' drug/substance abuse habits and, where relevant, referred them to nurses specialised in addictions. Shortly after arrival, prisoners were also interviewed by members of a drugs and alcohol support organisation who offered their assistance. In addition, there was mandatory and voluntary drug testing.

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[71] Cf. CPT/Inf (2002) 6, paragraph 80.

97. At the time of the visit, about 100 prisoners were undergoing the 18-day detoxification programme available in the prison, and some 170 inmates were receiving substitution treatment. However, it frequently took a few days before substitution treatment begun prior to arrival in prison was resumed and such treatment was only exceptionally initiated in the prison.

There was a drug awareness programme, and some prisoners willing to address their drug problem were accommodated in the drug support unit in D Hall. Inmates could participate in a specific initial ("first steps") programme and a relapse prevention ("lifeline") programme, both lasting 4 weeks. Prisoners in the drug support unit were required to work and to participate in a number of other activities, e.g. physical education. Other forms of support included group sessions with social workers.

98. The CPT welcomes the efforts being made in this area.

However, to ensure maximum effectiveness, it is desirable to prepare the ground for successful rehabilitation before detoxification. This may well require a substitution programme leading, through adequate guidance and counselling, to a free decision to detoxify and to participate in a rehabilitation programme, an approach which would be consistent with that already being followed in the community at large.

Further, the number of places in the drug support unit was somewhat limited (42 cells, eight of which were accommodating two inmates at the time of the visit). Consequently, not all prisoners wishing to do so were given the opportunity to address their drug-related problems and, more particularly, not all prisoners who received substitution treatment or underwent detoxification were offered a place in the other existing programmes or received other forms of support.

99. The CPT has noted that there are plans to develop further the care offered to prisoners with drug-related problems, including by accommodating those receiving substitution treatment in a specific unit offering adequate programmes. **The CPT recommends that those plans be implemented at the earliest opportunity.**

More generally, **it recommends that the management of drug-related problems in Barlinnie be reviewed, in the light of the above remarks.**

100. Finally, although some information aimed at the reduction of harm was provided to prisoners with drug problems (e.g. as regards disease transmission and methods of prevention) and bleach was available to inmates, condoms were not made available, and no information was provided concerning the precautions to be adopted in the context of the taking of certain drugs (e.g. as regards the cleaning of needles/syringes). **The CPT would like to receive the authorities' comments on this issue.**

C. Psychiatric establishments

1. Preliminary remarks

101. The CPT's delegation visited the **State Hospital,** Carstairs. The hospital was brought into service in 1948 (as the State Institution for Mental Defectives); it is under the responsibility of the National Health Service.

It consists of a number of buildings located on extensive grounds in the Lanarkshire countryside. In the past, it has accommodated more than 400 patients; however, at the time of the visit, it had some 250 beds, assessed on the basis of the current staff complement, and was caring for 237 patients, including 14 women.

102. The State Hospital provides care to mental patients requiring in-hospital treatment under special security arrangements because of their potential dangerousness; they are admitted under the provisions of the Mental Health (Scotland) Act 1984[72] or the Criminal Procedure (Scotland) Act 1995 (cf. paragraphs 116 and 117).

Persons who no longer require in-patient psychiatric treatment may continue to be detained at the hospital under the provisions of the Criminal Procedure (Scotland) Act 1995 and the Mental Health (Public Safety and Appeals) (Scotland) Act 1999.

Further, persons can be referred to the State Hospital for psychiatric assessment in the context of criminal proceedings under the provisions of the Criminal Procedure (Scotland) Act 1995.

103. The State Hospital is the only establishment of its kind in Scotland, and also admits patients from Northern Ireland[73]. The CPT has noted that there have on occasion been difficulties in relocating patients whose condition no longer justified special security arrangements. This gap is being bridged by the creation of medium security units. One such facility, the 50-bed Orchard Clinic in Edinburgh, is already in operation, and a further unit will open in Glasgow in 2005-2006.

104. The CPT wishes to make clear at the outset that its delegation received no allegations of ill-treatment of patients by staff. Moreover, the atmosphere at the hospital seemed relaxed, and relations between staff and patients appeared to be good.

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72 The recently adopted Mental Health (Care and Treatment) (Scotland) Act 2003 is expected to enter into force towards the end of 2004.

73 At the time of the visit, there were 17 patients from Northern Ireland at the State Hospital.

Nonetheless, the establishment's management provided detailed information on patients' complaints. Allegations of ill-treatment made by patients related mostly to the manner in which manual restraint had been applied, and some to other forms of abuse, e.g. sexual abuse. The information at the CPT's disposal suggests that action taken at internal level vis-à-vis such complaints was adequate. Very few of the complaints of ill-treatment made by patients had been upheld[74], but they sometimes revealed the need for managerial action, such as providing additional training to a member of staff or reviewing certain practices (cf. for example, paragraph 126). In appropriate cases, complaints could be brought to the attention of the police, and the latter could refer them to the relevant procurator fiscal.

These matters underline the importance of staff entrusted with the care of mentally ill patients being carefully selected and possessing appropriate qualifications and training. They also highlight the need, in the interests of the prevention of ill-treatment, for adequate supervision of staff.

105. Reference might also be made to the recent "audit" of the hospital in respect of compliance with the Human Rights Act 1998. The audit, carried out at the initiative of the hospital's own management under the direction of an independent consultant, identified some issues that needed to be addressed and led to the development of a "best practice guide". The CPT welcomes this approach.

2. Staff resources and treatment

106. Staff resources at the State Hospital appeared to be adequate in terms of numbers (550 posts in all) and categories.

At the time of the visit, there were 9 full-time and one part-time consultant psychiatrists and 6 junior doctors (undergoing specialisation training). They were supported by a nursing director and some 400 psychiatric nurses. The psychological services comprised a psychology director and 12 clinical, 2 forensic and 7 associate psychologists (15 of whom full-time), as well as 1 clinical nurse therapist. There were 4 full-time teachers and the social services were staffed by a team leader, a manager and 6 social workers (all mental health officers) deployed by the local authorities.

107. Following admission, patients underwent an 8-week assessment by a multidisciplinary team, leading to the establishment of a diagnosis and the drawing up of a detailed treatment plan, for which the patient's agreement was sought. Each patient remained under the responsibility of a psychiatrist and was assigned a key worker. Multidisciplinary teams carried out regular reviews of the situation of each patient.

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74 Some two years before the visit a member of staff had been dismissed for inappropriate behaviour vis-à-vis a patient, and another, found guilty of verbal abuse, had been encouraged to leave the establishment.

108. Treatment included medication, individual and group psychotherapy, psychological intervention programmes (e.g. anger management, cognitive behaviour training, dialectic behaviour therapy, sexual violence risk reduction, substance misuse and self-harm) and various types of occupational therapy. The delegation found no signs of overmedication.

Activities for patients formed part of a closely monitored holistic therapeutic framework adapted to each patient's needs. There was a wide range of remedial, vocational, academic and leisure learning opportunities, e.g. traditional school subjects (mathematics, English, computing), garden and pet centres, workshops (woodwork, ceramic design, textile). All of the facilities for these activities, located outside the wards, were of a high standard. Sport and physical education were also accorded considerable importance, in outdoor and well-equipped indoor facilities. Nursing staff was closely involved in the patients' therapeutic activities and treatment.

In addition, cultural events (e.g. music performances, story telling) were organised in a community centre which also had a library, computer facilities, canteen, bank and hairdresser. Further, about half of the patients had "grounds access", i.e. the opportunity to move freely within part of the hospital grounds and premises during specific daytime periods. Many patients also benefited from the possibility of accompanied or unaccompanied outings.

109. To sum up, staff were endeavouring to provide appropriate care to patients and to involve them in a panoply of activities fully suited to their needs. Moreover, it appeared that, in general, patients appreciated the treatment and regime offered to them.

110. Somatic care was provided by two part-time general practitioners, assisted by four nurses. Further, a dentist attended the State Hospital twice a week and an optician and chiropodist visited the establishment regularly. In-patient and other specialist somatic care was provided by outside hospitals.

3. Living conditions

111. Patients were accommodated in eleven wards, occupying separate one or two-storey buildings. They consisted of individual bedrooms and communal areas, and one was subdivided into self-contained flats for more autonomous patients requiring less supervision.

112. Bedrooms had good access to natural light and ventilation, and were adequately furnished (bed, table, shelves/cupboards); patients could decorate/personalise their own rooms and keep television sets, radios and music equipment. In newly built or renovated wards, patients' rooms were spacious (e.g. 9.5 to 13 m² or more) and had integral sanitation (washbasin and lavatory). The delegation was informed that showers might be fitted in some rooms.

However, the level of partitioning of lavatories on occasion left something to be desired (e.g. in the ward for women). Further, rooms in the older, unrenovated, wards were small (about 6 m²). The latter did not have sanitation, but the delegation was told that, in many cases, patients in those wards were not locked in during the night and, in all cases, patients were given immediate access to sanitary facilities on request.

