



Report

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

from 14 to 18 October 2019

The Government of the United Kingdom has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2020) 29.

Strasbourg, 8 October 2020

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EXECUTIVE SUMMARY

The 2019 visit to Scotland focused on a few key issues that the CPT had raised in the report on its October 2018 visit. These included, notably, a re-examination of the treatment of women prisoners at Cornton Vale Prison as regards the use of long-term segregation and use of force measures, assessing the state of mental health care provision and analysing progress on the structural and conceptual reform of women's imprisonment. In addition, the CPT's delegation reviewed the overcrowding situation and the use of long-term segregation in the male custodial estate. The co-operation received from the authorities, and from the staff at the establishments visited, was excellent.

The CPT notes that the prison population of Scotland has continued to increase steadily, rising by 6.5% in one year, despite various measures pursued by the Scottish Government to address this phenomenon. The CPT underlines that urgent measures are required to counter this trend, including addressing the increase in the use of remand and assessing short-term sentencing policies.

The use of long-term segregation under Rule 95(11) and (12) of the Scottish Prison Rules remains worrying given the length of time for which certain prisoners are held in such conditions. The CPT recommends that the authorities reconsider their use of Rule 95(11)/(12) to segregate prisoners for years on end; it reiterates that alternatives to these forms of segregation should be urgently considered. More investment should be made in step-down facilities and the Committee trusts that the authorities will seriously consider the establishment of smaller therapeutic units for the limited numbers of prisoners concerned.

In 2018, the CPT had been pleased to note the reforms envisaged, and underway, to structurally overhaul and reconceptualise women's imprisonment in Scotland. However, a year later in October 2019, the number of women prisoners was still 85% above the envisaged maximum capacity of 230 and many women were still held in primarily male prison facilities. The CPT fully supports the concept of a culture change in female detention and the report goes into detail regarding the aspects that could be reformed; it recommends that the re-building of Cornton Vale Prison be used as an opportunity to undertake deep structural and conceptual changes that should address the design and layout of the facility, the provision of adequate care for vulnerable women prisoners, and the introduction of a different approach to the use of control and restraint measures and of segregation measures.

Positively, the vast majority of women prisoners met by the CPT's delegation at Cornton Vale Prison in the course of the 2019 visit stated that they were treated correctly by prison officers. Nevertheless, the CPT's delegation did receive two separate allegations of ill-treatment / excessive force applied to a prisoner by prison officers and escort staff respectively, in the context of control and restraint operations. The CPT recommends that prison staff should be reminded that no more force than is strictly necessary should be used to control women prisoners. It also underlines that, in the rare cases where prisoners need to be put into safer clothing for their own protection, this should only be undertaken by prison staff of the same sex as the prisoner. The CPT also invites the Scottish authorities to consider taking measures to roll out body-worn video cameras (BWVCs) for front-line prison staff; and that the relevant prison regulations should be amended to make it mandatory for BWVCs to be issued, worn and turned on by all prison staff who may have to use control and restraint operations, both planned and unplanned.

The CPT notes some improvements regarding the regime and treatment of women prisoners placed under Rule 41 orders (segregation and/or increased supervision for health reasons) in Ross House, and in the detection and transfer of women suffering from severe mental health disorders from Cornton Vale Prison to psychiatric facilities.

That said, unfortunately, in 2019, the CPT found that instances of problematic segregation under Rules 95 (11) and (12) in the “Dumyat” Separation and Reintegration Unit (SRU) persisted. The CPT reiterates its recommendation that a psycho-social support system for women prisoners held for longer than two weeks in segregation be established and that prisoners be provided with greater opportunities for association and engagement in purposeful activities, including being offered at least two hours of meaningful human contact every day and preferably even more. The CPT also recommends that a thorough review of the application of disciplinary sanctions for prisoners already in the SRU be undertaken, to ensure that prisoners are not placed in an environment that deprives them of any meaningful stimuli.

The CPT urges the Scottish authorities to seek alternative solutions to break the cycle of continued use of long-term segregation for certain vulnerable women prisoners. In light of the re-building of Cornton Vale Prison and the re-conceptualisation of women’s imprisonment, the CPT considers that the time is ripe to develop alternatives to long-term segregation in the SRU. The CPT recommends the development of step-down facilities at Cornton Vale Prison in the form of small therapeutic units that can provide a robust psycho-social support system for women prisoners, facilitating their reintegration process and providing a meaningful alternative to prolonged segregation in SRUs.

Lastly, the lack of secure psychiatric beds in Scotland for women prisoners remains a concern. The CPT recommends that urgent consideration be given to developing a specialised psychiatric unit within Scotland to care for women prisoners with severe mental health needs. In the meantime, the CPT recommends that those very few women prisoners requiring treatment in a high-secure mental health hospital are not left to languish in prison, and that steps be taken to facilitate their transfer, either to a medium-secure hospital in Scotland, with added security where necessary or, if feasible, to the State Hospital at Carstairs.

I. INTRODUCTION

A. The visit, the report and follow-up

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 an ad hoc visit to the United Kingdom (Scotland) from 14 to 15 October 2019; this was the Committee’s fifth visit to Scotland. The purpose of this visit was to follow up on a few key issues raised in the CPT’s visit report on the October 2018 visit,¹ notably, the use of segregation and use of force measures, as well as to examine the state of mental health care for women prisoners, and issues of crowding and long-term segregation in the male custodial estate.

