

## **Response**

### **of the States of Jersey to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the Bailiwick of Jersey**

**from 15 to 18 March 2010**

The Government of the United Kingdom has requested the publication of this response. The report of the CPT on its March 2010 visit to Jersey is set out in document CPT/Inf (2010) 35.

Strasbourg, 19 November 2010

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION.....</b>	<b>3</b>
<b>II.</b>	<b>FACTS FOUND AND ACTION PROPOSED.....</b>	<b>4</b>
A.	Law Enforcement Agencies.....	4
1.	Legal Framework.....	4
2.	Ill-treatment .....	5
3.	Safeguards against ill-treatment .....	7
4.	Conditions of detention .....	10
B.	La Moye Prison.....	12
1.	Preliminary Remarks .....	12
2.	Ill-treatment .....	12
3.	Conditions of detention .....	12
4.	Juveniles and Young Offenders.....	13
5.	Health-care services.....	15
a.	Somatic care .....	15
b.	Psychiatric care .....	15
6.	Other issues.....	16
C.	Greenfields Centre for Children.....	19
1.	Preliminary remarks .....	19
2.	Living conditions and regime .....	19
3.	Other issues.....	20
D.	Orchard House acute mental health unit at St. Saviour’s Hospital .....	22
1.	Preliminary remarks .....	22
2.	Living conditions and treatment .....	22
3.	Staffing .....	22
4.	Means of restraint .....	22
5.	Safeguards in the context of involuntary placement .....	23
a.	The initial placement decision .....	23
b.	Safeguards during placement .....	23

**I. INTRODUCTION**

1. The Government of Jersey is pleased to provide this response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Jersey from 15 March to 18 March 2010.
2. The Government welcomes the CPT's report and has given careful consideration to its comments and recommendations.
3. The Government is please to learn that the CPT received excellent co-operation from the management and staff in the establishments visited. The Government acknowledges the positive comments made by the delegation in their report, particularly paragraphs 26, 27, 39, 66 and 67.
4. This response follows in sequence the issues raised in the CPT's report. Extracts from the report are reproduced in bold typeface with paragraph references.

## II. FACTS FOUND AND ACTION PROPOSED

### A. Law Enforcement Agencies

#### 1. Legal Framework

**(Paragraph 9) Persons detained in connection with customs or immigration offences can be held in a custody suite at St. Helier Harbour, operated by Customs and Immigration Police. Code C also governs such detentions. The CPT's delegation was informed that the majority of persons held were suspected body packers, who were detained in the cells at the Harbour until the suspicion of internally concealing controlled substances had been confirmed or rejected. This process did, on occasion, take longer than the legal maximum limit of 36 hours of custody without charge, leading to a detention with no legal basis. The CPT recommends that the Jersey authorities remedy this situation forthwith, by ensuring that all deprivations of liberty are firmly based in law and that, if no such basis exists, the persons concerned are immediately released.**

At present, there are no statutory limits to detention in Jersey. It follows that, as a matter of law, Customs are entitled to detain persons for longer than the 36 hour period specified in the Code.

Code C is not the legal basis on which detention may take place but rather is a code that represents guidance so as to ensure that a detained person is fairly treated. Article 62(6) of the Police Procedures and Criminal Evidence (Jersey) Law 2003 ("PPCE"), states that a failure to comply with a provision of the code does not, in itself, expose an officer to civil or criminal action. Rather, the principal purpose of the Code is revealed at Article 62(7) of PPCE: provable breaches of the code are admissible when considering questions arising in the criminal proceedings: "questions" is a reference to occasions when the defendant challenges the admissibility of evidence in criminal proceedings, usually confessions made in interview, if there has been a failure to adhere to the terms of the Code, e.g. a failure to caution at the start of the interview.

For the following reasons, the fact that there are no statutory maximum periods of detention does not mean that a person can be detained indefinitely in Jersey.

- (1) Customs are under a duty to act in a way which is compatible with the Convention rights by virtue of Article 7 of the Human Rights (Jersey) Law 2000. That means that they must have regard to an individual's rights under Article 5 of the European Convention on Human Rights and ensure that he is brought promptly before the court. What amounts to promptness will depend on the circumstances of each case. For a serious or complicated offence, requiring considerable gathering of evidence, the period may be longer than in a simple or less serious case.
- (2) In respect of Customs cases, whereby an individual is detained beyond the 24 hour period, their detention is reviewed every 12 hours by a Senior Customs Manager (Assistant Director/Director) to ensure that the detention continues to be justified. The detention is also reviewed by the duty Senior Officer during the course of his 8 hour shift and any change in circumstances affecting the appropriateness of the detention would be referred to the Senior Manager.
- (3) Article 5.3 of the European Convention on Human Rights requires that a person in detention: "Shall be brought promptly before a judge or other authorised officer authorised by law to exercise judicial power," so that the lawfulness of his detention can be reviewed. Although the European Court of Human Rights has not set a specific limit, in one case, *Brogan v U.K.*, the court decided that a period of 4 days and 6 hours before

a first court appearance was too long. In other cases relating to longer periods of detention, for example, *Koster v Netherlands* - 5 days; *McGoff v Sweden* - 15 days; *Salov v Ukraine* - 7 days, the court has unsurprisingly found a breach of Article 5.

- (4) Because the Human Rights (Jersey) Law 2000 is in force, a breach of a convention right can be raised in the Jersey courts, so a person detained in Jersey who thinks that his detention is unlawful in terms of Article 5 can bring proceedings in the Royal Court alleging a breach of his right. There is no doubt that such an application would be heard by the court as a matter of urgency.
- (5) There is also the possibility of applying for a writ of *habeas corpus* or to the Royal Court under its inherent jurisdiction for a review of the detention.

In the circumstances, it can be seen that it is highly unlikely that the right of an individual under Article 5 of the European Convention on Human Rights will not be observed.

The number of cases that result in detention in excess of 36 hours are few and are justified by the need to obtain evidence from the suspect.

In 2009 officers from the Customs and Immigration Service detained 111 people in custody. Of those only three were detained in Customs and Immigration facilities beyond the 36 hour period, because they were suspected of concealing drugs: one person was detained for 48 hours until he was found to be clear of drugs and released; the other two were detained for 37.5 and 49 hours, in addition to periods in hospital of 17 hours and 21 hours respectively, after which they were found to have concealed drugs and were charged. In a fourth case, an individual who admitted swallowing drugs spent 38 hours in hospital and was detained for a further 29 hours then charged.