113. Communal facilities in each ward comprised dining room, sitting rooms, music and quiet rooms, smoking room, laundry room and sanitary facilities (including baths and showers) to which patients had adequate access. Those premises were clean and, on the whole, in a good state of repair. In new or renovated wards, communal areas were spacious. However, in some of the older wards, day rooms were rather cramped.

The delegation also observed that some items of furniture (e.g. chairs and armchairs, including in staff offices) were in need of repair/replacement.

114. **The CPT recommends that plans to renovate or rebuild older wards be pursued, and that the partitioning of lavatories in patients' rooms be reviewed.**

Further, **attention should continue to be paid to the state of repair of all the buildings; worn out furniture should be repaired or replaced.**

4. Safeguards for psychiatric patients

115. On account of their vulnerability, the mentally ill and mentally disabled warrant much attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment, whether in a civil or criminal context, as well as treatment and any use of physical restraint, should always be surrounded by appropriate safeguards.

a. placement and discharge procedures

116. In case of emergency, a sheriff can, on the recommendation of a doctor, authorise that a person suffering from a mental disturbance who poses a risk to himself or to others is admitted to a psychiatric establishment for a maximum of 72 hours; if the risk persists, the person may continue to be detained for a further 28 days on the recommendation of a psychiatrist.

In other cases, a sheriff can order the placement of a person for a period of six months on the recommendation of two doctors, at least one of whom must be a psychiatrist and one qualified as being independent of the establishment concerned. The consent of the patient's relatives or, failing that, of a mental health officer (i.e. a local authority representative), is also sought. The placement can be renewed once for six months and subsequently for 12-month periods; renewal requires an assessment of the mental state of the person concerned. **The CPT would like to receive clarification as to whether the assessment in the context of the renewal of placements requires the opinion of a psychiatrist independent of the psychiatric hospital in question.**

The end of an involuntary placement is decided by the psychiatrist responsible for the patient; the patient may challenge the involuntary admission or continued placement before the Mental Welfare Commission or sheriff and may, for this purpose, apply for legal aid and be assisted by a solicitor.[75]

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[75] Cf. in respect of the general legal framework for placement and discharge procedures, Mental Health (Scotland) Act 1984, Sections 18 et seq.

117. In the context of criminal proceedings, a sheriff may commit a person to a psychiatric establishment for assessment for an initial period of up to 12 weeks, renewable for 28-day periods up to a maximum of 12 months. Further, on the basis of a psychiatrist's opinion, the sheriff may remand a person to such an establishment, and may order detention there on the grounds that a person cannot stand trial or following acquittal on the basis of insanity. A person may also be referred to a psychiatric hospital by a prison health-care service for in-patient treatment.

In the above-mentioned cases, hospitalisation in principle ends when the person's deprivation of liberty in the criminal justice context ceases or, on medical grounds, by decision of the psychiatrist responsible for the patient. However, as already indicated, the detention of a person in a psychiatric hospital may continue in the absence of medical need, in the interest of public safety, assessed and reviewed periodically by the Scottish Ministers.[76]

118. The files examined at the State Hospital by the delegation showed that the above-mentioned procedures were scrupulously followed, in particular as regards the required periodic reviews.

However, the CPT has misgivings about the continued detention in psychiatric establishments for potentially long periods of persons whose involuntary placement is not, or is no longer, justified on medical or assessment grounds. **The CPT would like to receive the authorities' comments on this subject.**

b. patients subject to specific measures

119. The CPT welcomes the fact that involuntary placement is not interpreted as automatically authorising involuntary treatment[77] and that the latter is subject to various formal safeguards (e.g. notifying the administration of medication without consent to the Mental Welfare Commission and, if treatment is not urgent, requirement of a second opinion by a practitioner appointed for the purpose by the Commission). The recently adopted Mental Health (Care and Treatment) (Scotland) Act 2003 confirms the principle of the need of consent for treatment and seeks to reinforce existing safeguards in this respect, particularly as regards more intrusive forms of treatment (e.g. neurosurgery).

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76 Cf. as regards placements in the context of a criminal procedure, Criminal Procedure (Scotland) Act 1995, Sections 52 et seq., Mental Health (Scotland) Act 1984, Sections 60 et seq., Prison and Young Offenders Institutions (Scotland) Rules 1994, Section 31, and Mental Health (Public Safety and Appeals) (Scotland) Act 1999.

77 Cf. Mental Health (Scotland) Act 1984, Sections 96 et seq.

120. The use of instruments of physical restraint was not authorised within the State Hospital. In case of need, a patient could be manually restrained by staff; while a patient was being thus restrained, staff would endeavour to resolve the situation by talking to the patient and alleviate progressively the manual restraint and discontinue it at the earliest opportunity. The CPT fully endorses this approach.

Nevertheless, the use of handcuffs was possible during escorts outside the hospital's premises. The CPT would underline that, if, exceptionally, recourse is made to handcuffs, they should be removed at the earliest opportunity. In this connection, the delegation was informed that, in October 2002, a patient had been handcuffed for seven hours to members of staff while at the local hospital without a proper assessment or authorisation. Following this incident, the hospital's management had initiated a review of procedures concerning the use of handcuffs; **the CPT would like to receive information on the outcome of this review.**

121. Temporary seclusion or separation of patients was subject to a detailed policy. Such measures could take place in the patient's own bedroom or, in appropriate cases, in rooms set aside specifically for the purpose (e.g. furnished only with a mattress and sheets). Seclusion was rightly regarded a measure of last resort, after all attempts to avoid its use (through persuasion, use of extra staff, manual restraint, use of appropriate medication) had failed.

Seclusion measures were surrounded by appropriate safeguards (decision by the nurse in charge of the ward, immediate communication to and supervision by the nursing or security manager, prompt communication to the psychiatrist responsible for the patient or the duty consultant and regular reporting to the hospital's management). Further, patients separated from the others were closely supervised, and staff attempted to de-escalate the situation in order to discontinue the measure at the earliest opportunity.

The delegation noted that seclusion was rare (6 cases during the year preceding the visit) and its duration limited (in some cases lasting less than one hour and in only two cases more than one day).

122. In addition, there was a "time out" possibility as regards patients who, at their own request or with their agreement, stayed alone in a side room because they felt the need to do so or were persuaded to attempt in this way to de-escalate a potentially disturbing situation. The CPT has noted that, in such cases, patients were not locked in and were subject to regular observation (at least every 15 minutes). These episodes were noted in patients' files.

However, the delegation heard of "time out" measures perceived by the patients concerned as involuntary segregation or seclusion. In one case, the patient in question had allegedly remained in a locked room for several hours, apparently without supervision. **The CPT recommends that steps be taken to ensure that there is no confusion between seclusion and "time out", and that, in all cases, the rules concerning supervision are systematically applied.**

123. Reference should also be made to the levels of observation of patients applied at the State Hospital and, more particularly, to measures involving enhanced supervision.

All patients were subject to general - or so-called level one - observation; this involved staff knowing the general whereabouts of each patient and regular supervision (approximately every 30 minutes) while patients were in their rooms. Constant - or level two - observation, was applied to patients considered to pose a significant risk to themselves or others; it required precise knowledge of patients' whereabouts at all times, that they be kept permanently within sight or hearing of staff and direct supervision at least every 15 minutes while patients were in their rooms. Special - or level three - observation, reserved for patients "requiring intensive and skilled intervention as a consequence of their very serious mental and/or physical state", involved the constant supervision of a patient with at least one member of staff permanently within arm's reach and at least within sight while patients were in their rooms.

According to the written policy concerning this subject, the level of observation could be raised by decision of the nurse in charge of a ward at the request of any clinical member of staff. Such measures must be brought promptly to the attention of the psychiatrist and clinical team responsible for the patient and, with the patient's consent, of his/her relatives. The need for ongoing level two observation was reviewed by the doctor responsible for the patient's treatment, in consultation with other relevant staff, on a weekly basis and, level three observation, every 24 hours; enhanced supervision was the subject of detailed recording.

124. The information gathered by the delegation suggests that, at any one time, there might be some 30 patients under level two observation at the State Hospital and about 5 patients under level three observation. Having regard to the nature of the establishment, these figures cannot be regarded as excessive; **efforts should continue to be made to ensure that enhanced levels of observation are only applied when, and for as long as, appropriate and that they are not overly intrusive.**

c. complaints procedures

125. The delegation was provided detailed information on complaints made by patients as well as on complaints procedures.

Complaints could be made by patients or by others on their behalf, including through the patients' advocacy service available at the State Hospital. The vast majority of complaints made by patients related to matters such as food, grounds access, and access to a telephone. Most of them were dealt with rapidly and informally by staff working close to the patients concerned; in such cases, patients were informed of the possibility to have the matter examined and resolved formally.