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

- Julia Kozma (Head of the delegation)
- Olivera Vulić

They were supported by Francesca Gordon of the Committee's Secretariat.

3. The CPT’s delegation visited HMP & YOI Cornton Vale and HMP Shotts and held talks with senior representatives of the Scottish Prison Service (SPS).

4. The report on the visit was adopted by the CPT at its 101st meeting, held from 2 to 6 March 2020, and transmitted to the authorities of the United Kingdom on 24 March 2020. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the authorities of the United Kingdom to provide within three months a response containing a full account of action taken by them to implement the Committee’s recommendations and replies to the comments and requests for information formulated in this report.

¹ CPT/Inf (2019) 29, Report to the Government of the United Kingdom on the visit to the United Kingdom (Scotland) carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 17 to 25 October 2018.

B. Consultations held by the delegation and co-operation encountered

5. The CPT welcomed the possibility to have discussions with senior representatives of the Scottish Prison Service (SPS), including its Chief Executive, Colin McConnel, to follow up on some key issues raised in its October 2018 visit report and the response of the United Kingdom.²

The discussions provided an opportunity for the delegation to update the SPS on its recent findings regarding HMP Cornton Vale (see Section II.2 below), and to examine other issues of concern. These included the stark rise in prisoner numbers (nearly 500 more prisoners, equating to a 6.5% increase) in the 12 months following the CPT's visit in October 2018, as well as the practice of using extremely long-term segregation measures, under Rule 95 (11) and (12) of the Scottish Prison Rules.³ Further, the CPT's delegation wished to discuss the recommendations and interim results of the two Working Groups⁴ and one independent review⁵ set up to examine and provide solutions to these issues, as outlined in the United Kingdom response to the CPT's October 2018 visit report.

6. The CPT's delegation underlines that co-operation with the United Kingdom authorities, the Scottish Government and the SPS and its staff, throughout the visit, was excellent.

Nevertheless, during the above discussions, the authorities did not have the information required to update the CPT's delegation on the progress, or on the results, of the above-mentioned Working Groups (on women suffering from mental disorders and on long-term segregation) or to share the interim results from the independent review on the delivery of forensic mental health services in Scotland, all mentioned in the United Kingdom's response to the CPT's October 2018 visit report.⁶

Co-operation in line with Article 3 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment also entails taking action to address recommendations put forward by the CPT and to engage in a constructive dialogue on the substance of the Committee's report. In this respect, **the CPT trusts that the United Kingdom authorities will give their full attention to addressing the matters set out below. Further, it would appreciate being sent the interim results of the two Working Groups and the independent review mentioned in the United Kingdom's response to the CPT's 2018 visit report.**

² See CPT/Inf (2019) 30, Response of the Government of the United Kingdom to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the United Kingdom from 17 to 25 October 2018, dated 23 July 2019.

³ The Prisons and Young Offenders Institutions (Scotland) Rules 2011, as amended.

⁴ See CPT/Inf (2019) 30, paragraph 104 (on segregated women offenders with mental health disorders): "in May 2018 [...] the Forensic Network established a short-life working group to explore female pathways across the mental health estate at all levels of security, including those at a high level". Also, paragraph 89 (on the use of Rule 95(11)): "the short-life working group that reviewed the role and purpose of SRUs has made its initial recommendations to the programme sector. These will be shared with stakeholders before agreeing an approach going forwards."

⁵ Ibid, paragraph 98, "On 8 March 2019, Scotland's Minister for mental health announced an independent review of the delivery of forensic mental health services in Scotland, with final recommendations due by June 2020".

⁶ See CPT/Inf (2019) 30, paragraphs 89, 98, 104.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

1. Preliminary remarks: overcrowding and long-term segregation

7. As regards the current level of overcrowding of the prison population in Scottish prisons, the CPT's delegation was informed by the SPS that while the operating level of the Scottish prison estate stood at 7,669 places, it could be raised to an "emergency capacity" of 8,492. At the time of the CPT delegation's visit, there were 8,288 prisoners (i.e. 152 per 100,000 population) being held in Scottish prisons (including some 430 women). The number of prisoners was at an all-time high. According to the SPS, the reasons for the steady increase of the prison population included a spike in the use of remand, a 90% decrease in home curfew (after two serious incidents occurred while the persons concerned had been on community licence), significant increases in imprisonment for historical sex offences and organised crime, as well as the removal of automatic release provisions after a certain part of a sentence had been served.

In the short and medium terms, the Scottish Government and the SPS are pursuing various measures to try to cope with the increasing prison population.⁷ However, in the consultations with the CPT's delegation, the SPS's frank response on how to deal with the increase of the prison population in the medium-term was merely to "cope by overcrowding".

The CPT considers that this is not a viable strategy; a multi-pronged approach needs to be taken promoting, *inter alia*, the use of alternatives to imprisonment, which for sentences of less than 12 months have proven to be more effective, and reducing the recourse to remand imprisonment. Further, it is incumbent on the authorities to promote, in public and cross-institutions (including the judiciary), an approach to imprisonment that is not purely punitive but rather focuses on rehabilitation and reintegration into the community.