As at end of August 2010, sixty-seven people have been detained in custody by Customs and Immigration Officers. Of those only one has been detained beyond the 36 hour period. That individual had concealed two packages of heroin internally and produced the first package after 17 hours. The second package was eventually produced after 44 hours.

## 2. Ill-treatment

**(Paragraph 10) The CPT's delegation received no allegations of physical ill-treatment of persons in police custody. Most persons met by the delegation said that they had been treated well by the police. However, a few allegations were received of excessive use of force 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 and, once arrested persons have been brought under control, there can never be any justification for striking them. Police officers should be reminded regularly, and in an appropriate manner, of these basic principles.**

All States of Jersey Police (SOJP) police officers attend a 5 day Officer Safety Programme course (OSP) at the beginning of their service. They then attend a two day refresher programme on a yearly basis. The courses are delivered by a member of the SOJP training department who is a United Kingdom nationally qualified 'Trainer of Trainers' in the Officer Safety Course. This is the highest qualification achievable in this area of training which is delivered by the National Police Improvement Agency and requires re-qualification every two years.

OSP centres on the principles of the conflict management module and the absolute need to use the minimum force necessary and least lethal options, with particular emphasis on communication skills first and foremost. Sessions are interactive and real life scenarios are explored in an attempt to replicate some of the more difficult circumstances that officers might face on duty. Additionally the principles of stress management, human rights and equality and diversity are discussed.

**(Paragraph 10) The delegation also received a few allegations of verbal abuse of a racist nature by Customs and Immigration personnel. It should be made clear to law enforcement officials that any form of ill-treatment – including verbal abuse – of detained persons is not acceptable and will be punished accordingly.**

The Government was very surprised to read this comment and would welcome further information regarding these remarks. Customs and Immigration has no record of any detained person making such an allegation against an officer in the Service.

When a member of the Committee visited the Service during the course of the week, as well as asking to see the custody records, a request was made to see details of any complaints that the Service had received against officers. These were provided, dating back to January 2008 and covered complaints received across all sections of the Service.

Of the 18 complaints received over this period of time only one could be regarded as having a racial aspect. However, the complaint was not made by a detained person, but by an individual who was stopped at customs controls to have their baggage searched. The individual was not happy to be stopped and alleged that the officer had only stopped him because of his colour. The complaint was taken very seriously by the Customs and Immigration Head of Service, and a full investigation was carried out. The outcome of the investigation was that the allegation was unfounded and the officer was exonerated.

This is the only occasion where any of the Customs and Immigration management team can recall a racial allegation being made against an officer in the Service.

If the Committee have any other evidence of such behaviour the Customs and Immigration management team would welcome the opportunity to investigate the matter further.

The Government would like to make clear that such behaviour would never be tolerated. If an officer is found to have acted in a racially abusive manner, the individual concerned would be fully investigated in line with procedures laid down in the Civil Service Disciplinary Policy.

**(Paragraph 13) The CPT would like to be informed whether the Police Complaints Authority has had to issue any statements which differed from the results of the investigation carried out by the Professional Standards Department.**

The Jersey Police Complaints Authority (JCPA) has never had to issue any statements which differed from the results of an investigation carried out by the Professional Standards Department. It is normal practice for a supervising member to liaise with the investigating officer during an investigation and to seek clarification, if required, either during this process or when a report is produced. Discussion has arisen at times as regards the appropriate disciplinary process which should be considered against an officer where a complaint has been upheld, but these have all been resolved satisfactorily.

**(Paragraph 13) Further, it would like to know whether the Jersey authorities intend to act on the Authority's proposal to ensure that investigations are carried out expeditiously, particularly as concerns those involving allegations of ill-treatment.**

All the Professional Standards Department's investigations are carried out expeditiously. The Deputy Chief Officer directs that all investigations be concluded within a 120 day period from the date that the complaint becomes 'live' i.e. when it is no longer subjudice or after the JPCA has approved the appointment of an Investigating Officer. The Professional Standards Department works strictly to these guidelines.

However, any criminal allegation made against a Police Officer during the course of their duties is required, procedurally, to be referred to the Attorney General. In these instances there may be unavoidable delay whilst consideration is given to whether criminal proceedings should be initiated.

### **3. Safeguards against ill-treatment**

**(Paragraph 16) From interviews with detained persons it was clear that it was common practice for duty lawyers to provide advice by telephone. It would appear that a duty lawyer's presence was rigorously provided only when the detained person was suspected of a very serious offence such as rape or murder.**

**In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is greatest. The possibility for persons taken into police custody to have access to a lawyer during that period will have a dissuasive effect on those minded to ill-treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. In the Committee's view, for this right to act as an effective safeguard against ill-treatment, it should include the lawyer's presence at the police station, preferably also during questioning. The CPT recommends that the Jersey authorities take the necessary steps in the light of the foregoing remarks.**

Upon request of the detained person or their appropriate adult for legal advice the SOJP will always contact a nominated Advocate. If the person is relying on the legal aid scheme then this currently operates between 0800 hours and 2300 hours.

The Jersey Law Society operates the legal aid scheme under the direction of the Acting Bâtonnier. During the above hours confidential legal advice is normally provided by the Duty Advocate by telephone. Advocates only attend at the police station for serious offences such as murder, manslaughter, rape or sexual offences against children.

The Government does not consider it necessary for an Advocate to attend in person for less serious offences. It believes that the fact that a detained person has access to a lawyer, even by telephone, provides a satisfactory deterrent to those minded to ill-treat a detained person. It is not currently practical to provide Advocates for detainees, in person, for all offences. However, the Government notes the Committee's concerns and recommendation and will give the matter further consideration.

**(Paragraph 17) Section 9.4 of Code C states that a suitably qualified doctor must be called as soon as practicable if a detained person requests a medical examination. In practice, access to a doctor appeared to operate relatively efficiently, and detained persons could also have access to a doctor of their own choice. However, it was also clear from discussions with the police that custody police officers ultimately decided whether or not to allow access to a doctor. Further, the right of access to a doctor is not included in the information on rights provided to detained persons. The CPT must stress that a doctor should always be called without delay when a person in police custody requests a medical examination. Police officials should not seek to filter such requests. The CPT recommends that appropriate steps be taken to ensure that this requirement is met.**

The Committee has referred to section 9.4 of code C, however it is worth drawing attention to section 9A notes of guidance which states:

*“The need to call a suitably qualified medical practitioner need not apply to minor ailments, which do not need attention. However, all such ailments or injuries must be recorded in the custody record and any doubt must be resolved in favour of calling a suitably qualified medical practitioner.”*

The Government notes the Committee’s concerns regarding police officials filtering of requests for medical examination. In practice, custody officers use their professional judgement when assessing all requests in addition to having completed a detailed risk assessment at the time of detention. If a genuine need or concern is identified either by Custody Staff or the detained person then a Force Medical Examiner (FME) will be called immediately.