More serious, so-called significant, complaints (e.g. ill-treatment, abuse, neglect, improper detention, unlawful treatment) were the subject of an inquiry by two members of staff trained as investigators under the supervision of the establishment's complaints officer. A complainant who was not satisfied with the decision taken upon his/her complaint could request that the case be re-examined by an independent review panel or could raise the matter with the Scottish Public Services Ombudsman.

126. As already indicated (cf. paragraph 104, second sub-paragraph), the information at the CPT's disposal suggests that the response to complaints at internal level was adequate. It appeared that the State Hospital's management was committed to thoroughly and promptly investigating patients' complaints[78] and, when appropriate, taking firm action. Reference should also be made in this context to the critical incident review policy, leading to the systematic examination of significant events in the State Hospital with a view to remedying any shortcomings identified.

127. Complaints could be - and significant complaints often were - referred by management to the police for investigation[79]. The delegation was told that such referrals were frequently made at the request of the patient concerned.

However, while patients could communicate confidentially with the hospital's advocacy service, and, if they had one, their solicitor, it would appear that complaints addressed by them to outside bodies (e.g. the police) had to be transmitted through, or with the consent of, the establishment's management. The CPT has misgiving about this approach; specific arrangements should exist enabling patients to lodge formal complaints with appropriate authorities outside the establishment and to communicate with such authorities on a confidential basis.[80] **It recommends that current practice in this respect be reviewed, in the light of the above remarks.**

d. other safeguards

128. The CPT welcomes the existence of a number of information leaflets made available to patients upon arrival and during their stay at the State Hospital. They covered patients' rights and procedures (e.g. Patient's Charter, Communication Charter) as well as treatment programmes available (e.g. anger management, offending behaviour). Such information was also provided orally to patients.

129. Maintaining contact with the outside world is essential, not only to prevent ill-treatment but also from a therapeutic standpoint.

The situation in this regard at the State Hospital was satisfactory. Patients were allowed, and encouraged, to maintain contacts with their relatives and friends. They could send and receive letters, make telephone calls and receive visits; on occasion, such contacts were supervised. Further, some patients were allowed to leave the establishment and stay with their relatives for short periods.

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78 The delegation was told that, in all, about 30% of the complaints were at least partially upheld, mostly leading to managerial action.

79 Cf. also, the Best Practice Guide referred to in paragraph 105, assault section.

80 Cf. Best Practice Guide, mail vetting section.

D. Detention facilities for children

1. Preliminary remarks

130. The age of criminal responsibility in Scotland is eight. The remand and committal of children under 16 years of age in the context of criminal proceedings (except as regards those aged 14 or more who have been certified as "unruly or depraved") takes place in residential, including secure, accommodation provided by the local authorities. Detention in principle lasts up to half of the sentence imposed and may then be substituted by other supervision measures.[81]

131. Specialised tribunals, so-called children's hearings, may also order the detention of children in secure accommodation as a provisional measure pending disposal of a case or as part of the supervision requirement in respect of those whose mental or moral welfare would be at risk or who would be likely to injure themselves or others unless kept in such accommodation. In these cases, the detention of a child may last for up to one year, renewable until the minor reaches 18 years of age. The establishment concerned is required to give an opinion in respect of the detention and supervision requirements within seven days of admission and subsequently every three months. Decisions by children's hearings concerning detention can be appealed against before the competent sheriff.[82]

The detention of a child for up to 72 hours in secure accommodation is also possible by decision of the chief social work officer as an interim or urgent measure before a children's hearing makes a ruling.

132. The delegation visited **St Mary's Kenmure Secure Accommodation Service** in Bishopbriggs, North Glasgow. The establishment, brought into service in 2000, had a capacity of 36 (including 6 in an open unit) and, at the time of the visit, had 34 residents (including 5 girls) aged 11 to 16, of whom 14 had been placed in the context of criminal proceedings.

The situation found at St Mary's was quite satisfactory. The CPT trusts that other detention facilities for children in Scotland are of a comparable standard.

133. It should be noted at the outset that the CPT's delegation heard no allegations, and gathered no other evidence, of ill-treatment of children by staff at St Mary's; it found a very relaxed atmosphere in the children's detention facility and staff appeared dedicated. The delegation was informed that any allegations of ill-treatment would systematically be referred to the police for investigation, an approach the Committee welcomes.

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81 Cf. Criminal Procedure (Scotland) Act 1995, Sections 41 et seq., Children (Scotland) Act 1995, Sections 49 et seq., and Secure Accommodation (Scotland) Regulations 1996.

82 Cf. Children (Scotland) Act 1995, Sections 52 and 66 to 70.

2. Material conditions of detention

134. Children were accommodated in spacious (approximately 11 m²) well-lit (natural and artificial light) and ventilated individual bedrooms, mostly grouped in 6-room units, which were suitably furnished (bed, desk, chair, shelves) and pleasantly decorated. Each room had a fully-equipped sanitary annexe (washbasin, lavatory and shower).

Communal facilities included a comfortable association room (adequately furnished, decorated with colourful educational murals and notice boards, and equipped with television sets and video games, as well as radio/CD players), a quiet room, a kitchen and dining room, and a room for visits and private telephone calls. These, as all other facilities in the establishment, were clean and in a good state of repair.

To sum up, the conditions of detention at St Mary's Secure Accommodation Service were fully satisfactory. There was little visible indication of the closed nature of the facility.

3. Regime

135. The CPT would recall[83] that children have a particular need for physical activity and intellectual stimulation. Those deprived of their liberty should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme.

Further, girls and young women deprived of their liberty should enjoy access to such activities on an equal footing with their male counterparts.

136. Children at St Mary's Kenmure Secure Accommodation Service were required to attend classes, designed to cater for their individual educational needs, during normal school hours in small groups (cf. also, as regards specific therapeutic programmes, paragraph 140). Classes included English, mathematics, biology, science, music, computing, home economics and cooking. A detailed care or sentence plan was drawn up for each child, who also had a key-worker. There was a specific programme for children with learning disabilities. Further, several children accommodated in the open unit were attending classes, vocational training and other types of activities in the community.

Children were also offered a panoply of evening and weekend activities, with particular emphasis being placed on physical education and sport.

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83 Cf. CPT/Inf (2002) 6, paragraph 105.

Classrooms, sports facilities (football pitch, gymnasium, swimming pool) and other premises for children's education and activities were equipped to a very high standard, and the number and training of staff (e.g. 14 teachers/pedagogues, sports instructors) was also quite adequate[84].

4. Means of restraint and segregation

137. The CPT's delegation was told that the use of means of physical restraint was not authorised at St Mary's Kenmure Secure Accommodation Service; staff were expected to resolve difficult situations through non-physical means, for which purpose they received training in therapeutic crisis intervention techniques. The CPT welcomes this approach. Nevertheless, **it would like to be informed whether control and restraint techniques (i.e. manual control) are authorised for use when non-physical means have failed and if staff deployed in detention facilities for children in Scotland are offered training in such techniques.**

138. As regards segregation, a child can be separated from the others in case of need (e.g. to prevent self-harm, injury to others, escape, significant damage to property), but not as punishment. Such measures are governed by a written policy[85].

In principle, the separation of a child takes place in his or her own room, lasts for an aggregate maximum of three hours within a 24-hour period and requires monitoring of the child at 15-minute intervals. Further, separation is subject to a number of formal safeguards: it must be authorised by the duty manager, notified to the establishment's director, recorded (including the reasons for the measure, the person who authorised it, the date and time of placement and release, and times when the child is monitored), and the child concerned given the opportunity to insert comments in the relevant register/form.

The CPT welcomes the above-mentioned arrangements.

5. Health care

139. A general practitioner attended St Mary's Kenmure Secure Accommodation Service for two hours every week and could be called at other times. A nurse, working full-time, systematically screened all children upon admission; they were subsequently examined by a doctor. An optician examined every resident within a few weeks of admission, and the establishment was visited at regular intervals by a dentist and by a chiropodist. For other specialist care and in case of emergency, children could be taken to the local hospital.

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84 The delegation was informed that, at the time of the visit, the total number of staff in the establishment was 147.

85 Cf. Management and Risk Assessment of Incidents.

Detained children's medical files were kept by the doctor and were not available in the establishment; however, a summary was kept by the nurse on the premises. The confidentiality of medical data was being respected.

140. A psychiatrist was present at St Mary's Kenmure Secure Accommodation Service for 6 hours per week and could be called at other times. In addition, there were five full-time psychologists, including a principal forensic psychologist, a clinical psychologist and an education specialist.

In addition to participation in the assessment process, the mental health team, in appropriate cases assisted by social workers and drugs/alcohol abuse specialists, provided a variety of programmes, including cognitive behaviour, anger management, offending behaviour and victim empathy. There were specific programmes for sexually aggressive children, including behaviour-related work and stress management counselling. This array of therapeutic programmes was supplemented by acupuncture, relaxation sessions and aromatherapy.