The CPT recommends that the Scottish authorities take urgent measures to tackle the overcrowding in prisons and that they invest more in countering the different factors playing into the steady increase in prison population.⁸

⁷ CPT/Inf (2019) 30, United Kingdom Response, p. 24, paragraphs 52 & 53, "a Prisons Resilience Leadership Group of senior officials from a range of justice agencies and the NHS, under the Scottish Government's Justice Board, has been established and will ensure cross-agency engagement and oversight. The group agreed to meet frequently and provide support to the SPS in its planning for, and responses to, a rising prison population. The SPS has robust contingency measures in place to ensure that the safety and security of staff and those in its care are maintained. In order to ease immediate pressure, the SPS has purchased 96 additional places at HMP Kilmarnock and a further 96 places at HMP Addiewell".

⁸ See, for example, the Council of Europe White Paper on Prison Overcrowding – CM (2016)121-add3, Recommendation CM/Rec (2017) 3 on the European Rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole) and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules.

8. In the report on the October 2018 visit, the CPT had voiced concerns about the lengthy periods of the use of segregation that it found during the visit especially in the Separation and Reintegration Units (SRUs) of Scottish prisons and among its long-term segregated “carousel” prisoners (moving from one SRU to the next every few months). It was also critical of the lack of psycho-social support provided to these prisoners, as well as the lack of step-down facilities to help prisoners reintegrate back into the mainstream population, linked with the adverse effects that prolonged solitary confinement can have on a person’s mental and physical well-being.⁹ The CPT invited the authorities to consider investing in smaller therapeutic units that could provide a more robust psycho-support system for these prisoners and help with the reintegration process.¹⁰

In its response to the 2018 visit report, the United Kingdom authorities underlined that various measures were underway to address the above concerns including a Working Group set up to examine the issue of long-term segregation.¹¹ However, at the time of the October 2019 visit, the SPS had no knowledge of the interim or final findings and recommendations of the Working Group.

The CPT would appreciate being sent the results of the Working Group on the role and purpose of SRUs and to be informed about the measures being taken to reduce lengthy stays of segregation for prisoners.

9. The CPT is concerned that the practice of moving “carousel” long-term segregated prisoners around the SRUs of Scottish prisons for years on end, which it raised in its October 2018 report, has not been adequately addressed by the authorities. In October 2019, the CPT’s delegation had the opportunity to briefly inquire into the current state of the use of long-term segregation at HMP Shotts. Here it found a case that appeared symptomatic of the above-mentioned concern about the lengthy periods of the use of segregation in the SRUs of Scottish prisons; namely, a case of one prisoner in HMP Shotts’ SRU, Mr A, who had been held on Rule 95(12) segregation in an SRU, more or less continually, for 10 years,¹² in multiple Scottish prisons.

The CPT reiterates that long-term segregation is harmful to a person’s mental and physical well-being and **it recommends that the Scottish authorities reconsider their use of Rule 95(11)/(12) for segregating prisoners for years on end; it further reiterates its recommendations that alternatives to such segregation should be urgently considered and more investment made into step-down facilities. The Committee trusts that the authorities will seriously consider the establishment of smaller therapeutic units for the small numbers of prisoners concerned.**¹³

⁹ CPT/Inf (2019) 29, October 2018 Visit Report, including *inter alia*, paragraphs 68, 74, 80.

¹⁰ CPT/Inf (2019) 29, October 2018 Visit Report paragraph 74.

¹¹ CPT/Inf (2019) 30, United Kingdom Response, paragraph 89.

¹² With 12 breaks in this period of segregation: including the longest break of 97 days (late 2008) and 85 days (late 2010); 8 of these breaks occurred prior to 5 February 2011, with 2 of these breaks being for the period of one day each. The final 3 breaks occurred within HMP Shotts in January 2018 when HMP Shotts attempted to reintegrate Mr A back into the mainstream population. Each of these breaks lasted for approximately 3 to 4 hours and was terminated when Mr A seriously assaulted another prisoner.

¹³ CPT/Inf (2019) 29, October 2018 Visit Report, paragraph 68.

2. Women prisoners in Scotland

10. At the time of the October 2018 visit, the CPT was pleased to note the growing realisation in Scotland that the specific needs and challenges faced by women offenders had to be addressed, that deep structural change was required and that various reforms were currently underway with the aim to effect this change. The CPT welcomed these reforms and acknowledged that the Scottish Government has been proactively pursuing an agenda for re-conceptualisation and structural reform of the female prison estate in Scotland.

In the longer term, the Scottish Government underlined that they aimed for a reduction in the number of women imprisoned and set an objective of a maximum of 230 places within the new strategy. The strategy also included plans for Cornton Vale Prison to be replaced with a smaller national custody facility for women (due to be opened in 2020, but delayed until 2021) and five smaller Community Custody Units, two of which will be in Glasgow/Maryhill and Dundee, to allow women to serve their sentences closer to their home and enable them to maintain family and community links. The Community Custody Unit (CCU) Glasgow is foreseen to open in 2020. It will provide for ten places. Until the redesign of the female prison estate has become fully operational, women are still held in the primarily male prisons of Edinburgh, Greenock, Polmont and Grampian, as well as in the existing female facility of Cornton Vale.

11. However, 12 months later, at the time of the October 2019 visit, the number of women held in prisons in Scotland had, instead of decreasing, steadily increased from some 390 to approximately 430. Given that the new configuration of the female custodial estate will provide only 230 places, the authorities acknowledged that more work is still required to reduce the numbers of women in custody.