All Custody Officers receive a two week SOJP custody course before being seconded to the unit; this input includes the welfare and treatment of detained persons. The Viewpoint Custody software application includes safeguards to ensure detained persons are fully risk assessed upon detention, which includes medical matters.

Custody staff conduct further risk assessments as recommended by the UK Association of Chief Officers (ACPO) guidance document *The Safer Detention and Handling of Persons in Police Custody Guidance 2006*. Risk assessments are ongoing to reflect changing events and circumstances concerning detained persons.

In following the procedures and safe guards outlined above the SOJP comply with legal requirements in the Island and adhere to the standards of the UK law enforcement. However, if UK standards were to change, the SOJP would reconsider the matter.

**(Paragraph 17) Further, the Committee recommends that detained persons be expressly informed of their right of access to a doctor, in particular in the written information on rights provided to them.**

A written *Notice To Detained Persons* sheet is provided to all detained persons at the time of detention. They are verbally informed of their rights by the custody officer at the time of detention concerning legal advice, the right to inform someone of their arrest and the right to consult the codes of practice covering police powers and procedures. The notice under PART A says:-

*You may ask to see a suitably qualified medical practitioner (and another Doctor at your own expense) for a medical examination, or if you require medication. You may also be allowed to take or apply your own medication at appropriate times, but in the case of controlled drugs the suitably qualified medical practitioner will supervise you when doing so.*

The SOJP follow the same procedure as the United Kingdom Police under Code C, Police and Criminal Evidence Act 1984, which does not require detained persons to be verbally informed of their right to see a FME at the time of detention. Where possible, the SOJP endeavour to adhere to United Kingdom standards regarding these matters. However, if the United Kingdom changes its procedures, the SOJP would be happy to reconsider this policy.

**(Paragraph 18) The confidentiality of medical data gathered in the course of police custody should be observed in the same way as in the outside community. The CPT’s visiting delegation noted that doctors’ examination notes were filed together with detained persons’ criminal files, all of which were accessible to police officers. While the Committee recognises that custodial staff should have information about the state of health of a detained person, including medication being taken and particular health risks, there is no reason why non-medical staff should have access to medical diagnoses or injury reports. The CPT recommends that custodial staff only have access to the medical information necessary to carry out their duties.**

The SOJP are unsure what prompted the Committee to make this recommendation as no confidential medical notes are filed within prosecution files or placed with the printed custody records. FMEs have access to the Viewpoint Custody system where they can place confidential log entries that only other FMEs have access to.

Custody staff receive information to allow them to carry out their duties by viewing entries the FME places on the Viewpoint system when they use the *Medication Log* entry facility.

If confidential information needs to be passed to HMP La Moye Prison medical staff, this is placed in a sealed envelope by the FME.

**(Paragraph 19) Information on rights was displayed in several languages at Rouge Bouillon Station, and any detained person was supposedly offered a copy. However, a number of persons met by the CPT's delegation stated that they had not been given a copy of the notice on their rights. The CPT recommends that detained persons be systematically provided with a copy of the notice on their rights.**

As detailed above, all detained persons are provided with a *Notice To Detained Persons* sheet that explains their rights, and they are requested to sign the custody record to indicate they have received a copy. The majority of detained persons accept the sheet, but a minority either leave it in the detention room or quite often refuse to take it.

If detained persons are violent or too intoxicated to be read and sign for their rights at the time of detention, this is noted in the custody record at the time and they are provided with the information when they are in a fit state to receive it. If a person refuses to sign for their rights this is also noted in the custody record and they are given an opportunity to sign later. All reviews of detention also ensure that a person is reminded of their ongoing rights.

**(Paragraph 20) In accordance with Code C, 17-year-olds are treated as adults, which meant that they may be interviewed without the presence of a guardian/parent. It is generally accepted – and enshrined in the United Nations Convention on the Rights of the Child – that all persons under the age of 18 years should be considered as children. The CPT recommends that the Jersey authorities take the necessary steps to ensure that all persons under 18 years of age who are detained by the police are treated as juveniles and benefit from the relevant specific safeguards for juveniles.**

The Government notes the recommendation of the Committee. The States of Jersey have made a commitment to comply with, and to request extension to the Island of, the United Nations Convention on the Rights of the Child. The Government is currently working towards overcoming a number of obstacles so that it can achieve this aim.

The SOJP would like to draw the Committee's attention to the fact that the Island is about to introduce an Independent Custody Visitor Scheme to augment safeguarding practices for those in detention at Police Headquarters. Ten independent members of the community have been selected and have received training delivered by the UK Independent Custody Visitors Association.

#### 4. Conditions of detention

**(Paragraph 22) Material conditions at Rouge Bouillon Police Station were of a poor standard. The 10 cells, all for single occupancy, were equipped with a plinth, mattress, a call-bell and artificial lighting. However, access to natural light was limited and ventilation poor, and there was no ready access to drinking water. Several cells measured some 6m<sup>2</sup>, and only five cells possessed in-cell sanitation. With regard to ready access to a toilet, the delegation received several complaints of the long time it took for staff to answer the call-bell. Further, numerous complaints were made of the poor quality of food provided. The small internal yard, covered with a metal mesh ceiling, was used essentially for cigarette breaks offered to detained persons at the custody officer's discretion, and could not qualify as an outdoor exercise yard.**

The SOJP note the comments made by Committee regarding conditions of detention. The custody suite is currently situated in an old Victorian building, which has 'listed building' status. The Station, including its cells, has been modernised, but there is only so much that can be achieved within the constraints imposed by the building's listed status. However, this issue will be rectified when the SOJP move to new premises.

**(Paragraph 22) In the carport area between the office and the custody suite there were two transparent "CS cage" units measuring less than 1m<sup>2</sup>, which were designed for extracting CS-gas from persons who had been sprayed. However, on occasion, they were used as temporary holding cells; the CPT must stress that they are too small to be used for this latter purpose.**

**The CPT recommends that the Jersey authorities review conditions of detention at Rouge Bouillon Police Station, in the light of the above remarks. Further, the "CS-cage" units at Rouge Bouillon Station should never be used as temporary holding cells.**

The SOJP accept the Committee's recommendations. Custody staff have now been instructed to use the CS-cage units for their specified purpose.

