

CLINKS - PRISONS COMMUNITY LINKS REPORT ON TORTURE JUNE 2017

EXECUTIVE SUMMARY

The Committee for the Prevention of Torture's (CPT) 2016 periodic visit to the United Kingdom provided an opportunity to review the treatment of persons held in adult and juvenile prisons and police custody in England for the first time since 2008. It also looked at immigration detention. Further, the visit had a specific focus on in-patient adult psychiatry and medium and high secure forensic psychiatry establishments in England. A good level of co-operation was received from both the national authorities and the staff at the establishments visited. However, on a few occasions, access to places of detention was delayed, and the CPT underlines that better coordination is needed to ensure that access to all establishments is rapid and information about the Committee's mandate is disseminated more widely. More generally, in light of the principle of co-operation, the CPT trusts that prompt and effective action is now taken to address long-standing recommendations such as prison overcrowding.

Law enforcement agencies

The CPT's delegation found that most people deprived of their liberty by the police were treated in a correct manner. It did, however, receive some allegations of verbal abuse from officers towards detained persons at the moment of apprehension and during transport to custody suites and of handcuffs being applied excessively tightly at the time of arrest. The CPT recommends that the United Kingdom authorities make it clear that verbal abuse towards detained persons is unacceptable and that handcuffs should never be applied excessively tightly.

The CPT notes that there appeared to be no uniform approach to the use of means of restraint across the 43 police forces in England and Wales and it recommends that the safety of the use of 'spit helmets', velcro fixation straps and Emergency Response Belts in police custody suites be reviewed. Moreover, the CPT recommends that 'Pava' spray should not form part of the standard equipment of custodial staff and should not be used in confined spaces.

In general, persons deprived of their liberty by the police were afforded the safeguards laid down in PACE Code C. However, several deficiencies were observed such as a protection vacuum when arrested persons had to wait for up to two hours in holding rooms before their detention was formally authorised and before they were informed of their rights by custody sergeants. The CPT recommends that all detained persons should be fully informed of their rights as from the very outset of their deprivation of liberty (and thereafter of any authorised delay) and current deficiencies impeding the complete recording of the fact of a person's detention should be rectified. Access to a lawyer and a doctor or nurse was generally being facilitated promptly in all police establishments visited. However, there was a lack of respect for lawyer-client confidentiality during consultation by telephone at *Southwark* and *Doncaster Police Stations*. As regards custody records, the CPT recommends that whenever a person is deprived of their liberty this fact is formally and accurately recorded without delay and without misrepresentation as to the location of custody, which was not the case at the TACT suite at Paddington Green Police Station.

The material conditions of the custody cells in the police establishments visited were generally of a good standard. There was, however, a lack of access to natural light in many cells and most establishments visited were not equipped with proper exercise yards. The conditions at *Paddington Green 'TACT' Suite*, in particular, were inadequate and needed upgrading.

Adult and juvenile prisons

The CPT welcomes the recent recognition of the need for profound reform of the prison system at the highest political level. The CPT's delegation discussed the nature and scope of the prison reform agenda with the authorities, where it stressed the problem of violence in prisons. In the view of the CPT, taking resolute action to tackle the problem of violence in prisons in England and Wales is a prerequisite for the successful implementation of other elements of the authorities' reform agenda. The CPT recalls that the adverse effects of overcrowding and lack of purposeful regime have been repeatedly highlighted by the Committee since 1990. Over the last 25 years, the prison population has nearly doubled, and almost all adult prisons now operate at or near full operational capacity and well above their certified normal capacity. The CPT emphasises that unless determined action is taken to significantly reduce the current prison population, the regime improvements envisaged by the authorities' reform agenda will remain unattainable.

The CPT's delegation received almost no complaints about physical ill-treatment of inmates by staff in the prisons visited. Nevertheless, it did receive a few complaints about verbal abuse and observed tense relations between staff and inmates. It was, however, deeply concerned by the amount of severe generalised violence evident in each of the prisons visited, notably inter-prisoner violence and attacks by prisoners on staff. Injuries to both prisoners and staff, documented over the previous three months, included *inter alia* cases of scalding water being thrown over victims and 'shank' (make-shift knife) wounds, and frequently required hospitalisation and in one case resulted in the death of an inmate.