The CPT would like to be informed about the concrete measures being taken, or envisaged, to achieve the objective of significantly reducing the number of women prisoners to (preferably under) the maximum occupancy level of 230.

12. During the October 2019 consultations, the Scottish authorities informed the CPT's delegation that the new Cornton Vale Prison was scheduled to open at the end of 2021. They plan to initiate a culture change regarding the imprisonment of women, based on a trauma-informed manner of managing women prisoners in a therapeutic environment. Training in this respect is foreseen to be rolled out for all prison staff working with women offenders. The new Cornton Vale Prison and the smaller female Community Custody Units are part of the structural changes underway to more adequately cater to the specific needs and challenges faced by women offenders.

The CPT fully supports the concept of a culture change in female detention; it considers that this reflects the principles enshrined in the Bangkok Rules, including a focus on the need to first apply non-custodial measures on women;¹⁴ as well as efforts required to provide appropriate services for women prisoners who require psychosocial support, especially those who have been subjected to physical, mental or sexual abuse.¹⁵ **The CPT encourages the Scottish authorities in this endeavour.**

¹⁴ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), Resolution 65/229, 16 March 2011; see, *inter alia*, the Preamble and articles 5 and 6.

¹⁵ *Ibid*, Rule 42.

Moreover, the CPT is not convinced that traditional forms of imprisonment and accompanying permissible measures of control and restraint, are always appropriate for women who may well have been previously traumatised and may have a mental and behavioural disorder, which can inherently affect a prisoner's behaviour for the worse. Such women, who often do not qualify for transfer to hospital, are still in need of highly specialised care (see further details in paragraphs 21, 30 and 31). **The CPT would like to receive an update on the implementation of the above-mentioned plan.**

3. HMP & YOI Cornton Vale: preliminary remarks

13. One year on from its October 2018 visit, the CPT undertook a targeted follow-up visit to examine the treatment of women prisoners at Cornton Vale in the SRU and Ross House,¹⁶ with the aim to examine whether the treatment and conditions for these women had since improved.

14. The general layout of Cornton Vale Prison was described in the report on the CPT's October 2018 visit,¹⁷ and remained substantially the same in October 2019. At the time of the 2019 visit, the total capacity of the prison remained 111 places, including about 15 places in the open national top-end facility on the premises. On the day of the visit, there were 107 women detained, including two young offenders (one of whom was accommodated in the SRU). 22 vulnerable women were accommodated in Ross House, including three pregnant women. No mothers and children were held at the time of the visit. Two women were held in the SRU "Dumyat" under extended Rules 95(11) and (12), and five women had been placed on Rule 41 (accommodation in specified conditions for health and welfare reasons)¹⁸ in Ross House.

4. Ill-treatment and the use of force

15. Positively, the vast majority of women prisoners met by the CPT's delegation stated that they were treated correctly by prison officers.

Nevertheless, the delegation did receive two separate allegations of ill-treatment / excessive force applied to a prisoner by prison officers and escort staff respectively, in the context of control and restraint operations.

¹⁶ CPT/Inf (2019) 29, October 2018 Visit Report.

¹⁷ CPT/Inf (2019) 29, October 2018 Visit Report, section 3.

¹⁸ Rule 41, 2011: "The Governor must order that a prisoner be accommodated in specified conditions where a healthcare professional (a) advises the Governor that it is appropriate to do so in order to protect the health or welfare of the prisoner or any other women prisoners; and (b) informs the Governor of the care and treatment planned for the prisoner while the prisoner is accommodated in specified conditions. [...]".

16. One of the women prisoners interviewed by the CPT's delegation,¹⁹ Ms. B, made several allegations of ill-treatment by escort and prison staff. The first incident reportedly occurred on 24 October 2018, during her previous transfer to HMP Cornton Vale, when G4S escort staff had allegedly used excessive force against her resulting in bruises on her left upper thigh, on her left elbow, and a black eye. Her prison admission medical screening examination corroborates this injury, stating "possible un-displaced radial head fracture and joint effusion of left elbow, sustained during transport". Ms B submitted a complaint in writing (some time later) on the reverse side of her Rule 95 order form dated 23 July 2019, but had, at the time of the visit, received no response. The complaint letter was contained in her paper file, but the complaint was not registered and it appeared that the prison authorities had not reacted to it.

Ms B also made a second allegation that after her second admittance to Cornton Vale Prison and transfer to the SRU "Dumyat", on 25 August 2019, prison staff had used excessive force during a control and restraint operation undertaken by six prison officers (five female and one male), who had put her into thumb-and-wrist locks to force her to change into safer clothing, causing injury to her elbow. Her medical record, dated 25 August 2019, states "suspected broken elbow during restraint". She was sent to hospital and received an x-ray and specialised medical attention, which confirmed that while injured, the elbow was not broken. The x-ray and details of the hospital appointment were not placed in her prison file (see Health-care section 6).

17. The CPT notes that there appears to have been no formal investigation undertaken into the above incidents. The second incident had been merely recorded on a "use of force reporting form" dated 25 August 2019. Upon a recent internal audit of these forms, the CPT notes that the auditor (the Prison's Head of Operations) writes that there were insufficient competent staff members in Cornton Vale Prison who could apply control and restraint measures safely and legally. The Prison's Head of Operations had noted in the use of force report regarding the above particular incident that one of the officers involved had been out of competence as their training had expired and had not been renewed. He also pointed out that the recording camera for control and restraint operations had not been charged so it had not been possible to film the operation and that there was a need to "review rationale for urgency to remove [prisoner] vs. battery to charge".