**(Paragraph 22) The CPT's delegation was informed that new police premises were planned. The CPT would like to be informed of progress in the realisation of those plans; it trusts that any new detention facilities constructed will comply with the Committee's standards.**

Plans are progressing well for the provision of a new police station which will incorporate a modern custody facility. It is envisaged the facility will be operational in 2014. The new custody facility will comply with the Home Office document '*Police Building Design Guide, Custody Policy Document New Build Only*'. The SOJP are happy to confirm that any new detention facilities constructed will therefore comply with the Committee's standards.

**(Paragraph 23) The three identical cells operated by Customs and Immigration at St. Helier Harbour were of sufficient size and in a good state of repair. They were equipped with a plinth, mattress, call-bell and CCTV. They had no in-cell sanitation (a special toilet for body packers was for supervised use) and no water point, but access was provided by officers when requested. However, the ventilation was poor and there was no access to natural light. Further, there was no outdoor exercise yard, but the delegation was informed that, at the officers' discretion, detained persons could exercise while handcuffed in the Harbour's secure area. The CPT recommends that the above-mentioned material deficiencies be remedied, and that the cells at St. Helier Harbour never be used for extended immigration detention. Further, all persons detained longer than 24 hours should be offered one hour of outdoor exercise.**

The custody suite at St Helier Harbour was built in 2002 to the Home Office standards required at that time. Over a period of years these standards have changed and if the custody suite was built today it would be built to the new standards and comply with the standards of the Committee. Meeting the recommendations of Committee would require significant changes to the internal structure of the custody suite. Unfortunately, this is not practical at this time.

However, the Government does aspire to meet the updated standards of the Home Office and the standards of the Committee. Therefore, this issue will be re-visited if and when there is development work in the area of the custody suite.

The cells at St Helier Harbour are never used for extended immigration detention.

All persons detained for longer than 24 hours are offered one hour of outdoor exercise, though not necessarily for an hour at a time. Individuals detained for longer than 24 hours are nearly always individuals who are either concealing, or are suspected of concealing, drugs internally. In such circumstances officers want these individuals to exercise, as this accelerates the process of either retrieving the drugs or confirming whether drugs are concealed internally. The problem facing officers is that the individuals detained often do not want to assist in the process and will refuse exercise opportunities. At other times, their physical condition is such that they are not in a position to exercise, particularly heroin addicts suffering from withdrawal symptoms.

#### Further clarifications

Paragraph 7 of the CPT report says '*In practice, members of the Honorary Police do not effect arrests*'. This is incorrect; the Honorary Police do make arrests, and in 2009 thirty three arrests were effected by them.

Paragraph 22 of the CPT reports states that Rouge Bouillon Station has 10 cells, of which 5 have sanitation. In fact, the Station has 12 cells, of which 6 have sanitation.

## **B. La Moye Prison**

### **1. Preliminary Remarks**

**(Paragraph 25) The Prison has undergone major reform in recent years, both in terms of material conditions (construction of new facilities) and regime. At the time of the visit, there were plans to build a new visitors unit, a medical centre, and a staff dining hall. The visible signs of investment in the Prison are an indication of a clear commitment by the Jersey authorities to improve conditions of detention at La Moye. However, the CPT's delegation was informed that the prison budget would be cut by 10% over the next few years. The Committee trusts that any reductions in the prison budget will not impact negatively on the progress made at La Moye Prison in recent years, or on its future development.**

The Government welcomes the Committee's comments on the progress made at La Moye in recent years and its recognition of Jersey's commitment to improve the conditions of detention at La Moye.

Although it is not possible to state with certainty that budget cuts will not in any way impact negatively on progress made or on future developments, every effort will be made by the Prison authorities to minimise the impact of budget cuts.

### **2. Ill-treatment**

**(paragraph 26) The CPT's delegation received no allegations of ill-treatment of inmates by prison officers. On the contrary, positive staff-prisoner relations were in evidence. The delegation also noted that there was not an issue of inter-prisoner violence and that an effective anti-bullying policy was in operation.**

The Government would expect and is pleased to note that there were no allegations of ill treatment of prisoners by prison officers and there was no issue with inter-prisoner violence. The Government is also encouraged by the Committee's acknowledgement that an effective anti-bullying policy is in operation.

### **3. Conditions of detention**

**(Paragraph 31) In the light of the remarks in paragraphs 28 to 30 above, the CPT encourages the Jersey authorities to continue to expand the range of – and opportunities for – prisoner activities, with a view to ensuring that all prisoners spend a large part of the day engaged in purposeful activity of a varied nature. In particular, greater efforts should be made to provide female prisoners with more meaningful activities and to ensure that they enjoy access to activities on an equal basis to male prisoners.**

The number of personnel devoted to learning and skills development is significantly greater than those presented to the CPT during their visit, in that these did not include the horticulture staff who work in the compound or the Personal Training Instructors (PTIs) in the gymnasium. The number of staff actually employed on the learning and skills agenda includes five full time teachers, ten vocational training staff and four physical education staff. The Prison Service is still committed to expanding the range of activities that prisoners may access.

The Committee was clearly given the impression that the activities on offer to female prisoners were limited to cleaning duties and the recycling workshop. This is inaccurate as a significant number of the female population have had access to some of the vocational training courses and are also regular attendees at the Learning Centre and the gymnasium. However, their regime is more restricted than that on offer to male prisoners and the CPT did recognise the difficulty in ensuring

that the smaller population groups in La Moye have equal access to all regime components. Nevertheless, the Prison Service accepts the recommendation and will seek to widen the range of opportunities on offer to the female population.

The Prison Service notes the recommendation to install shelters in the exercise yards and allow prisoners to access one full hour of exercise, even during inclement weather. Prisoners are allowed to access the exercise yard during light rain showers but they have no appetite to go outdoors in more severe weather conditions. This was confirmed during the recent prisoner survey on this matter and it seems inappropriate to devote resources to providing shelters and outdoor clothing if prisoners do not wish to access such facilities. There are also security implications, in that vision and sight lines become much more restricted during inclement weather. There is also the matter of reasonable drying facilities for both staff and prisoners to be considered. At this time the Prison Service feels that funds would be more sensibly used elsewhere. However, if prisoner attitudes were to change or a cost effective solution could be found to this problem, the issue would be reconsidered.

