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UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment



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List of Abbreviations and Acronyms

AFO	Authorised Firearms Officers
CAMH	Child and Adolescent Mental Health
CAMHS	Child and Adolescent Mental Health Services
CED	Conducted Energy Device (TASER)
CI	Care Inspectorate
CICA	Criminal Injuries Compensation Authority
CICS	Criminal Injuries Compensation Scheme
CJSW	Criminal Justice Social Work
CoE	Code of Ethics
COPFS	Crown Office and Procurator Fiscal Service
COSLA	Convention of Scottish Local Authorities
CSO	Compulsory Supervision Order
CSWO	Chief Social Work Officer
ECHR	European Convention on Human Rights
ETBB	Equal Treatment Bench Book
FAI	Fatal Accident Inquiry
FGM	Female Genital Mutilation
GMC	General Medical Council
HIS	Healthcare Improvement Scotland
HMCIP	Her Majesty's Chief Inspector of Prisons
HMCIPS	Her Majesty's Chief Inspector of Prisons for Scotland
HMICS	Her Majesty's Inspectorate of Constabulary in Scotland
HMIPS	Her Majesty's Inspectorate of Prisons for Scotland
HRA	Human Rights Act 1998
ICVS	Independent Custody Visitors Scotland
IPM	Independent Prison Monitors
JII	Joint Investigative Interview
KWISA	Kenyan Women in Scotland Association
MWCS	Mental Welfare Commission for Scotland
NES	NHS Education for Scotland
NPF	National Performance Framework
NPM	National Preventive Mechanism

OPCAT	Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
PfG	Programme for Government
PIRC	Police and Investigations Review Commissioner
PSE	Personal and Social Education
RSHP	Relationships, Sexual Health and Parenthood Education
SAA	Secure Accommodation Authorisation
SCSB	Secure Care Strategic Board
SCTS	Scottish Courts and Tribunals Service
SFIU	Scottish Fatalities Investigation Unit
SHRC	Scottish Human Rights Commission
SPA	Scottish Police Authority
SPS	Scottish Prison Service
SPSO	Scottish Public Services Ombudsman
SRU	Separation and Reintegration Unit
STO	Specially Trained Officer
TARA	Trafficking Awareness Raising Alliance
TISC	Transparency in Supply Chains
UNCAT	UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
WSA	Whole System Approach
YOI	Young Offender Institution

Ministerial Foreword

Torture is one of the most abhorrent and acute violations of human dignity and of international human rights law.

In Scotland, the use of torture by the state has been illegal for more than 300 years. International law has also come to regard torture as a crime which can never be justified or excused, in any circumstances. Even states which have yet to ratify the international treaties which prohibit torture are in practice banned from using or permitting treatment or methods which amount to torture.

The international prohibition of torture is therefore universal. And in a world where human rights remain at risk it continues to be a very necessary safeguard.

But our obligation in Scotland, in common with all civilised nations, goes well beyond the prohibition and prevention of the most abhorrent forms of human rights abuse. We have a duty, both at home and abroad, to take action and to speak out against all violations of internationally recognised human rights.

That is why compliance with the full suite of obligations set out in the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is so important. We are justifiably proud that the worst examples of human rights violations, such as torture, have been eradicated in Scotland. But we must simultaneously be on our guard in ensuring that no-one in our society suffers or is subjected to any form of mistreatment, cruelty or abuse.

As Scotland's Cabinet Secretary for Justice, I therefore welcome the forthcoming examination of Scotland's performance in meeting our obligations under the Convention.

Full and effective compliance with international human rights standards requires leadership, commitment and rigorous domestic vigilance. It requires a recognition that all human rights are inherent attributes of human dignity, and that human dignity itself must be treated as inviolable.

Fyodor Dostoevsky once wrote: "The degree of civilisation in a society can be judged by entering its prisons." On that measure, Scotland scores highly. In the 2017-18 Annual Report, Her Majesty's Chief Inspector of Prisons for Scotland, praised the generally stable and secure environment which Scotland's prisons provide. But the report also warns that we cannot, and should not, take such high quality provision for granted. That is advice which the Scottish Government takes to heart.