18. The CPT considers that control and restraint operations do inherently pose a risk of excessive use of force if not carried out correctly. Moreover, it is almost impossible to monitor and determine the actual level of pain inflicted in a non-planned pain-compliance operation that is not filmed.

Moreover, the CPT, as well as many other international bodies,²⁰ has long considered that operations involving staff requiring prisoners to undress involuntarily should be conducted by prison staff of the same sex, and it considers that this extends to the forcible removal of a prisoner's clothes and the redressing of the prisoner into anti-ligature "safer clothing".

The CPT recommends that the Scottish prison authorities regularly remind Cornton Vale prison staff that no more force than is strictly necessary should be used to control women prisoners. Further, the authorities should ensure that the training and refresher courses are up to date, and that such training includes information about oversight measures and the applicable sanctions for incidences of disproportionate use of force.

¹⁹ Of the 11 women interviewed in Ross House and the Dumyat.

²⁰ See, *inter alia*, Rule 19 of the Bangkok Rules, on the requirements governing the searching of women prisoners.

Further, the CPT recommends that in the rare cases where prisoners need to be put into safer clothing for their own protection, this should only be undertaken by prison staff of the same sex as the prisoner.

The CPT also invites the Scottish authorities to consider taking measures to ensure that body-worn video cameras (BWVCs) are worn by front-line prison staff and turned on for all control and restraint operations, both planned and unplanned. If the roll-out of BWVCs is undertaken, in order to enhance the potential of BWVCs to contribute to the prevention of ill-treatment, the relevant prison regulations should be amended to make it mandatory for BWVCs to be issued, worn and turned on by all prison staff who may have to use force against prisoners and non-compliance with this obligation (in the absence of an explanation of exceptional circumstances) should be treated as a disciplinary offence.

19. The CPT has long considered that it is of crucial importance for the prevention of torture and ill-treatment that women prisoners can readily complain to the authorities, no matter what the form of the complaint takes, and that the complaint be investigated. This did not happen in the above-mentioned case. **The CPT recommends that an investigation be carried out into Ms B's complaints and that the results be forwarded to the complainant and to the CPT. Equally, the Scottish authorities must ensure that any complaint of ill-treatment made by a prisoner at HMP Cornton Vale should systematically be registered and followed-up, whether the complaint is made orally to staff or the management, or in writing in any form – including on an incorrect form.**

20. The Cornton Vale Prison authorities provided more than 200 incident reports covering the period from October 2018 to the day of the visit (i.e. one year) to the CPT's delegation, the vast majority (over 90%) of which had taken place either in Ross House or the SRU (Dumyat).²¹

Half of all the incidents involved control and restraint measures and, notably, the use of wrist and thumb-locks. Two thirds of all these incidents took place in Ross House, and one third in Dumyat. In about 25% of the incidents when force had to be used, the women prisoners involved had shown aggression and had first attacked prison staff. In about 75 cases, the women prisoners had failed to comply with orders to move cells or get into their cells, including often refusal to move to a safer cell, to or to get into anti-ligature (suicide-proof) clothing. In 27 of these control and restraint cases, it is explicitly stated in the report that the refusal to comply with orders had happened after acts of self-harm or suicide attempts.²²

²¹ Of these 200 incident reports, around half (100) concerning control and restraint operations; 26 concerned drug findings or possession of drugs; twenty incidents were about fights between women prisoners or other forms of inter-prisoner violence; none of them appeared to have been serious or resulted in serious injuries. 21 reports concerned various incidents, ranging from medical emergencies to damage of prison property, theft from the infirmary and breaches of licence. Almost forty reports were about self-harm (women prisoners swallowing objects or battery liquid, cuts or ligatures). All of these acts of self-harm happened either in Ross House or in Dumyat.

²² Two women prisoners had become difficult during a removal to a mental health care facility; and in one case it was noted that control and restraint had to be used on a woman who had been remanded to a hospital under the Mental Health Care Act, but due to a shortage of beds had been brought to Cornton Vale Prison.

21. The CPT considers that the above number of control and restraint measures show that the approach to control and restraint vis-à-vis women, and in particular those accommodated in Ross House and Dumyat, should be revised. While staff, correctly, have the safety of the women as paramount in their actions and are trying their best to keep these women from harming or even killing themselves, it is clear that forced removals to safer cells and the force used to get the women into suicide-proof clothing is not the best or most appropriate response to their mental health state.

All the women met in the Dumyat and Ross House, during both the 2018 and 2019 visits, are truly vulnerable and require highly specialised custodial care with a prevailing emphasis on care and treatment rather than on control and discipline. Many of these women were on a continual cycle of re-admittance to Cornton Vale Prison, as they could not cope in society upon release.²³ The use of measures to control and secure women prisoners – both through traditional control and restraint operations and the use of segregation on the basis of and Rules 41 and 95(11) may not be the best way to deal with these extremely vulnerable women – whose very illnesses often are the source of their challenging behaviour, and for which they are punished. Control and restraint and segregation can exacerbate their mental state and become mutually reinforcing leading to more conflict.