**(Paragraph 32) An individual sentence plan was drawn up for all sentenced prisoners by two sentence planning officers, with the active involvement of inmates; an examination of the files indicated that the approach taken was both thoughtful and constructive. That said, it would appear from the interviews held and the documentation examined that many prison officers, especially those working in the larger accommodation blocks, were not sufficiently involved or interested in the sentence planning process or in its implementation. The CPT invites the Jersey authorities to ensure the involvement of prison officers in drawing up and implementing sentence plans.**

The Prison Service believes that it already meets this requirement. There are two full-time prison officers dedicated to formulating prisoner sentence plans and all personal officers and senior officers contribute regularly to each prisoner's sentence plan.

**(Paragraph 33) The CPT recommends that the Jersey authorities make every effort to increase opportunities for prisoners at La Moye Prison to follow programmes addressing offending behaviour.**

The Prison Service fully acknowledges and supports this recommendation and will take every opportunity to seek to further develop the programme of activities available to prisoners in this regard.

#### **4. Juveniles and Young Offenders**

**(Paragraph 34) The CPT recommends that steps be taken to ensure that, as far as possible, all juveniles – i.e. persons under the age of 18 – deprived of their liberty in Jersey are held in an appropriate centre for this age group, and not in prison**

The Prison Service fully supports the Committee's view that juveniles should be held in detention centres specifically designed for persons of this age. Unfortunately, there are insufficient facilities available in Jersey at this time to manage juveniles outside HM Prison La Moye. However, a review of Youth Criminal Justice System and also the management of child offenders is currently underway and it is a goal of the Prison Service to work towards meeting the Committee's recommendation.

**(Paragraph 37) For as long as juveniles continue to be held at La Moye Prison, the CPT recommends that particular attention be paid to their education (including physical education) and to offering them a wide range of opportunities to develop their life skills whilst accommodated in the establishment.**

The Prison Service fully endorses the Committee's recommendation and will continue to pay particular attention to the needs of juveniles while they are held at HMP La Moye.

**(Paragraph 37 cont.) Further, particular care should be taken to ensure that juveniles are accommodated separately from other prisoners. If the effect of such a separation would be to isolate a juvenile prisoner, he/she should be offered opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff – the juvenile should not be left locked up alone in a cell for extended periods of time. A juvenile of one sex should be able to associate with a juvenile of another sex, subject to a proper risk assessment. The situation of female juveniles at La Moye Prison, who are held together with female inmates of all ages, is not appropriate. On the other hand, the CPT acknowledges that holding juveniles and young adults together, as is the current situation for male juveniles at La Moye Prison, can be beneficial to the young persons involved, but it requires careful management to prevent the emergence of negative behaviour such as domination and exploitation, including violence.**

**Moreover, it is essential that staff working with juveniles be provided with the necessary training and that the team be of mixed gender. More generally, the policy of treating 17-year-olds as adults should also be reviewed in the light of the provision of the United Nations Convention on the Rights of the Child.**

**The CPT recommends that the Jersey authorities take the necessary steps in the light of the above remarks.**

The Committee did recognise the particular difficulties that exist in Jersey in regard to the absence of appropriate facilities to ensure separation of the various age groups. The Committee did also acknowledge that the holding of female juveniles alongside the adults was not necessarily to their detriment but the Prison Service nevertheless acknowledges the recommendation and that a way of separating the juveniles from the adults needs to be found. La Moye already ensures that the staff managing both male and female juveniles / young offenders are of each gender.

The Prison Service accepts the recommendation to provide appropriate training for staff who work with juveniles.

**(Paragraph 38) The delegation learned that one of the two male juvenile inmates had been accommodated in a cell in the vulnerable prisoners unit upon admission in late August 2009 until the opening of K Block in December 2009. During this time he had been offered a very minimal regime of cleaning and, at best, one hour of outdoor exercise every day.**

**Holding a juvenile in such conditions is totally unacceptable. It is generally acknowledged that all forms of solitary confinement without appropriate mental and physical stimulation are likely, in the long term, to have damaging effects, resulting in deterioration of mental faculties and social abilities. Juveniles are particularly vulnerable to such risks. The CPT recognises that it may be necessary to segregate juvenile prisoners for security or safety reasons (for instance, to protect highly vulnerable juveniles or deal with juveniles who pose a threat to others). However, measures of this kind should only be ordered in very exceptional circumstances and for as short a time as possible; if a juvenile has to be segregated he should nevertheless be offered purposeful, out of cell activities and every effort should be made to enable the juvenile to benefit from some degree of association with other persons.**

The Prison Service fully endorses this recommendation. However, the Prison Service must point out that the Committee were given a false impression in regard to how one particular juvenile was managed earlier in 2009. There has never at any time been a juvenile inmate segregated in the Vulnerable Prisoner Unit. We believe the reference may be to a sex offender who was separated from his peers for a relatively short period of time on admission but this was in G wing (which at that time was the young offenders unit). This individual did have his regime restricted for his own safety but was gradually integrated into the young offender population. Personal safety is always paramount in such cases and will continue to be so.

## **5. Health-care services**

### **a. Somatic care**

**(Paragraph 40) ...the presence of the general practitioners should be increased if the number of inmates at La Moye Prison becomes closer to the establishment's capacity.**

The level of provision required in this area is kept under review and if there is a significant increase in the prisoner population, an increase in the level of General Practitioner (GP) resource will be explored.

**(Paragraph 41) The delegation was informed of tentative plans to construct a new medical centre which would offer appropriate conditions, but it was unclear whether these plans would be effectively implemented. The CPT would like to receive updated information on the construction of the new medical centre at La Moye Prison.**

At this stage, no detailed plans have been prepared. However, a long-term development plan for the whole of the prison has been compiled and a bid for the resources required to put this in place has been made for 2016.

**(Paragraph 43) In the CPT's view, there can be no justification for non-medical staff being systematically present during such examinations; their presence is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. The CPT recommends that steps be taken to ensure that the medical confidentiality of external consultations is adequately respected.**

The Prison Service fully accepts this recommendation and while security matters must take priority, ways in which security needs can be met at the same time as preserving medical confidentiality will be explored.