6. Further remarks

141. Children held at St Mary's Kenmure Secure Accommodation Service were encouraged to maintain good contact with the outside world. They could send and receive letters, make telephone calls and receive visits. In appropriate cases, visitors were offered assistance (e.g. accommodation). Further, children could be authorised to visit their own homes, accompanied by staff or, eventually, alone.

The CPT welcomes this approach; indeed, the active promotion of such contacts can be very beneficial for children deprived of their liberty, many of whom may have behavioural problems related to emotional deprivation or lack of social skills.

142. Effective complaints procedures are basic safeguards against ill-treatment in institutions where children are deprived of their liberty. Residents in such institutions should have avenues of complaint open to them, both within the establishment's administrative system and to outside bodies, and be able to have confidential access to an appropriate authority.

The situation in this respect appeared to be satisfactory at St Mary's Kenmure Secure Accommodation Service. Information on internal avenues for dealing with grievances was provided to children upon admission, who were also informed of other complaints procedures (e.g. free telephone contact with child advocacy groups). Complaints made within the establishment were properly recorded and dealt with speedily.

143. The CPT also attaches particular importance to all places of deprivation of liberty being the subject of regular visits by an independent body (for example, a visiting committee or a judge) with authority to receive - and, if necessary, take action on - residents' complaints and to inspect the facilities. St Mary's was visited by the local Social Care Commission twice a year, and the Department of Education Social Work Inspectorate had carried out a 5-day visit in March 2003 (the previous visit having taken place in June 2001). The CPT welcomes the existence of these mechanisms.

Shortly before the CPT's visit, the Bill establishing a Commissioner for Children and Young People received Royal Assent[86]. It will be the Commissioner's function to promote and safeguard the rights of children, inter alia, by reviewing the law, policy and practice relating thereto and by promoting best practices by service providers. **The CPT would like to receive further particulars concerning the Commissioner's role vis-à-vis children deprived of their liberty.**

86 Cf. Commissioner for Children and Young People (Scotland) Act 2003.

III. ISLE OF MAN

A. Police establishments

1. Preliminary remarks

144. The CPT visited two Isle of Man Constabulary establishments, namely the Police Headquarters in Douglas and Lower Douglas Police Station.

145. Since the CPT's visit in 1997, the Police Powers and Procedures Act 1998 and the Codes of Practice thereto have entered into force. Under the new rules, the police may detain a person under their own authority for a maximum of two days[87].

2. Ill-treatment

146. Many persons interviewed by the CPT's delegation about their experience while in the custody of the Isle of Man police stated that they had been correctly treated. However, a certain number of allegations were heard of ill-treatment, in particular excessive use of force at the time of arrest. The allegations concerned in the main slaps, punches, and rough treatment, including being pushed or thrown violently into police vans and being thrown to the ground.

147. The custody records examined at Douglas Police Headquarters lent credibility to such allegations. During the three-month period immediately preceding the CPT's visit, the doctors called upon to examine detained persons at the police headquarters had noted six allegations of ill-treatment by police officers at the time of arrest; in three of those cases, the doctor had recorded injuries displayed by the detained persons concerned which were consistent with their allegations.

By way of example, the examining doctor had noted in respect of a detained person: "complaining of injuries which he says were due to being thrown on the ground when arrested. [...] 2.2 cm diameter graze under chin. Small graze back of right wrist. 2 cm x 0.7 cm graze on right knee".

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87 A person may be kept in police detention for up to 24 hours without being charged. A senior police officer may, under certain circumstances, authorise that person's continued police detention for a period expiring not more than 48 hours after the outset of custody. Upon the decision of the High Bailiff (stipendiary magistrate), a person may remain in police custody for up to 96 hours in total (cf. Sections 44, 45 and 47 of the Police Powers and Procedures Act 1998).

148. The CPT recognises that the arrest of a suspect may on occasion be a hazardous task. However, no more force than is strictly necessary should be used when effecting an arrest. Furthermore, once arrested persons have been brought under control, there can be no justification for striking them. The CPT recommended following the 1997 visit that police officers be reminded of these precepts[88].

In their response, the authorities made reference to in-service training provided to all Isle of Man police officers on the use of force and on unarmed self-defence. However, in the light of the information gathered during the 2003 visit, **the CPT reiterates its recommendation that the above-mentioned principles be recalled to police officers.** Further, **the message that the ill-treatment of detained persons is not acceptable - and will be the subject of severe sanctions - should also be delivered to police officers in an appropriate manner at regular intervals.**

149. One of the most effective means of preventing ill-treatment of persons deprived of their liberty lies in the diligent examination by the relevant authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong deterrent effect.

150. In this connection, **the CPT would like to receive the following information in respect of 2002 and 2003:**

- **the number of complaints of ill-treatment by police officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;**

- **an account of the latter complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed).**

The CPT has been informed that the Isle of Man Constabulary and the island's authorities were due to discuss implementation in the Isle of Man of police disciplinary procedures similar to those adopted by the United Kingdom in 1999, under which suitably qualified persons would preside with police officers on misconduct hearings. **The CPT would like to receive further information on this issue.**

3. Safeguards against ill-treatment

151. The CPT places particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer, and to have access to a doctor. Since the 1997 visit, the first two of these rights have been given a firm legislative basis via the Police Powers and Procedures Act (1998).

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88 Cf. CPT/Inf (2000) 1, paragraph 160.

a. notification of custody and access to a lawyer

152. Sections 59 and 61 of the Police Powers and Procedures Act 1998 confer upon detained persons the right to have someone informed of their arrest, and the right to access to legal advice. Both rights may be delayed for up to 36 hours; this requires authorisation by an officer of the rank of inspector or above and confirmation by an officer of at least the rank of chief inspector. The detained person must be informed as soon as is practicable of any decision to delay the exercise of the above-mentioned rights, and of the reasons therefor. The grounds for any delays imposed must be recorded.[89]

153. While many persons who were or had recently been in police custody stated that they had been able to inform a relative or another third person of their situation, as from the outset of custody, a certain number complained that notification had been delayed by the police. However, in the custody records reviewed by the delegation, delays were indicated only very rarely. **The CPT would like to receive the comments of the Manx authorities on this matter.**

154. It appeared that the right of access to a lawyer operated satisfactorily in practice. Under a newly established scheme, a duty advocate was available at the police headquarters from 7 pm to 7 am on weekdays and throughout the weekend. Police officers and detained persons indicated that the system worked very well during those periods. However, the authorities stated that delays in obtaining the services of advocates were frequent at other times. **The CPT suggests that consideration be given to extending the Duty Advocate Scheme so as to provide continuous cover every day of the week.**

155. Following the 1997 visit, the CPT recommended that the right of a person detained by the police in the Isle of Man to have access to another advocate when access to a specific advocate is delayed be the subject of a legally binding provision.

It is stated in the Notes for guidance to Annex B of Code of Practice C to the Police Powers and Procedures Act 1998 that access to a specific advocate may only be delayed on clearly defined grounds, and that "in these circumstances, the officer in question should offer the detained person access to an advocate [...] on the Duty Advocate Scheme". However, the Notes are not legally binding upon police officers. **The CPT recommends that the Manx authorities upgrade the Notes for guidance on this subject to a full provision of Code of Practice C to the Police Powers and Procedures Act 1998.**[90]

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89 Cf. the Police Powers and Procedures Act 1998, Sections 59 (8) and 61 (11), and Annex B on "Delay in notifying arrest or allowing access to legal advice" to Code of Practice C (on the detention, treatment and questioning of persons by police officers) to the Act.

90 The CPT has previously dealt with this matter in the context of its visits to the United Kingdom, cf. CPT/Inf (96) 11, paragraphs 39 and 40, CPT/Inf (2000) 1, paragraph 61, and CPT/Inf (2002) 6, paragraph 14.

b. access to a doctor

156. The delegation heard no complaints from persons who were or had recently been in police custody concerning the operation of the right of access to a doctor. Furthermore, detained persons were systematically informed, in writing, of this right (as well as of the two rights discussed above). They were also informed of the possibility to be examined, at their own expense, by a doctor of their own choice.

Nevertheless, mention should be made of the practice of keeping the notes made by doctors attending police stations ("Medical register in respect of detainee") together with the custody records where they were accessible by non-medical staff. In certain cases, the content of the notes went beyond what would be necessary for police officers to be aware of for the purposes of the custody (e.g. a history of mental illness, references to suicides in the family). Furthermore, documentation, including indication of diagnosis, prepared by general practitioners and psychiatrists in connection with the transfer of detained persons to a psychiatric institution were also kept with the custody records. **The CPT recommends that steps be taken to ensure that the requirements of medical confidentiality are respected as regards persons detained by the police.**

4. Conditions of detention

157. The facilities at Douglas Police Headquarters were described in the report on the CPT's 1997 visit; at the time of the 2003 visit, they remained of a high standard, and they were clean and in a good state of repair. Moreover, the CPT was pleased to note that the facility's sobering up cell had been equipped with a mattress.[91]

158. Lower Douglas Police Station was a new facility comprising four cells of a good standard, measuring 6.7 m², each equipped with a low plinth, a mattress, a call bell and in-cell sanitation. All cells had good access to natural and artificial light and were well-ventilated. The custody suite's sobering up cell was equipped with a closed circuit television monitoring system. The delegation was informed that the establishment's detention facilities had yet to be designated and brought into use, as those in the Headquarters were for the time being sufficient for the town's needs.