22. By way of illustration, one of the segregated women (Ms B) (see above) was a prisoner who had been continually subjected to use of force measures, disciplinary punishments for her disruptive behaviour and long-term segregation under Rule 95, mostly spent in the SRU. This disruptive behaviour, however, was mainly a manifestation of her diagnosed borderline personality disorder.

Indeed, sanctioning her behaviour and placing her in long-term segregation neither served to improve her behavioural control, nor contributed positively to her problems in emotion regulation, distress tolerance and inter-personal effectiveness. In fact, they were exacerbating her behaviour and worsening her state of mental health, leading to a spiral of poor behaviour.

23. The Scottish authorities spoke in detail about the need for a cultural shift of mind-set towards women's imprisonment. This requires bold thinking. **The CPT recommends that the authorities use the opportunity of the re-building of the new 2021 Cornton Vale Prison to undertake deep structural and conceptual changes, which should address:**

- **the design and layout (i.e. smaller, more open and specialised units),**
- **the provision of adequate care for vulnerable women prisoners, especially those suffering from personality disorders, and**
- **the introduction of a different approach to the use of control and restraint measures (see paragraph 12), as well as to the use of segregation under Rule 95(11)/(12) and 41 (see section 5).**

²³ Ms B's situation is not exceptional, and she was not alone in her continual cycle of re-admittance to Cornton Vale Prison and more particularly its SRU. At least two other women, whom the CPT's delegation had met in October 2018, had found that they could not cope when released into the community due to their state of mental health, and were interviewed again in Ross House in October 2019.

5. Segregation under Rules 41 & 95(11) & (12)

a. the SRU Dumyat

24. The layout of the segregation unit at Cornton Vale Prison (known as “the Dumyat”) had not changed since the delegation’s previous visit in October 2018 and comprised four cells and two safer cells (devoid of ligature points and electrical sockets) and two small (caged) exercise yards.

25. At the time of the delegation’s visit to the Dumyat, two women prisoners were held under extended Rule 95 (11) and (12). One woman had been placed under Rule 95(11) and had been held in the SRU for two weeks while the other woman had been held in segregation under Rule 95(12) for some three months (84 days).²⁴

26. As was the case in October 2018, the CPT’s delegation found that the regime afforded to women in the SRU was extremely limited. Prisoners were offered one hour of outside exercise alone and time on the telephone (15 minutes) every day but had no purposeful activities to structure their days and no association time with other prisoners. As neither woman wanted to exercise alone in the stark yards, the women were locked alone in their cells for 23.5 to 24 hours each day. The women also ate alone in their cells, where their food was given to them through the door. The only regular inter-prisoner communication that the women in the SRU had was to shout through the walls to each other.

While both women had some, albeit limited, contact with staff, as well as with mental health staff (see below), this contact was not by any means regular and did not amount to more than a few minutes a day. Both women alleged that the relations with staff were cold and distant, and that the staff kept communication with SRU prisoners to a bare minimum.

The management plans for both segregated women were incomplete, and the governor’s daily logbook showed only irregular visits. Both women lived in conditions akin to solitary confinement with little to no meaningful human contact. This was compounded by the vulnerable nature of the women, including significant mental health needs in respect of one of the women. In the CPT’s view, this lack of human contact and the disengagement by the SRU staff towards them verged on institutional neglect.

In sum, it is disappointing that the situation in the SRU of Cornton Vale Prison has not evolved since the CPT’s previous visit to the establishment in October 2018 visit.²⁵ In light of this, **the CPT reiterates its recommendation that the Scottish authorities put in place a psycho-social support system for women prisoners held for longer than two weeks in Cornton Vale Prison’s SRU and provide them with greater opportunities for association and engagement in purposeful activities.**

The aim should be for all women prisoners held under Rule 95 to be offered at least two hours of meaningful human contact²⁶ every day and preferably even more. Consideration might be given to allow women segregated in Dumyat supervised contact with selected prisoners.

²⁴ With a short interruption of a few days, in early October 2019.

²⁵ CPT/Inf (2019) 29, October 2018 Visit Report, section 3.

²⁶ See Essex Paper 3 of February 2017 on the “Initial guidance on the interpretation and implementation of the UN Nelson Mandela Rules” and in particular pages 88 and 89.

The longer the measures of segregation continue, the more resources should be made available to attempt to (re)integrate the prisoner into the main prison community.

27. Furthermore, the CPT considers that the use of additional disciplinary sanctions for disruptive behaviour (such as removal of television or use of personal money)²⁷ for prisoners in the SRU, who are already on a minimal regime with barely any human contact for 23 to 24 hours per day, is inappropriate and can deprive a person of essential sensory stimuli.

The CPT recommends that a thorough review of the application of disciplinary sanctions for prisoners already in the SRU on an isolated regime should be undertaken, to ensure that prisoners are not placed in an environment that deprives them of any meaningful stimuli.

28. More generally, the CPT considers that the SRU of Cornton Vale is a totally inappropriate environment for holding vulnerable women prisoners, especially mentally ill and young women, for long periods of time. While the staff were working in challenging and often stressful working conditions, they were not sufficiently trained in managing women prisoners with mental health challenges and they were not health-care professionals.