The CPT examined the violence through the prism of three criteria: recording incidents of violence, responding to such incidents and specific measures taken to reduce violence. Despite the considerable number of instruments established to capture data regarding violent incidents, there were systemic and structural weaknesses in the documentation process. At both *Doncaster* and *Pentonville Prisons*, the delegation gained the impression that the actual number of violent incidents appreciably exceeded the number recorded. This issue appeared to be particularly acute at *Doncaster Prison*, where the delegation established that some violent incidents had either not been recorded or recorded as being less serious than they were in practice. Moreover, the delegation observed first-hand that violent incidents were not always reported by staff. While the number of recorded violent incidents at all prisons visited was alarmingly high, the CPT believes that these figures under-record the actual number of incidents and consequently fail to afford a true picture of the severity of the situation.

Further, inmates at both *Doncaster* and *Pentonville Prisons* complained that staff responded slowly to violent incidents. This fuelled a feeling of fear and a perception of a lack of safety among inmates. The consequence was a lack of trust in the staff's ability to maintain prisoner safety. As a start, the CPT recommends that the time taken to respond to inmates' call bells be improved. The CPT is also not convinced of the effectiveness of the specific ongoing measures initiated to reduce and prevent violence and recommends that a far greater investment in preventing violence be undertaken.

The CPT's findings in the establishments visited indicate that the duty of care to protect prisoners was not always being discharged given the apparent lack of effective action to reduce the high levels of violence. The cumulative

effect of certain systemic failings was that none of the establishments visited could be considered safe for prisoners or staff. The CPT recommends that concrete measures be taken to bring prisons back under the effective control of staff, reversing the recent trends of escalating violence. At *Cookham Wood YOI*, the high levels of violence were managed primarily through locking juveniles up for long periods of time, on occasion for up to 23.5 hours per day; greater investment in establishing more small specialised units to manage juveniles with complex needs should be made.

The CPT underlines that many aspects of prison life are negatively affected by the state of overcrowding in the prison system. For example, living conditions in the prisons visited, in particular *Pentonville Prison*, were adversely affected by the chronic overcrowding: cells originally designed for one prisoner now hold two. Equally, overcrowding also significantly affects the regime. The delegation found that the regimes in all prison establishments visited were inadequate, with a considerable number of prisoners spending up to 22 hours per day locked up in their cells. Many inmates stated that the long lock-up times contributed to a sense of frustration. The CPT recommends that steps be taken to ensure that inmates attend education and purposeful activities on a daily basis, with the aim that all inmates on a normal regime spend at least eight hours out-of-cell.

At *Cookham Wood YOI*, juveniles on a normal regime spent on average only five hours out of their cells each day. The situation was particularly austere for those juveniles who were placed on 'separation' lists (denoted by vivid pink stickers of 'do not unlock' on their cell doors), who could spend up to 23.5 hours a day locked up alone in their cells. In the CPT's view, holding juveniles in such conditions amounts to inhuman and degrading treatment and all juveniles should be provided with a purposeful regime and considerably more time of cell than is currently the case.

As regards the provision of health-care in the prisons visited, the delegation noted that health-care staffing levels were, with a few exceptions, adequate and there was generally good medical documentation of injuries. Medical screening of prisoners upon arrival was of a good quality and carried out promptly. That said, medical confidentiality was not always respected. For example, medication was given to prisoners in corridors or dispensed through a hatch in view of other prisoners. Also prisoners continued to be systematically handcuffed during hospital transfers; the CPT reiterates that handcuffs should only be applied after an individualised risk assessment.

Delays in prisoners with mental-health problems being transferred to psychiatric hospitals, in some cases for several months, remain a problem. Further, the placement of prisoners with acute mental- health conditions in segregation units is inappropriate. The CPT recommends that prisoners suffering from severe mental illnesses are transferred immediately to an appropriate mental health facility. In this connection, high priority should be given to increasing the number of beds in psychiatric hospitals to ensure that in-patient health-care units, such as the one at *Pentonville Prison*, do not become a substitute for the transfer of a patient to a dedicated facility. Further, all prison staff should be trained to recognise the major symptoms of mental ill-health and understand referral procedures.