159. Section 8.7 of Code C to the Police Powers and Procedures Act 1998 states that "brief outdoor exercise shall be offered daily if practicable". However the information gathered during the visit suggests that outdoor exercise was not being provided, despite the fact that Douglas Police Headquarters had at its disposal spacious outdoor facilities. **The CPT wishes to recall that persons held in police custody for an extended period (24 hours or more) should, as far as possible, be offered outdoor exercise every day**[92]**.**

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91 Cf. CPT/Inf (2000) 1, paragraph 106.

92 Cf. also CPT/Inf (2000) 1, paragraph 106.

B. Isle of Man Prison

1. Preliminary remarks

160. The Isle of Man Prison, the only prison on the island, has been described in the report on the CPT's 1997 visit[93]. The most notable changes since that visit concern a new unit, E Wing, brought into service in 1998 and used for reception and segregation purposes[94], and the fact that juveniles (aged under 17), are no longer accommodated in the prison (cf. paragraph 181). The prison's official capacity was 92 and, on the first day of the 2003 visit, the establishment was holding 83 prisoners, of whom 14 on remand and 8 women.

161. The Manx authorities have long recognised that the conditions and facilities in the Isle of Man Prison are such that comprehensive action is needed. In the course of the 1997 visit, the authorities informed the CPT of the Government's reflections as to whether to redevelop the present site or build a new prison elsewhere[95]. A decision was subsequently taken to build a new prison, detailed specifications for the new establishment have been drawn up, and capital cost investment has been approved. At the time of the 2003 visit, the application for planning permission was being prepared.

The CPT welcomes the apparent renewed momentum now characterising this protracted process. **It recommends that the Manx authorities pursue without further delay the implementation of their strategy for the Isle of Man Prison**[96].

162. Based on the information provided by the authorities, it would appear that the opening of a new prison is at best several years away. The CPT would stress that current plans to replace the prison should not be permitted to divert attention from measures needed as of now to palliate the unsatisfactory conditions of detention within the present outmoded facilities (cf. paragraphs 166 and 167).

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93 Cf. CPT/Inf (2000) 1, paragraph 99.

94 Cf. CPT/Inf (2000) 1, paragraph 103.

95 Cf. CPT/Inf (2000) 1, paragraph 101.

96 Cf. CPT/Inf (2000) 1, paragraph 102.

163. Reference should be made to certain other positive developments since the 1997 visit. The Custody Rules 2001, which have replaced the former Isle of Man Prison Rules, provide a comprehensive and modern regulatory framework concerning a range of aspects of prison life. Visit entitlements for convicted prisoners have been increased[97], and the installation of payphones, under preparation at the time of the 1997 visit, has been completed. New disciplinary procedures meet the criteria advocated by the CPT[98], and the maximum possible period of cellular confinement has been substantially reduced, also in line with the CPT's recommendations[99].

164. As had been the case in 1997, the delegation which carried out the 2003 visit heard no allegations of physical ill-treatment of inmates by staff and gathered no other evidence of such treatment. Many inmates spoke well of the way they were being treated by staff and the delegation found a generally tension-free environment.

2. Conditions of detention

a. material conditions

165. With the exception of the opening of E Wing in 1998 (cf. paragraph 160), the basic fabric of the Isle of Man Prison was unchanged as compared to 1997.

166. The cells in Wings A and B had been renovated in 1999. However, by the time of the 2003 visit, they were already rather run down and dirty and, in some cases, affected by rising damp. **The CPT recommends that steps be taken to improve conditions in these cells.**

Material conditions of detention were better in the more recently constructed C and D Wings; however, as indicated in the report on the 1997 visit, in-cell sanitary facilities should be fully partitioned from the prisoner's living space[100].

Wing E was located in a prefabricated building squeezed in between the gate house and the main wings. It consisted of six single cells measuring 8.5 m² and fitted with a plinth and a mattress, as well as a cardboard chair and table; each cell included an unscreened lavatory and a sink. The cells were well-ventilated and had access to natural light. The wing also had two unfurnished observation cells, measuring approximately 5 m² each, which were used rarely and for a matter of hours only.

Following the 1997 visit, the CPT made several recommendations designed to bring cell occupancy rates closer to a tolerable level[101]. More particularly, it recommended that the cells

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97 Cf. CPT/Inf (2000) 1, paragraphs 147 and 148, and the Custody Rules 2001, Section 55 (1) and (2).

98 Cf. the Custody Rules 2001, Sections 46 (5) and (10).

99 Cf. CPT/Inf (2000) 1, paragraphs 152 and 154, and the Custody Rules 2001, Sections 47 (1) (e) and 48 (1) (e).

100 Cf. CPT/Inf (2000) 1, paragraph 115.

101 Cf. CPT/Inf (2000) 1, paragraphs 111, 114 and 116.

measuring 7 m² (Wings C and D) accommodate no more than one prisoner, that the cells measuring 9 m² (Wings A and B) accommodate no more than two prisoners, that the cells measuring 11 m² and 11.5 m² (A 12 and B 17) accommodate no more than three prisoners, and that the 23 m² dormitory (A Wing) accommodate no more than six persons[102].

The CPT has noted with satisfaction that the prison's official capacity has been reassessed having regard to the Committee's recommendations and that occupancy levels were in line with capacity figures. However, the CPT would point out that these recommendations were meant "to palliate the present situation" at the existing establishment[103]; they should not be regarded as representing an ideal situation.

In the context of the construction of a new prison, **the CPT trusts that the broad policy objective of one prisoner per cell[104] will be maintained; it wishes to reiterate that 9 m² can be considered as a good size for a single cell.**

167. A slopping out system was still in operation in A and B Wings. Following the 1997 visit, the CPT pointed out that the act of discharging human waste in a bucket or pot in the presence of one or more other persons, in a confined space used as a living area, is degrading for everyone concerned[105].

The delegation which carried out the 2003 visit was informed that, in view of the fact that the current premises were likely to be in use for some time yet, the authorities had decided to take steps to facilitate prisoners' access to sanitary facilities during the night by recruiting up to ten additional prison officers. The new arrangements were expected to come into operation in September 2003. **The CPT would like to receive confirmation that these measures have been implemented.** In the context of the construction of a new prison, **the Committee also trusts that the general policy of providing integral sanitation for all cells will be maintained.**

b. activities

168. In the report on its 1997 visit, the CPT devoted considerable attention to the matter of activities in the Isle of Man Prison[106]; it observed that the requirement that all prisoners spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities, was far from being met.

By the time of the 2003 visit, increased emphasis (including in terms of financial and staffing resources) was being placed on activities.

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102 Cf. CPT/Inf (2000) 1, paragraph 124.

103 Cf. CPT/Inf (2000) 1, paragraph 123.

104 Cf. CPT/Inf (2000) 1, paragraph 101.

105 Cf. CPT/Inf (20002) 1, paragraph 112.

106 Cf. CPT/Inf (2000), paragraphs 118 to 122.

169. Prisoners in C Wing could spend the whole day outside their cells. Scheduled out-of-cell time for prisoners in other wings was approximately 7 hours per day (including 1 hour of outdoor exercise); however, the delegation received complaints that on some days it could be considerably less. Out-of-cell time was spent in association and receiving visits, and some prisoners could use the gym once or twice a week.

170. As regards organised activities, there were work places for 64 prisoners, as compared to 47 in 1997. However, this included 12 places on external work parties, which, according to both management and inmates, were very rarely activated.

The situation was most favourable for prisoners held in C Wing on enhanced regime, all of whom were employed (9 of them full-time). The majority of inmates in D Wing also had some employment. By contrast, there was work for less than half the prisoners in A and B Wings, and E Wing had a single post at its disposal.

The work within the prison perimeter was domestic and, with the exception of work in the kitchen or on building maintenance, of no vocational value[107]. Further, in the majority of cases, prisoners were occupied for a maximum of 2 hours per day. In D Wing, the time involved in tasks such as cleaning and serving meals to fellow inmates was very limited indeed. Prisoners held in E Wing could associate and occasionally do crafts, in the Wing's small corridor.

171. The situation as regards education facilities had improved slightly with the conversion of the former prison officers' mess into an education room. However, access to education remained limited. Classes (in English, mathematics/science, Spanish, computer use, music, arts and parenting) involved less than half of the inmate population in A and B Wings and even fewer in D Wing. Moreover, the delegation heard complaints that education places were regularly allocated to prisoners who also had work.