### **b. Psychiatric care**

**(Paragraph 44) The CPT recommends that the Jersey authorities take the necessary steps to ensure that all prisoners suffering from a severe mental health disorder are cared for, without delay, in an adequately equipped hospital environment.**

The Government notes the Committee's recommendation and will give the matter further consideration. However, at present there are not adequate facilities on the Island to implement this recommendation.

## 6. Other issues

**(Paragraph 45)** The delegation also observed relatively relaxed staff-inmate relations – not unusual in a small society such as Jersey, where many prisoners based in Jersey will be known to staff members, sometimes personally. The challenge for staff is to maintain a constructive and positive approach towards inmates while at the same time ensuring that they treat prisoners equally and are not seen to be favouring one group over another. The Prison's management has tried to address these concerns by introducing improved systems of oversight and supervision, including CCTV in all wings, open galleries in the new wings and a more strict enforcement of lockup times. It is important that the new measures do not lead to such a degree of formalism as to undermine the existing positive relations among staff and prisoners.

The Prison Service are very aware of the need to ensure an appropriate balance between security precautions and ensuring a progressive prison regime where the relationships between staff and prisoners remain positive.

**(Paragraph 46)** In the CPT's view, all inmates, irrespective of the regime, should benefit from a visiting entitlement of at least one hour per week. Further, any reduction in contact with the outside world should not be the subject of the incentives and privileges scheme. The CPT recommends that the Jersey authorities take the necessary steps in the light of the above remarks.

It is currently not possible to facilitate a minimum of one hour for all prisoners in the visit room facility. However, over the next 12 months, a new visit room will be constructed on site and the Prison Service will then be in a position to meet this recommendation.

**(Paragraph 48)** La Moye Prison was the subject of two visits by the Prisons Inspectorate for England and Wales, in 2001 and 2005, which were referred to by the Prison authorities as having prompted extensive reforms in terms of material conditions and regime. There is also a Board of Visitors composed of *Jurats* (lay-judges) which visits the prison on a monthly basis and reports to the Home Affairs Minister. It may receive prisoners' complaints, and it also hears appeals in disciplinary proceedings. The CPT would like to be informed whether the Jersey authorities intend to continue to invite an independent body from the United Kingdom to carry out periodic inspections.

The Prison Service recognises the value of periodic independent inspections of La Moye prison and while other options are being considered to facilitate this, inviting HM Chief Inspector of Prisons for England and Wales to carry out such an inspection is the preferred option.

**(Paragraph 49)** The CPT's delegation was informed by the Prison management and the Board of Visitors that few prisoners used the complaints system. Indeed many inmates stated to the delegation that they did not regard the system as effective. Shortly prior to the delegation's visit, locked complaints boxes had been introduced on each level of the accommodation wings, which would be emptied by an administrative staff member who would transmit any complaints to the Board. By letter of 7 June 2010, the Jersey authorities informed the Committee that the complaints system was about to be reviewed, in particular establishing separate forms for health-care complaints, and for complaints to the Board of Visitors. In the CPT's view, it is questionable for the Board of Visitors to have the dual function of receiving prisoners' complaints as well as hearing prisoners' appeals against disciplinary sanctions.

**Further, the fact that its members are responsible for adjudicating criminal cases means that they are perceived as being responsible for sending persons to prison. It is hardly surprising, given this combination of functions, that prisoners appeared to lack confidence in the complaints system. The CPT recommends that the Jersey authorities take the necessary steps to ensure that a body external to the Prison – and unrelated to criminal and disciplinary proceedings concerning prisoners – may receive inmates' complaints.**

The States of Jersey Education and Home Affairs Scrutiny Panel conducted a review related to the Prison Board of Visitors in 2009, which was presented to the States on 18 August 2009 (SR.7/2009). The Panel received evidence from an Independent Monitoring Board in the UK and also sought independent advice from an experienced and prominent legal adviser, Mr J Cooper, QC, on the issues. As a result of the review and its findings, recommendations were presented and discussed with the Minister for Home Affairs.

In particular, the Panel recommended that the Board of Visitors should no longer consist entirely of Jurats of the Royal Court. It was important not only to be independent, but to be seen as being independent, especially from the perspective of the prisoners. The multiple functions of the Board of Visitors were considered inappropriate and it was felt that the monitoring and complaints function of the Board should be opened up to individuals other than Jurats.

The Minister for Home Affairs has requested further legal advice and, when that is received, will consider legislative changes either to implement a new system, with independent members of the public to sit on the Board of Visitors, or to extend the existing membership to include additional independent members.

**(Paragraph 50) Disciplinary procedures concerning prisoners should be surrounded by appropriate safeguards. The relevant legal provisions applicable to prisoners at La Moye included a wide range of rights: for the person adjudicated to be informed in writing of the charges and to be given sufficient time to prepare his/her defence; to be heard in person by the decision-making authority; to call witnesses on his/her own behalf and to cross-examine other witnesses; to be heard in mitigation of punishment if found guilty; to receive a copy of the disciplinary decision, including the reasons for the decision and the avenues for lodging an appeal; and to appeal to the Board of Visitors against any sanctions imposed.**

**However, the CPT's delegation observed that, in practice, disciplinary files did not include a written record of the prisoner's statement or even a signature by the prisoner. The delegation also received several complaints from prisoners about lack of fairness of the disciplinary procedures. In particular, it would appear that extensive use was made of removal of association pending charge, which was possible at the discretion of a prison officer for up to 72 hours. The CPT is of the opinion that, in most cases, provisional disciplinary isolation, prior to a formal charge being brought, should not need to last longer than a few hours (which should also be sufficient time for a prisoner to "cool down" after a violent incident).**

**The CPT recommends that disciplinary practices at La Moye Prison be reviewed in the light of the foregoing remarks.**

The Prison Service accepts this recommendation and a review has already taken place. A revised policy has been produced and will be implemented later this year. This replicates best practice in UK prisons.

**(Paragraph 51) The CPT recommends that the Jersey authorities take the necessary steps to ensure that segregation cells are adequately heated and that persons placed in them are offered a minimum of one hour of outdoor exercise every day and are allowed ready access to proper sanitary facilities. In particular, the practice of requiring segregated prisoners to “slop out” should cease immediately.**

The heating in the segregation area is adequate. Complaints have been received during the winter months but this relates more to the inactivity of the prisoners than the actual temperature. However, this will be closely monitored during the winter months to ensure the temperature remains at an acceptable level.

The prison already provides a minimum of one hour outdoor exercise each day.