Due to nation-wide budgetary cuts, the number of front-line prison officers in English prisons has dropped by some 30% over three years, while the number of inmates has continued to rise. The delegation observed at both *Doncaster* and *Pentonville Prisons* that operational safety had been compromised in part due to low staffing levels or inadequate deployment of staff on wings. The situation at *Doncaster Prison* was particularly acute, jeopardising the safety of the young adults held there. Consequently, the delegation requested that an immediate review be carried out into the staffing situation on West End Wings B and C, with a view to reinforcing staffing levels to provide for a safe environment for young adults and staff. It also recommends at both adult prisons that, inter alia, staffing levels are reviewed on each wing to ensure adequate staff numbers and ensure that staff are never alone on a wing and the allocated budget does not impact the core operational safety of a prison. As regards *Cookham Wood YOI*, all staff should be receive juvenile-centric professional training and benefit from appropriate external support.

At *Cookham Wood YOI*, records showed that juveniles were regularly held in conditions akin to solitary confinement for periods of 30 days and some for as long as 60 days or even, on occasion, up to 80 days for reasons of discipline and good order. Figures show a similar situation in other YOIs. The CPT recommends that the YOI Rules be amended to reflect the increasing trend at the international level to promote the abolition of solitary confinement as a disciplinary sanction in respect of juveniles. It also recommends that juveniles should not be placed in segregation for the purposes of GOOD and should instead be placed in small staff-intensive units.

Psychiatric institutions

On a general level, the report notes the year-on-year increase of patients being detained in psychiatric hospitals in England, and the CPT requests to be informed about the action being taken by the United Kingdom authorities to address issues such as overcrowding in psychiatric institutions, lack of alternatives to involuntary placement, delayed discharges and children with mental disabilities having to be sent long distances from their home for treatment.

In the course of the 2016 visit, the CPT's delegation met many dedicated mental health professionals working hard to provide care to patients and it was able also to observe many good practices in the hospitals visited. However, the CPT considers that there are a few areas which require serious reflection and change; notably, consent to treatment safeguards need to be reinforced during the first three months of involuntary placement in a hospital; the powers of the Mental Health Tribunal (the Tribunal) need to be reinforced and expanded to deal with appeals concerning such issues as consent to treatment, transfers to more secure hospitals, the use of means of restraint and the application of specific treatment measures. Additionally, steps need to be taken to recruit and retain registered mental health nurses, whose numbers have decreased by more than 8.5% since 2009. More specifically, at *Ashworth* and *Broadmoor Hospitals*, there is a need to reinforce nursing staff levels in order to offer all patients access to proper safe and therapeutic nursing care.

As regards the adult general psychiatric facilities of *St Charles Hospital* and *Highgate Mental Health Centre*, the patients' living conditions were generally good. The CPT is however critical of the lack of access to outdoor exercise for patients and recommends that a clear policy for promoting and facilitating such access every day be put in place. In respect of treatment, the CPT is mostly positive; nevertheless, there is a need to involve patients in drawing up their individual treatment plans and in prioritising more time for nurses to have 1:1 sessions with the patients under their care. The CPT's delegation found that there was no excessive use of seclusion at *St Charles Hospital*; however, resort to manual restraint and rapid tranquillisation was rather high and the Committee wishes to receive information on the ongoing steps being taken by the hospital to reduce resort to all instances of restraint.

The CPT has three main concerns in relation to safeguards for persons who are involuntary placed in hospital, First, to avoid as far as possible holding mentally ill persons in police cells under Section 136 of the Mental Health

Act; the CPT acknowledges that much work has been done to reduce numbers considerably but additional measures, including of a legislative nature, are required. Second, the safeguards surrounding consent to treatment need to be reinforced. The CPT considers that an external psychiatric opinion should be required in any case where a patient does not agree with the treatment proposed by the establishment's doctors. Further, patients should be provided with the possibility to appeal against a compulsory treatment decision to the Tribunal from the outset of their hospitalisation. Third, the Tribunal should have the possibility to examine ex officio all sectioned patients at least once a year as the current three-yearly intervals after the first year are incompatible with modern mental health legislation and practice.