172. To sum up, a significant proportion of the prisoners were still not guaranteed a sufficient amount of out-of-cell time every day and, more particularly, were not able to spend that time engaged in purposeful activity. Efforts to increase the level of activities continued to be partially hampered by the physical constraints affecting the prison; it remained the case that only a very small number of inmates in the Isle of Man Prison were being offered an adequate regime. The regime in E Wing was particularly underdeveloped. **The CPT recommends that a high priority continue to be given to the provision of work and other purposeful activities to prisoners in the Isle of Man Prison.**

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[107] Cf. CPT/Inf (2000) 1, paragraph 119.

173. As already indicated, all prisoners (including those held in segregation) were being offered one hour of outdoor exercise every day. The CPT welcomes this state of affairs[108]. However, the exercise yard in use was originally intended only for C and D Wings; it was surrounded by brick walls, bare, and a rather depressing facility[109]. The CPT has noted that an application for funding has been put forward with a view to bringing back into service the - much larger - former A and B Wing exercise yard. **The CPT urges the Isle of Man authorities to continue to pursue this matter.** Further, it trusts that, in line with the authorities' comments at the end of the visit, **steps will be taken to remove the prohibition on prisoners running in the exercise yard.**

174. Personal officers were appointed to prisoners when they arrived and acted as a point of contact for the inmates concerning any problems inside or outside the prison. They were also responsible for writing long-term reviews and parole reports. This is a positive initiative. By contrast, the delegation was informed that no sentence planning was carried out, even for prisoners serving long sentences in the establishment. **The CPT would like to receive the authorities' comments on this issue.**

3. Health-care services

175. A general practitioner was present in the prison every weekday for 2 hours. This can in principle be considered adequate for the establishment.

176. Three nurses provided nursing cover from 8 am to 9 pm on weekdays. Following the 1997 visit, the CPT recommended that someone qualified to provide first aid, preferably with a recognised nursing qualification, always be present in the prison[110]. During the 2003 visit, the delegation was informed that the nursing complement had been increased to the equivalent of 5.5 full-time posts in order to ensure the presence of a nurse at night; however, due to recruitment difficulties, such a presence was not yet being guaranteed. **The CPT recommends that further efforts be made to fill the posts in question.**

177. A psychiatrist visited the establishment once a week, and it appeared that transfers to external psychiatric in-patient services did not give rise to any problems. A psychologist was present for a few hours every week, primarily in connection with assessments carried out in the context of criminal proceedings. **Consideration should be given to strengthening the psychological services provided to inmates, in particular psychotherapy.**

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108 Cf. CPT/Inf (2000) 1, paragraph 106.

109 Cf. CPT/Inf (2000) 1, paragraph 119.

110 Cf. CPT/Inf (2000) 1, paragraph 131.

178. As regards medical facilities, the CPT was pleased to note that the room in D Wing used for medical consultations with female prisoners had now been properly equipped for this purpose[111]. Further, conditions in the prison's main medical facility remained fully satisfactory.

179. Following the 1997 visit, the CPT stressed the importance of having every newly-arrived prisoner properly interviewed and physically examined by a medical doctor or a nurse as soon as possible after admission[112]. Such screening is indispensable, in particular in the interests of suicide prevention, the timely recording of injuries and preventing the spread of transmissible diseases.

At the Isle of Man Prison, all inmates were medically screened by a doctor promptly upon admission. However, the delegation's findings show that the records concerning medical examinations of newly-arrived prisoners left something to be desired. For example, the delegation's doctor examined a recently arrived inmate who displayed injuries on his back and hip; the injuries, which had clearly been sustained before his arrival in prison, had not been recorded by the prison doctor.

The CPT recommends that the medical screening on admission include a physical examination by the doctor and that the records drawn up after the examination contain a description of injuries observed, any relevant statements made by the prisoner concerned (and, in particular, any allegations of ill-treatment made by him) and the doctor's conclusions.

111 Cf. CPT/Inf (2000) 1, paragraph 131.

112 Cf. CPT/Inf (2000) 1, paragraph 132.

C. Detention facilities for children

1. Preliminary remarks

180. In the Isle of Man, children and young persons may be placed in secure accommodation by the Social Services if they are considered to be at risk. A court must confirm such a placement within 72 hours and fix its duration at a maximum period of three months where no previous placement order has been issued, and six months in other cases[113]. The need for continued placement must also be reviewed by a panel appointed by the Department of Health and Social Security after one month and subsequently every three months, while renewal of a placement until the person reaches the age of 17 lies with the court[114]. **The CPT would like to be informed of the precise powers of the Department of Health and Social Security review panel in respect of placements in secure accommodation.**

181. Further, in the context of criminal proceedings, instead of remanding in, or sentencing to, custody, a court may place a child for a fixed period in Department of Health and Social Security secure accommodation[115]. Children and young persons placed under this procedure may be held in such detention facilities until they reach the age of 18.

The CPT's delegation understood from its discussions with the Isle of Man authorities that any children deprived of their liberty, including in the context of criminal proceedings, would henceforth be placed in the White Hoe Secure Care Home. **The CPT would like to receive confirmation that this is the case**[116].

182. The CPT's delegation visited the White Hoe Secure Care Home outside Douglas which is run by an organisation contracted by the Department of Health and Social Security. It is the only detention facility for children and young persons in the Isle of Man.

183. White Hoe had a capacity of five persons and at the time of the visit was holding four residents, two girls and two boys, aged 16 to 17. Since its opening in February 2003, the establishment had had a total of nine admissions.

184. It should be noted at the outset that the CPT's delegation heard no allegations, and gathered no other evidence, of ill-treatment of children by staff at White Hoe Secure Care Home.

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113 Cf. Section 5 of the Secure Accommodation Regulations 2002 (issued under the Children and Young Persons Act 2001), and Section 27 of the Children and Young Persons Act 2001.

114 Cf. the Secure Accommodation Regulations 2002, Section 7. At least one of the three persons making up the panel must be independent of the Department of Health and Social Security.

115 Cf. the Children and Young Persons Act 2001, Section 76. Pursuant to Section 70 of the Children and Young Persons Act 2001, children aged 10 or over are criminally responsible.

116 Cf. CPT/Inf (2000) 1, paragraph 145.

Staff appeared to be sufficient in number, motivated and well equipped to work with children deprived of their liberty. They were expected to rely on communication rather than discipline in their dealings with children; staff treated children in a respectful manner, with the declared aim of preserving their dignity and sense of personal identity and enhancing individual self-control. The CPT welcomes this approach.

2. Material conditions

185. Residents were accommodated in good-sized, personalised single rooms grouped in three units. The rooms had good access to natural light and ventilation, were adequately furnished and equipped with a call bell; they each included a sanitary annex with a lavatory, sink and shower. Residents were allowed to keep a reasonable quantity of personal items. Each unit had a comfortable television/sitting room with a dining area, and a kitchen. All premises were clean and in a good state of repair. Adequate outside exercise areas were attached to each unit and residents had access to them every day whenever they were not occupied with scheduled activities.

3. Regime

186. Children have a particular need for physical activity and intellectual stimulation. Those deprived of their liberty should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme.

187. White Hoe offered developed and individualised programmes of activities to residents (each of whom was assigned two key workers). All residents were required to attend classes and sessional work (which included general education to national curriculum standards, art, cookery, physical education, computing and music) in small groups during normal school hours. Sports and other facilities (gym, leisure facilities, sports hall) were of a high standard. Other activities included drug and alcohol counselling, sex education and health and hygiene training.

4. Health care

188. A general practitioner visited White Hoe Secure Care Home once a week for 1 to 2 hours, and was on call at other times. The delegation was informed that a nurse would usually attend when a new resident arrived. However, three days or longer could elapse before new arrivals were examined by the nurse. **The CPT recommends that all residents at White Hoe be screened by the nurse as soon as possible, preferably on the day of admission.**

189. The prevalence of behavioural and/or emotional problems tends to be high among detained children. It is therefore particularly important that the health-care team of a detention facility for children includes a psychologist working in close coordination with other health-care staff (doctors, nurses) and staff members (including teachers and social workers) who have regular contact with the residents. The goal should be to ensure that the health care delivered to children deprived of their liberty forms part of a seamless web of support and therapy.

The CPT is therefore concerned to note that there was no psychologist attached to the health-care team at White Hoe Secure Care Home. **It recommends that this shortcoming be remedied. Consideration should also be given to establishing regular attendance by a psychiatrist.**

5. Other issues

190. The CPT has some misgivings about the placement of children, or young persons, in conditions resembling solitary confinement. Such measures can compromise their physical and/or mental integrity and should be resorted to only under exceptional circumstances. If children or young persons are held separately from others, this should be for the shortest possible period of time and, in all cases, they should be guaranteed appropriate human contact, granted access to reading material and offered at least one hour of outdoor exercise every day.