The cells without integral sanitation are no longer routinely used and consequently, “slopping out” is no longer necessary.

**(Paragraph 51 cont.) Further, the Committee invites the authorities to replace the compressed cardboard furniture in the Care and Control Unit with more solid equipment.**

The Prison Service notes the invitation to replace the compressed cardboard furniture with more solid equipment but wishes to retain this in use for the time being. More robust furnishings will be fixed in place when practical.

## **C. Greenfields Centre for Children**

### **1. Preliminary remarks**

**(Paragraph 53) The delegation was informed that on one recent occasion a vulnerable 16-year-old had been ordered by the court to serve his sentence in the Centre, even though it was not designated as a young offender institution. The management of the Centre believed this to have been the right decision taken in the best interests of the child. Other professionals working with juveniles in conflict with the law were of the opinion that juveniles should only ever be sentenced to Greenfields. The CPT, for its part, considers that juveniles ought to be held in a centre specially designed for their needs. Therefore, courts in Jersey ought to be able to sentence 15 and 16, and even 17-year-olds to Greenfields Centre. The CPT recommends that the Jersey authorities take the necessary steps to enable juveniles to serve their sentences at Greenfields Centre.**

The Government notes the Committee's comments and further consideration is being given to this recommendation.

**(Paragraph 54) The delegation was concerned to learn that there were no statutory rules governing the functioning of Greenfields Centre; the rules in place were exclusively operational ones developed at the local level. This makes the good functioning of the establishment overly dependent on a well intentioned manager. The CPT recommends that the Centre be placed on a statutory footing, anchoring the 'best practice' policy approaches currently applied.**

The only comparable example of such an approach in Jersey is at La Moye Prison, which operates in compliance with the Jersey Prison Law 1957 as amended. The enactment of statutory rules to govern the functioning of the Centre would require secondary legislation under the Prison (Jersey) Law 1957. In these matters Jersey always seeks to meet UK standards, however in this instance the Centre has been unable to identify any similar provision at a comparable institution in the UK.

### **2. Living conditions and regime**

**(Paragraph 56) Two of the rooms were equipped with CCTV and children assessed as being at risk may be placed in them for as long as is judged necessary; if the unit is full, these rooms will be used for ordinary accommodation. In the CPT's view, video surveillance cannot be a substitute for direct contact with staff. Further, the Committee would like to receive confirmation that the cameras are always switched off whenever the rooms are used for ordinary accommodation purposes.**

The Government understands the concerns of the Committee, however in-cell cameras are only in operation where there is a perceived risk of self harm. This provision supplements personal staff surveillance, which takes the form of measures including a range of recorded observations, which may be constant or graduated from six per hour downwards. Such measures are subject to daily review by a multi-agency forum Children & Adolescent Mental Health Service (CAMHS), residential staff and Child Care Officers (CCOs).

**(Paragraph 58) At the time of the visit, the girl on a secure accommodation order was spending most of the day attending school outside of the Centre and only returning in the**

evenings; the three boys on remand were attending school in the Centre. That said, Greenfields offered little in the way of vocational training, and considering the background of the young persons held in the Centre, greater efforts should be made to develop relevant vocational courses. This would be even more necessary should Greenfields accept sentenced juveniles on a regular basis.

**The CPT recommends that steps be taken to develop vocational activities at Greenfields Centre.**

Currently vocational training is not delivered due to the short terms of residence in the Unit; the average stay being just three weeks. The alternative curriculum educational provision offers such subjects as Personal and Social Education (PSE), Domestic Science and Arts & Crafts. Life Skills, training in cooking, care of belongings (e.g. laundry) form part of the individual care plans. Young people on Secure Accommodation Orders (Welfare) experience a wider range of activities as their care plan allows for educational experience outside of the Centre. These activities mirror, insofar as possible, those experienced by children of a similar age in schools within the community.

However, the Government notes the Committee's recommendation and should new legislation enable sentences of youth detention to be served at Greenfields for persons over school leaving age, more structured age appropriate vocational training would be introduced.

### **3. Other issues**

**(Paragraph 59) The CPT recommends that the vacant carer posts be filled as soon as possible. Further, it would like to receive details of the minimum qualifications required for care staff and information on the continuous / refresher training available to staff.**

The Government is happy to report that the Centre now has a full staffing complement. All staff are trained in the following: NVQ level 3 in Care of Children and Young People; Therapeutic Crisis Intervention as developed by The Children's project at Cornell University; General Service Training, which deals with the safe physical restraint of older recalcitrant young people; Staff also receive annual refresher training in Therapeutic Crisis Intervention (TCI) and General Services Technique (GST).

**(Paragraph 60) The CPT recommends that a central register be kept for all uses of means of restraint. It would also like to receive a copy of the policy on restraint in operation at Greenfields, including information on staff training, debriefing and external reporting.**

All instances of restraint are logged through the DATIX (a web based, patient/client safety and risk management software application) recording system, which is administered by the Health & Social Services Health and Safety Department. In addition to this record such events are recorded on the individual personal record and in the daily log.

A central register to record all instances of restraint is now in place.

A copy of the policy on restraint is appended.

**(Paragraph 60) Further, steps should be taken to ensure that care staff and teachers have a common understanding of the sanctions system, including through regular review meetings concerning individual children.**

The Government feels that staff at the Greenfields Centre already have a common and thorough understanding of the sanctions system. Teachers and care staff are part of the same team and deliver

a joint programme for young people. This involves regular meetings between the head of education and the manager for care services.

Individual children are discussed at multi agency conferences which require input from education and care services.

**(Paragraph 61) At the time of the visit the Board of Visitors was not functioning, as the mandate of the previous Board had ended. The CPT recommends that arrangements be put in place to enable juvenile residents to address complaints on a confidential basis to the Board of Visitors.**

The Independent Panel of Visitors is now operational and residents of Greenfields have individual and confidential access to the Panel for the purpose of making complaints or any other matter of concern.

**(Paragraph 62) As to contacts with the outside world, all young people were allowed a 10-minute daily phone call to their family and could receive a 30 minute visit every evening from family members. The visits took place in the entrance lounge, in view of a staff member seated in the control room.**

**However, it was usual practice for a carer to position him/herself within hearing of the young person and his/her visitors. Young persons met by the delegation complained about this intrusion. The CPT considers that it would be sufficient for care staff to be able to observe a visit without having to listen in to the conversations; the reasons for any exceptions to this practice should be clearly recorded.**

It is normal practice for all visits to be conducted in sight but out of hearing. There are however, frequent cases where young people request care staff to attend visits in order to be able to discuss implications that may arise. Where intelligence exists to suggest that a visit has the potential to get out of control, for example in the case of family reconciliation, staff are there to provide support should the visit become difficult.