The CPT urges the Scottish authorities to seek alternative solutions to break the cycle of continued use of long-term segregation for certain vulnerable women prisoners. In light of the re-building of Cornton Vale Prison and reconceptualisation of women's imprisonment with a new approach based on a trauma-informed manner of handling women prisoners in a therapeutic environment, the CPT considers that the time is apposite to develop alternatives to long-term segregation in the SRU.

The CPT recommends that the Scottish authorities develop step-down facilities at Cornton Vale Prison in the form of small therapeutic units that could provide a robust psycho-social support system for women prisoners, facilitating their reintegration process and providing a meaningful alternative to prolonged segregation in SRUs.

To this end, there is a need to have a more multi-disciplinary approach with psychology taking a lead in the management of these units.

b. Ross House

29. The capacity and layout of Ross House remained substantially as described in the CPT's report on the 2018 visit.²⁸ At the time of the visit, Ross House held 33 women, many of whom suffered from mental health issues and including 11 recently arrived prisoners in the Admissions Unit. Five women were being held on Rule 41 orders (segregation for welfare reasons) at Cornton Vale Prison, all of whom were located in Ross House at the time of the delegation's visit.

²⁷ Such as in the case of Ms B, who while in the SRU already on a very limited regime, had additional disciplinary sanctions imposed including the removal of her in-cell television and access to her personal account.

²⁸ CPT/Inf (2019) 29, October 2018 Visit Report, section 3.

Overall, during the 2019 visit, the CPT's delegation found an improved situation concerning women placed under Rule 41 orders in Ross House. These women were not isolated, and one was assigned work. They were offered education and art classes, and up to one hour's outside exercise and could eat communally, if they so wished. They also had regular contact with mental health nurses (three times per week) and access to a psychiatrist (every second week).

30. However, according to the management of Cornton Vale Prison, the visit coincided with a relatively calm period in Ross House. At the same time, the management underlined that increasing numbers of women were arriving at Cornton Vale suffering from mental health disorders, and that many of them had to be put immediately on Rule 41 orders. The prison sometimes did not have the capacity to keep the new arrivals in the First Night Unit (where the necessary risk assessments were undertaken for placement). For example, the weekend prior to the delegation's visit, there had been 17 new arrivals who had placed considerable pressure on the 14 places available in the Admissions Unit. Moreover, the number of clinical psychologists had not been increased to reflect this upwards trend of women prisoners arriving with increased mental health needs. The prison had to rely on a custodial staff mental health training with some refresher training, and on the "Talk To Me" suicide prevention strategy, which was insufficient to enable adequate care to be provided for the increasing number of women prisoners with complex needs placed on Rule 41 (for mental health reasons).

31. In the report on the 2018 visit, the CPT recommended that for those women prisoners with mental and behavioural disorders who are not eligible for transfer to a psychiatric hospital, a multi-faceted approach should be adopted, involving clinical psychologists in the design of individual programmes, including psycho-social support and treatment.

The findings of the 2019 visit showed some improvement in the regime for women prisoners held on Rule 41, but there remained an insufficient provision of psycho-social support for the women concerned.

The CPT reiterates its recommendation that the Scottish authorities invest greater efforts and resources into provide more psycho-social support and treatment for women place on Rule 41 orders, and if necessary, increase the presence of clinical psychologists at Cornton Vale Prison (see section 6 below) to achieve this.

6. Health-care services

- a. state of health-care services at Cornton Vale Prison

32. The CPT was pleased to note that a new Health Care Centre had opened in December 2018 at Cornton Vale Prison and the material conditions in the Centre were much improved.

33. In 2019, health-care staffing included one visiting part-time general practitioner and one visiting advanced nurse practitioner (a combined presence of two full days per week), one head of health-care (manager), one team leader for primary care two mental health nurses and one mental health team leader, one lead addiction nurse and one addiction and mental health nurse, three primary care nurses, three health-care assistants, two pharmacy assistants, and two health care addiction caseworkers.²⁹

Two psychiatrists visited the establishment for the equivalent of one and a half days per week, a psychologist visited once per week for half a day and a lead psychologist once every two weeks for half a day, a dental triage nurse visited once weekly, two occupational therapists visited for the equivalent of two days per week and other specialists (gynaecologist, sexual health nurse, optician, mid-wife, hepatology nurse, and podiatrist) visited when required.

The CPT was pleased to note that the vacant posts from 2018 including a team leader for mental health and addiction and a prison health-care addiction worker had now been filled. One more primary care nurse had been added and the number of occupational therapists' sessions had increased to two full days per week.

34. However, the number of mental health nurses had been reduced from six to four and the presence of the GP had not been increased. **The CPT recommends that the presence of the GP and/or advanced nurse practitioner be increased to the equivalent of three full days per week at Cornton Vale Prison. Equally, given the profiles and increasing mental health care needs of the prisoner population at Cornton Vale Prison, the CPT recommends that the number of mental health care nurses be increased by two.**

The Committee also invites the authorities to increase the input of the clinical psychologists at Cornton Vale Prison to assist in the formulation of more extensive psycho-social support and treatment programmes for women prisoners held on Rule 41 orders.

35. Further, while it was clear that generally medical records were comprehensive and well-kept at Cornton Vale Prison, the delegation did observe that important external medical test results (see above, paragraph 16) did, on occasion, go missing and observed this first-hand in at least one prisoner's case (Ms B). **The CPT recommends that the prison health-care service should ensure that all women prisoners' medical files are complete, including up-to-date internal and external medical examinations.**

²⁹ For an occupancy of 107 women prisoners, at the time of the delegation's visit.