The CPT found that patients' living conditions at *Chase Farm Hospital* were generally of a good standard and that they were variable at *Ashworth* and *Broadmoor High Secure Hospitals*. At all three hospitals patients' access to the outdoor garden every day needs to be improved. The CPT re-examined the use of night-time confinement in the high secure hospitals and considers that such a practice is not acceptable in a care establishment provided there are sufficient staff, and recommends that the practice be reviewed. As regards treatment, the CPT is broadly positive of the approach followed in the forensic hospitals visited.

A major focus of the CPT's delegation was on the use of means of restraint. At Chase Farm Hospital, no excessive resort to seclusion was found and the safeguards in place were adequate; however, the Committee has reservations about the proportionality of force used when reviewing patients in seclusion. Care should also be taken to ensure debriefings of patients are systematically carried out and recorded at both Chase Farm and Ashworth Hospitals.

As regards the measure of *long-term segregation* (LTS) at *Ashworth* and *Broadmoor Hospitals*, the CPT has serious concerns relating to the necessity for its application, the manner in which it is applied and its duration. The 2016 visit found that patients could be kept in LTS for years on end with minimal human contact, and often the contact offered was not face-to-face and meaningful but via the hatch in the door to the patient's room. The CPT considers that, in certain cases, the impact of LTS on patients' amounts to inhuman and degrading treatment. Steps should be taken as a matter of urgency to review its use in order to reduce resort to LTS and to cut radically the

amount of time patients are held in LTS. Further, patients should have the right to appeal the measure of LTS to the Tribunal and the three-monthly external reviews should be put in place. It is also important that the ward designs provide a therapeutic environment adapted to the needs of LTS patients.

The CPT observed that interventions by staff to control patients at both *Ashworth* and *Broadmoor Hospitals* were executed according to established guidelines. Nevertheless, the CPT has some misgivings as regards the overwhelming use of force deployed in particular at *Ashworth Hospital* by intervention teams in full personal protective equipment (PPE), including shields and helmets. Deploying teams in full PPE should be considered only as a last resort, for instance where a patient has a weapon.

Immigration removal centres (IRC) in England

At *Yarl's Wood IRC*, relations between staff and detainees seemed to be correct; a few complaints of abusive language by staff were received. The living conditions and regime were generally good for the average length of stay, but for persons held longer than a few months a broader range of activities should be developed. There is also a need for the management to ensure that the induction process properly identifies the language skills of women entering the Centre and that appropriate additional support is afforded to those women having no common language. The CPT is critical of women being brought to the Centre in the early hours of the morning and recommends that the relevant procedures be reviewed to avoid any arrivals between 11 p.m. and 7 a.m. As regards health care, the service should be bolstered through an increase in the presence of a psychiatrist and filling the vacant nursing posts, and the introduction of a psychological well-being programme. The medical facilities were good and medical confidentiality was respected; however there is a need to revise the health-care documentation to the specific needs of immigration detainees and to remove any reference to prisoners. Transfers to psychiatric hospital should be carried out without delay and the necessity of placing women from *Yarl's Wood* on secure forensic psychiatric wards reviewed. The CPT comments on the use of Rule 35 reports concerning alleged torture victims and recommends that all nurses be provided with training on interviewing torture victims and that general practitioners receive refresher training on a regular basis on interviewing and documenting Rule 35 cases. Detention custody officers should be provided with training on inter-personal skills on an ongoing basis.

As regards the induction unit at *Colnbrook IRC*, the Committee is again critical of the poor living conditions, including the food, and requests information on the planned refurbishment and the steps taken to improve the range of activities offered to detainees. Immediate steps should also be taken to offer all women detainees in the Sahara unit daily access to outdoor fresh air.

More generally, the CPT again expresses concern over the indefinite nature of immigration detention and it requests detailed information on the measures taken to address the recommendations made by the 2016 *Shaw Review into the welfare in detention of vulnerable persons*. The CPT also considers that foreign nationals, if they are not deported at the end of their sentence, be transferred immediately to a facility that can provide conditions of detention and regime in line with their new status of immigration detainees.

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