191. Under Section 39 of the Secure Home Custody Rules 2002[117], residents may be removed from association during the day when it appears necessary to prevent them from harming themselves or others or causing significant damage to property. Such a measure may be imposed by the director of the institution, when all other appropriate methods of control have failed, and should be discontinued as soon as possible. Residents removed from association must be observed by staff at least every 15 minutes, and are to be informed orally and in writing of the reasons for the placement. Further, a detailed record must be made, including the duration of the removal, who authorised it and the reasons for it.

However, Section 39 of the Secure Home Custody Rules 2002 does not stipulate the maximum period for which a resident may be removed from association. **The CPT would like to receive the authorities' comments on this point.**

Resort had not been had to removal from association since the opening of White Hoe, and there were no dedicated facilities for that purpose. The delegation was informed that residents removed from association would be placed in a separate bedroom.

192. It should be added that the size of the establishment, combined with the fact that activities for children were unit based, might in fact lead to residents being held without contact with other children. **The CPT would like to receive the authorities' comments on this point.**

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117 Issued by the Department of Health and Social Security under the Custody Act 1995.

193. Considerable importance was attached at White Hoe Secure Care Home to the maintenance of contact with the outside world. In particular, residents were encouraged to correspond with, and make telephone calls to, their relatives, who could also visit them three times per week for one hour. However, the room used for visits (and for new admissions) was small, windowless and unwelcoming. **The CPT recommends that steps be taken to remedy these shortcomings.**

194. At White Hoe, newly admitted residents were provided with a guide setting out in detail the rules of the establishment and explaining the ways to lodge complaints, either directly to staff or to the managing organisation. Other avenues of complaint (e.g. the police, the Department of Health and Social Security) remained open to the residents. The CPT welcomes this approach.

195. The CPT also attaches importance to regular visits to all detention facilities for children and young persons by an independent body (for example, a visiting committee or a judge) with authority to receive - and, if necessary, take action on - residents' complaints and to inspect the facilities.

In this connection, White Hoe Secure Care Home was visited regularly by the establishment's Board of Visitors. However, the Board's mandate extended only to those residents placed in the context of criminal proceedings. **The CPT recommends that an independent inspection mechanism covering residents placed by the Social Services be set up, or that the Board of Visitors' mandate be extended accordingly.**

APPENDIX I

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

I. COOPERATION

comments

- in cases where national law or professional ethics represent a potential impediment to the effective provision of information which is necessary for the CPT to carry out its task, it is for the State concerned to ensure that it can, nonetheless, meet its obligations under the Convention (paragraph 9).

II. ENGLAND

A. Prisons

Ill-treatment

recommendations

- prison officers at Pentonville Prison to be reminded (i) that abuses of authority by prison officers are not acceptable and will, if discovered, be dealt with severely, and (ii) that force should only be used as a last resort and must not be more than is strictly necessary (paragraph 14);

- training in inter-personal communication skills, including in-service training, to be widely available to prison officers, in particular at Pentonville Prison (paragraph 14);

- efforts to implement violence reduction and anti-bullying strategies to be strengthened at Winchester Prison (paragraph 15).

Prison overcrowding

recommendations

- the objective of bringing available accommodation and the inmate population into balance not to be abandoned; on the contrary, this objective to be pursued vigorously with a view to eradicating overcrowding at the earliest opportunity (paragraph 26);

- prison service standards as regards cell occupancy levels to be revised, in accordance with the CPT's criteria (paragraph 26).

Impact of overcrowding in the establishments visited

recommendations

- immediate steps to be taken to ensure that cells measuring 7m² or less are never used to accommodate more than one person (paragraph 29);

- steps to be taken to remedy the shortcomings identified in respect of material conditions of detention in Liverpool, Pentonville and Winchester Prisons (paragraph 30);

- steps to be taken to increase the number of prisoners taking part in purposeful activities outside their cells, as well as the amount of time prisoners spend on such activities; particular efforts to be made vis-à-vis remand and vulnerable prisoners (paragraph 34);

- the United Kingdom authorities to implement the CPT's longstanding recommendation that prisoners be offered at least one hour of outdoor exercise every day; if necessary, Rule 30 of the Prison Rules 1999 to be amended (paragraph 35);

- health-care services at Liverpool, Pentonville and Winchester Prisons to be reviewed, in the light of the CPT's remarks (paragraph 38);

- the situation with regard to out-of-cell time for in-patients in the health-care centres to be reviewed (paragraph 39);

- medical screening on admission at Pentonville to include a physical examination by a doctor or by a nurse reporting to a doctor (paragraph 40).

requests for information

- comments on the possible introduction of evening visits at Liverpool Prison (paragraph 36);

- comments on the practice of including beds in health-care centres in an establishment's CNA and of accommodating healthy prisoners in the health-care centres (paragraph 41).

III. SCOTLAND

A. Police establishments

Ill-treatment

comments

- it is important that the authorities at central level and senior police officers deliver the clear message that the ill-treatment of detained persons is not acceptable and will be the subject of severe sanctions if it occurs (paragraph 44);

- the authorities are invited to remind police officers that no more force than is strictly necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for their being struck by police officers (paragraph 44);

- the creation of a fully-fledged independent agency for investigating complaints against the police would be a most welcome development (paragraph 48).

requests for information

- confirmation that complaints of ill-treatment of detained persons by police officers are always construed as reasonably inferring that an officer may have committed a criminal offence and must therefore be systematically referred to the prosecution service (paragraph 46);

- up-to-date statistics on complaints lodged of ill-treatment by police officers, disciplinary and/or criminal proceedings initiated as a result of such complaints, and the outcome of the proceedings (paragraph 47);

- **developments as regards the review process concerning the handling of complaints against the police in Scotland (paragraph 48).**

Safeguards against ill-treatment by the police

recommendations

- all persons in police custody to be entitled to have access to a lawyer from the very outset of their deprivation of liberty; the right of access to a lawyer to include the right to contact and to be visited by the lawyer (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right to have the lawyer present during police interviews (paragraph 53);

- the right of access to a doctor to be given a firm legal footing, having regard to the remarks made in paragraph 295 of the report on the CPT's 1994 visit (paragraph 57);

- the right of access to a doctor of the detained person's own choice to be enjoyed by all categories of persons in police custody (paragraph 57).

comments

- any exceptions to the right to notification of custody should be clearly defined, accompanied by appropriate safeguards and strictly limited in time. A delay in the exercise of this right should require the approval of a senior police officer unconnected with the case at hand or a prosecutor (paragraph 51);

- the authorities are encouraged to introduce the audio recording of all police interviews at the earliest opportunity (paragraph 59);

- further developments towards closed circuit television monitoring, with image and audio recording, in detention areas would be welcome (paragraph 60).

requests for information

- the outcome of court procedures concerning the use of the power to restrict the right to notification of custody (paragraph 51);

- the legal/administrative basis for ensuring the prompt attendance of another solicitor when access to a specific solicitor is delayed (paragraph 54).

Conditions of detention

recommendations

- **conditions of detention at Lanark Police Station to be reviewed (paragraph 63).**

comments

- **the authorities are invited to explore the possibility of offering outdoor exercise every day to all detained persons who remain in custody at Helen Street Police Station for an extended period (24 hours or more), and to inform persons in custody that they can use the shower facilities (paragraph 62).**

B. Prisons

Preliminary remarks

recommendations

- the highest priority to be given to bringing available prison places into line with the inmate population (paragraph 66);

- efforts to be redoubled with a view to eradicating slopping out within the next two years (i.e. by the end of 2005) (paragraph 66).

requests for information

- clarification as regards steps taken to ensure that prisoners are never held three to a cell measuring 8 m² (paragraph 66).

Ill-treatment

recommendations

- the message that abuses of authority by prison officers are not acceptable and will be dealt with severely to be reiterated in an appropriate manner vis-à-vis staff at Barlinnie Prison by the authorities at both central and local level (paragraph 71);

- prison officers at Barlinnie Prison to be reminded that force used to control violent prisoners should be no more than is strictly necessary and that, once prisoners have been brought under control, there can be no justification for their being struck (paragraph 72);

- anti-violence strategies at Barlinnie Prison to be vigorously pursued, and means of rendering them more effective to be explored (paragraph 77).

requests for information

- for 2002 and 2003:

  - the number of complaints lodged concerning ill-treatment by prison officers in Scotland and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;

  - an account of the latter complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed)

(paragraph 74).

Conditions of detention

recommendations

- prison officers at Barlinnie Prison (as well as at any other establishment where slopping out remains) to receive clear instructions to the effect that, when a prisoner held in a cell without integral sanitation requests to be released from his cell for the purpose of using a toilet facility, that request is to be granted without delay, including at night, unless overriding security considerations exceptionally require otherwise (paragraph 80);

- at Barlinnie:

  - a very high priority to be given to plans to refurbish A and E Halls;

  - continued efforts to be made to reduce overcrowding; more specifically, cells measuring 8.5 m² or less to be used to accommodate no more than one prisoner (save in exceptional cases when it would be inadvisable for a prisoner to be left alone);

  - the level of partitioning of lavatories in renovated cells to be reviewed

(paragraph 80);

- the authorities to implement without further delay the CPT's recommendation that the existing cubicles in the reception unit be replaced by larger holding facilities (paragraph 81);

- continued efforts to be made to develop the programmes of activities for inmates at Barlinnie Prison, including remand prisoners. The objective should be to ensure that remand prisoners spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with vocational value; education; sport; recreation/association) (paragraph 85).