- b. transfer for external psychiatric treatment

36. At the time of the 2019 visit, only one woman (Ms C) was requiring transfer to outside medium-secure psychiatric care for her mental health illness under section 136 of the Mental Health Act, and she had been waiting for the transfer for two weeks. Further, over a period of one year (October 2018 to October 2019), 13 women with more severe mental health illnesses³⁰ had been sectioned and transferred from Cornton Vale Prison to an appropriate mental health care facility. This represents a considerable improvement on the situation encountered at Cornton Vale Prison in October 2018, and **the CPT encourages the Scottish authorities to continue to transfer women prisoners in need of in-patient care to an appropriate hospital.**

The delays in transfers to appropriate psychiatric facilities had also improved, with the vast majority (9/13) being transferred within a period of less than two weeks. Nevertheless, a few patients (3/13) still had to wait more than one to two months, before being transferred to an appropriate hospital; moreover, in one case, this delay was unacceptably long, amounting to 10 months. **The CPT recommends that the Scottish authorities pursue the target of ensuring women prisoners suffering from severe mental health disorders are transferred to an appropriate psychiatric facility within a period of two weeks.**

The CPT would appreciate being sent an update on the case of Ms C, including the date upon which she was transferred to a psychiatric facility.

- c. lack of high-secure psychiatric beds in Scotland for women prisoners

37. In the report on the 2018 visit, the CPT concluded that the Cornton Vale Prison's SRU and Ross House were totally inappropriate environments for holding seriously mentally ill women and that the staff were not sufficiently trained to provide an adequate level of mental health support, which is what these women needed. The United Kingdom authorities, however, consider that although not purpose built, staff (operational and NHS) are able to provide the requisite care.³¹ In October 2019, the CPT's underlying assessment has not changed, and **the Committee still considers that a prison environment is an inappropriate environment for women suffering from severe mental disorders.**

³⁰ 9 patients were placed under section 52D of the Criminal Procedure (Scotland) Act 1995, as amended, and 4 under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

³¹ See United Kingdom Response to the CPT's 2018 visit report: CPT/Inf (2019) 30, , paragraph 103 "While Ross House and Dumyat are not purpose built to care for women who should be treated under the Mental Health Act, operational and NHS colleagues work in partnership to support these women. Operational staff are undertaking mental health first aid training provided by NHS colleagues to support them in this work".

The CPT welcomes the commitments set out in the Mental Health Strategy 2017-2027 and the securing of additional funds to provide increased mental health services and to develop SPS staff's ability to support women with mental health issues. It also notes that in May 2018, at the request of NHS Chief Executives, the Forensic Network established a national short life working group to explore female pathways across the forensic mental health estate at all levels of security, including those at a high level. The group was expected to report to NHS Chief Executives in March 2019 with its findings and recommendations. However, at the consultations with the Scottish authorities in October 2019 (see section B), no results could be shared with the CPT's delegation and the CPT reiterates that it would appreciate being sent the findings of this working group.

The CPT also notes that the Scottish authorities still consider that women who require high secure care should continue to be transferred to the National Women's Service, Rampton Hospital in England. Although the Scottish authorities acknowledge that the pathways (for high and low secure women patients) need to be better developed and this matter is being considered as part of the review of the delivery of forensic mental health services in Scotland (see above).³²

The CPT re-iterates its recommendation³³ that urgent consideration be given to developing a specialised psychiatric unit within Scotland to care for women prisoners with severe mental health needs, in order to close the gap concerning the lack of high-secure psychiatric places for such women and to ensure that access to mental health treatment is provided on the same basis as for male prisoners.

In the meantime, the CPT recommends that those very few women prisoners requiring treatment in a high-secure mental health hospital do not languish in prison and that steps be taken to facilitate their transfer either to a medium-secure hospital in Scotland, with added security where necessary, or the State Hospital at Carstairs (if the unused bed capacity can be re-provisioned).

³² CPT/Inf (2019)30, United Kingdom Response to the CPT's October 2018 Visit report, paragraph 106.

³³ CPT/Inf (2019) 29, October 2018 Visit Report, paragraph 96.

APPENDIX

**List of the national authorities and other bodies
with which the CPT's delegation held consultations**

A. National authorities

Scottish Prison Service (SPS)

COLIN MCCONNELL	Chief Executive, SPS
TOM FOX	Head of Corporate Affairs, SPS
LESLEY MCDOWALL	Head of Health Strategy (interim), SPS
CAROLINE JOHNSTON	Director of Corporate Services (interim), SPS
JIM MCMENEMY	Head of Operational Planning and Performance, SPS
ANGELA ARCHIBALD	Business Manager, Office of the Chief Executive, SPS

Scottish Government

DUNCAN ISLES	Head of Human Rights Policy
ORLANDO HEIJMER-MASON	Health and Justice Collaboration Improvement Team
MARK LAWSON	Substance Misuse Unit
ALISON STRATH	Principal Pharmaceutical Officer

NHS Scotland

CATHIE COWAN	Chief Executive, NHS Forth Valley Health Board
LEONA GILHOOLEY	Service Manager, NHS Forth Valley Health Board

B. Other Organisations

WENDY SINCLAIR-GIEBEN	HM Chief Inspector of Prisons for Scotland
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