In all but exceptional circumstances (i.e. where either party specifically requests it), legal or professional visits are held in sight but out of hearing.

**(Paragraph 62) Likewise, the Committee questions whether it is really necessary for every letter written by a juvenile resident to be read by a member of staff before being posted. The CPT would appreciate the comments of the authorities on these matters.**

Letters are scanned to safeguard against threat to the well-being of the resident or the correspondent or to the security of the placement. All letters are opened to safeguard against contraband or inclusions.

**D. Orchard House acute mental health unit at St. Saviour's Hospital**

**1. Preliminary remarks**

**(Paragraph 64) As the only facility of its type on the island, it had to admit patients with a wide variety of disorders, including treatment for psychiatric illness, learning disability and substance dependence. It could also hold forensic psychiatric patients. The only category of patient not admitted were those prisoners considered too dangerous and/or an escape risk. In general, the unit accommodated adult male and female patients between the ages of 18 and 65; however, it could also accommodate children as young as 12 years old. The CPT would like to receive confirmation that all juvenile patients are kept separate from adult patients.**

The Government can confirm that juvenile patients are kept separate from adult patients on the rare occasion that they are admitted to Orchard House.

**2. Living conditions and treatment**

**(Paragraph 69) The CPT's delegation noted that Electro-convulsive Therapy ("ECT") was available, though it was infrequently administered (in 2009 for one patient). When ECT was applied, it was done so in a modified form (i.e. with anaesthetic and muscle relaxants) and carried out at the General Hospital, out of sight of other patients. Further, the delegation was informed that the consent of the patient was always sought before ECT was administered. However, no central ECT register was kept of its use.**

**The administration of ECT is a recognised form of treatment for psychiatric patients suffering from some particular disorders. However, it must be accompanied by appropriate safeguards. In particular, recourse to ECT should be recorded in detail in a specific register. It is only in this way that any undesirable practices can be clearly identified by hospital management and discussed with staff.**

**The CPT recommends that a central register be introduced for the administration of ECT at Orchard House.**

The Government is pleased to report that a central register has now been introduced for the administration of Electro-Convulsion Therapy (ECT) at Orchard House.

**3. Staffing**

No recommendations

**4. Means of restraint**

**(Paragraph 71) The CPT recommends that a specific register be established to record all instances of recourse to means of restraint (including rapid tranquillisation) and seclusion.**

The Government accepts the Committee's recommendation and a register has now been established to record all instances of recourse to means of restraint (including rapid tranquilisation) and seclusion within Orchard House.

**(Paragraph 71) Further, the CPT would like to receive a copy of Orchard House's policy on restraint, including on issues associated with restraint such as staff training, complaints**

**policy, reporting mechanisms and debriefing.**

Copies of the documents that inform Orchard House policy on issues mentioned above are appended.

**5. Safeguards in the context of involuntary placement**

a. The initial placement decision

**(Paragraph 73) The CPT recommends that long-term involuntary treatment orders always be based on the opinion of at least one doctor with psychiatric qualifications, and preferably two; the need for such placements should be reviewed at regular intervals.**

The Government can confirm that all recommendations for involuntary treatment (and observation orders) are made by at least one doctor with psychiatric qualifications (consultant psychiatric) and in over 85% of involuntary treatment and observation orders the second medical recommendation is from a staff grade or associate specialist psychiatrist.

b. Safeguards during placement

**(Paragraph 74) At Orchard House, the involuntary admission of a patient was considered to provide the authorisation to administer compulsory treatment. An internal practice had developed whereby only one injection would be administered involuntarily during the observation period; if further compulsory treatment was considered necessary, the observation period would be interrupted and a decision on involuntary placement would be made which would permit the administration of compulsory treatment. The CPT has fundamental objections to such an approach.**

**The Committee considers that patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his or her consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.**

**Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should be provided systematically with relevant information about their condition and the treatment which it is proposed to prescribe for them. Relevant information (results, etc.) should also be provided following treatment.**

**The CPT recommends that the Jersey authorities take the necessary steps to recognise the principle of free and informed consent to treatment, in the light of the above remarks.**

The Government can confirm that all in-patients at Orchard House, voluntary and involuntary, are, as a matter of principle, placed in a position to give free and informed consent to treatment. A patient who is on an observation order (Article 6) will not be given treatment against their will unless the risk to themselves or others is immediate and significant, following which an application for Article 7, treatment order will be immediately pursued. The administration of compulsory treatment will only be carried out within the fundamental principles of the Jersey Mental Health Law 1969.

The statement “An internal practice had developed whereby only one injection would be administered involuntarily during the observation period” is not practice or policy at Orchard House.

**(Paragraph 75) The CPT would like to be informed of the number of complaints concerning Orchard House for 2008 and 2009, and the action taken upon them.**

In 2008 Orchard House received written complaints from 2 persons; both patients were very unwell at the time of complaint. One complained about medication as she did not want to take it. The other complained about her Consultant. The Consultant was a locum and did not have his contract extended.

There were no complaints in 2009.

**(Paragraph 75) The CPT also wishes to know if patients at Orchard House are able to communicate on a confidential basis with an authority outside the establishment.**

Patients have access to an independent patient advocacy worker through the charity Jersey FOCUS on mental health. Details on how the independent advocacy operates are appended

**(Paragraph 77) The delegation was informed that Orchard House underwent a peer review by the Royal College of Psychiatry in order to receive an Accreditation for Acute In-patient Mental Health Services (AIMS) in December 2007. AIMS accredits acute and assessment wards for working age adults and wards for older people for a period of four years. In June 2010, Orchard House was reaccredited for a further four years. An Acute In-patient Mental Health Service Review was also carried out by the Health Care Commission of England (now subsumed within the Care Quality Commission) in 2008.**

**The CPT recommends that a regular system of independent inspections be put in place to complement the accreditation process.**

The Government notes the Committee’s recommendation. Discussions will take place between the Directorate Manager of the Mental Health Service and the Chairman of the Jersey Mental Health Review Tribunal to see how this can be established.

Further clarifications

**(Paragraph 70) The phrase “A general practitioner” at the end of line two should be “A Staff Grade or Associate Specialist Psychiatrist”**