Health-care services

recommendations

- the provision of dental care at Barlinnie Prison to be reviewed (paragraph 90).

comments

- the CPT invites the authorities to fill the vacant nursing posts at Barlinnie Prison (paragraph 89);

- the attendance of psychiatrists at Barlinnie Prison appeared to be somewhat modest (paragraph 91).

requests for information

- comments on the cancellation of doctors' appointments and delays in doctors seeing patients at Barlinnie Prison (paragraph 88).

Other issues

recommendations

- the plans to develop further the care offered to prisoners with drug-related problems at Barlinnie Prison to be implemented at the earliest opportunity (paragraph 99);

- the management of drug-related problems in Barlinnie Prison to be reviewed, in the light of the CPT's remarks (paragraph 99).

requests for information

- in the context of the management of drug-related issues, comments on certain measures not yet in place at Barlinnie Prison (paragraph 100).

C. Psychiatric establishments

recommendations

- plans to renovate or rebuild older wards at the State Hospital to be pursued, and the partitioning of lavatories in patients' rooms to be reviewed (paragraph 114);

- continued attention to be paid to the state of repair of all the buildings at the State Hospital; worn out furniture to be repaired or replaced (paragraph 114);

- steps to be taken to ensure that there is no confusion between seclusion and "time out", and that, in all cases, the rules concerning supervision are systematically applied (paragraph 122);

- current practice concerning complaints addressed by patients to outside bodies to be reviewed (paragraph 127).

comments

- efforts should continue to be made to ensure that enhanced levels of observation are only applied when, and for as long as, appropriate and that they are not overly intrusive (paragraph 124).

requests for information

- clarification as to whether the assessment in the context of the renewal of placements requires the opinion of a psychiatrist independent of the psychiatric hospital concerned (paragraph 116);

- comments on the continued detention in psychiatric establishments for potentially long periods of persons whose involuntary placement is not, or is no longer, justified on medical or assessment grounds (paragraph 118);

- the outcome of the review initiated by the State Hospital's management of procedures concerning the use of handcuffs (paragraph 120).

D. Detention facilities for children

requests for information

- whether control and restraint techniques (i.e. manual control) vis-à-vis detained children are authorised for use when non-physical means have failed and if staff deployed in detention facilities for children in Scotland are offered training in such techniques (paragraph 137);

- further particulars concerning the role of the Commissioner for Children and Young People vis-à-vis children deprived of their liberty (paragraph 143).

IV. ISLE OF MAN

A. Police establishments

Ill-treatment

recommendations

- police officers to be reminded that no more force than is strictly necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can be no justification for striking them. The message that the ill-treatment of detained persons is not acceptable - and will be the subject of severe sanctions - should also be delivered to police officers in an appropriate manner at regular intervals (paragraph 148).

requests for information

- in respect of 2002 and 2003:

  - the number of complaints of ill-treatment by police officers lodged and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints;

  - an account of the latter complaints and the outcome of the proceedings (allegations, brief description of the findings of the relevant court or body, verdict, sentence/sanction imposed)

(paragraph 150);

- further information on the implementation in the Isle of Man of police disciplinary procedures similar to those adopted by the United Kingdom in 1999 (paragraph 150).

Safeguards against ill-treatment

recommendations

- the Notes for guidance on the right of a person detained by the police to have access to another advocate when access to a specific advocate is delayed to be upgraded to a full provision of Code of Practice C to the Police Powers and Procedures Act 1998 (paragraph 155);

- steps to be taken to ensure that the requirements of medical confidentiality are respected as regards persons detained by the police (paragraph 156).

comments

- consideration should be given to extending the Duty Advocate Scheme so as to provide continuous cover every day of the week (paragraph 154).

requests for information

- comments on complaints received that notification of custody had been delayed in a number of cases, although such measures were noted in the custody records only very rarely (paragraph 153).

Conditions of detention

comments

- persons held in police custody for an extended period (24 hours or more) should, as far as possible, be offered outdoor exercise every day (paragraph 159).

B. Isle of Man Prison

recommendations

- implementation of the Manx authorities' strategy for the Isle of Man Prison to be pursued without further delay (paragraph 161);

- steps to be taken to improve conditions in the cells in A and B Wings (paragraph 166);

- a high priority to continue to be given to the provision of work and other purposeful activities to prisoners (paragraph 172);

- efforts to be pursued with a view to bringing back into service the former A and B Wing exercise yard (paragraph 173);

- further efforts to be made to fill the vacant nursing posts (paragraph 176);

- medical screening on admission to include a physical examination by the doctor, and the records drawn up after the examination to contain a description of injuries observed, any relevant statements made by the prisoner concerned (and, in particular, any allegations of ill-treatment made by him) and the doctor's conclusions (paragraph 179).

comments

- the CPT trusts that, in the context of the construction of a new prison, the broad policy objective of one prisoner per cell will be maintained; 9 m² can be considered as a good size for a single cell (paragraph 166);

- the CPT trusts that, in the context of the construction of a new prison, the general policy of providing integral sanitation for all cells will be maintained (paragraph 167);

- the CPT trusts that steps will be taken to remove the prohibition on prisoners running in the exercise yard (paragraph 173);

- consideration should be given to strengthening the psychological services provided to inmates, in particular psychotherapy (paragraph 177).

requests for information

- confirmation that arrangements to facilitate prisoners' access to sanitary facilities during the night have been implemented (paragraph 167);

- comments on the absence of sentence planning, even for prisoners serving long sentences (paragraph 174).

C. Detention facilities for children

recommendations

- all residents at White Hoe to be screened by the nurse as soon as possible, preferably on the day of admission (paragraph 188);

- a psychologist to be attached to the health-care team at White Hoe Secure Care Home. Consideration should also be given to establishing regular attendance by a psychiatrist (paragraph 189);

- steps to be taken to remedy the shortcomings observed in the room used for visits (and for new admissions) (paragraph 193);

- an independent inspection mechanism covering residents placed by the Social Services to be set up, or the Board of Visitors' mandate to be extended accordingly (paragraph 195).

requests for information

- the precise powers of the Department of Health and Social Security review panel in respect of placements in secure accommodation (paragraph 180);

- confirmation that any children deprived of their liberty, including in the context of criminal proceedings, will be placed in the White Hoe Secure Care Home (paragraph 181);

- comments on the absence of a maximum limit to the period for which a resident may be removed from association under Section 39 of the Secure Home Custody Rules 2002 (paragraph 191);

- comments on the possibility that the size of the establishment, combined with the unit-based nature of the activities for children, could lead to residents being held without contact with other children (paragraph 192).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

A. National authorities

England

Martin NAREY	Commissioner for Correctional Services
Phil WHEATLEY	Director General of the Prison Service
Bob DAW	Prison Service
Harriet CROSS	Head of Europe Section, Human Rights Policy Department, Foreign and Commonwealth Office
Rosemary THOMAS	Head of Council of Europe Section, OSCE/Council of Europe Department, Foreign and Commonwealth Office
Alisdair WALKER	Justice Desk Officer, Human Rights Policy Department, Foreign and Commonwealth Office
John KISSANE	Branch Head, International Policy, Human Rights Division, Lord Chancellor's Department

Scotland

Tony CAMERON	Chief Executive of the Scottish Prison Service
Alec SPENCER	Head of Rehabilitation and Care Directorate, Scottish Prison Service
Andrew McLELLAN	Chief Inspector of Prisons
David ABERNETHY	Inspector
Catherine BROWN	Head of Police Powers and Duties, Conduct and Complaints Branch
Ian FLEMING	Police Powers and Duties, Conduct and Complaints Branch
Ian WILLIAMSON	Head of Branch - Mental Health Boards
Fiona TYRRELL	Head of Branch - Mental Health Division
Maureen STURROCK	Principal Medical Officer
Valerie MACNIVEN	Head of Group, Justice Department, Civil and International Group
Alisdair McINTOSH	Head of Access to Justice and European Co-ordination Division
Jacqueline CONLAN	Head of Unit, Human Rights and EU Co-ordination Unit

Isle of Man

Richard CORKILL	Chief Minister
Philip BRAIDWOOD	Minister for Home Affairs
David KILLIP	Chief Executive, Department of Home Affairs
Clare CHRISTIAN	Minister for Health and Social Security
David COOKE	Director of Social Services
Trevor NODEN	Assistant Director of Social Services - Children and Families
Mary WILLIAMS	Chief Secretary
Neil KINRADE	Deputy Chief Constable

B. Non-governmental organisations

The Celtic League

The Prison Reform Trust

The Scottish Alliance for Children's Rights

The Scottish Human Rights Centre