Of course, the relevance of the Convention extends well beyond the condition of Scotland's prisons. It applies equally to other places of detention, including police stations, secure accommodation for children and young people, care homes, immigration detention centres – indeed any place where a person might be deprived of their liberty.

We are therefore fortunate in Scotland to have strong compliance mechanisms and highly effective public institutions across all of these areas of state responsibility.

Crucially, these systems and structures include not just the public bodies charged with delivering core services – effective policing, independent courts, a humane prison service, a world-leading approach to youth justice, a person-centred health and social care system. They also ensure that Scotland has strong and effective watchdog and scrutiny bodies, which serve to further embed practical safeguards within our national approach to human rights compliance.

More generally, the Convention challenges us to ensure that human rights are at the heart of public policy, and of day-to-day delivery, in areas as diverse as access to justice, violence against women and girls, human trafficking, hate crime, treatment of asylum seekers, physical punishment of children and the minimum age of criminal responsibility. All of these are topical areas where Scotland is striving to “make rights real” for people across the whole of Scottish society.

I was delighted in October 2018 to welcome a delegation from the Council of Europe Committee for the Prevention of Torture to Scotland, as part of its essential work in monitoring the treatment of people deprived of their liberty. The Scottish Government places great value on the contribution that independent expertise and international best practice make to the way we give effect to human rights in Scotland.

For the same reason, I look forward to informing the UN Committee Against Torture of the efforts, outlined in this position statement, which Scotland is currently making to ensure we are fully compliant with the requirements of the UN Convention. And, as with the inspection undertaken by the Council of Europe Committee, the concluding observations which will result from the UN examination will provide Scotland with an invaluable, independent, external assessment of performance.

As we continue our work, across government and with partners throughout Scottish society, I am committed as Cabinet Secretary for Justice to ensuring that no-one is left behind in our pursuit of a Scotland where every member of society is able to live with human dignity and can enjoy their rights in full. That is an ambition which I share with all of my ministerial colleagues, across the whole of government.

I therefore have great pleasure in publishing this position statement, and trust that it will be of assistance not just to the Committee but to everyone – both in Scotland and further afield – who shares a common interest in ensuring that human rights are respected, protected and fulfilled, and that human dignity is rigorously upheld.



A handwritten signature in black ink, appearing to read 'H. Yousaf'.

Humza Yousaf MSP
Cabinet Secretary for Justice

Introduction

The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)¹ was adopted in 1984 and came into force in 1987. It was signed by the UK in 1988.

The Convention sets out a definition of torture and means states must take all necessary legislative, judicial, administrative and other appropriate measures to prevent acts of torture.

Its main features include:

- torture can never be justified, even in exceptional circumstances
- torture must be included as a specific crime in national criminal law
- each state party must establish universal jurisdiction over any person found in its territory who is alleged to have committed the crime of torture – irrespective of their nationality or where the offence was committed
- systematic review of interrogation rules, instructions, methods and practices, as well as custody procedures
- each state party to establish prompt and impartial investigations whenever there are reasonable grounds to believe that an act of torture has been committed in any territory under its jurisdiction
- victims of torture have the right to complain and to have their case investigated promptly and impartially, as well as to receive redress and compensation

The UK has signed the Optional Protocol to UNCAT (OPCAT), which establishes a system of unannounced and unrestricted visits by independent international and national monitoring bodies to all places where persons are deprived of their liberty.

The UK National Preventive Mechanism (NPM) established under OPCAT includes six Scottish bodies: HM Inspector of Prisons, HM Inspector of Constabulary, Care Inspectorate, Mental Welfare Commission, Scottish Human Rights Commission and Independent Custody Visitors Scotland.

Implementation of UNCAT is monitored by the Committee Against Torture, which last reviewed the UK in 2013.² The next review is expected to take place in May 2019. This position statement is the Scottish Government's response to the list of issues published by the Committee in May 2016.³ The UK Government response, including contributions from the Scottish Government, was published in January 2018.⁴

1 <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

2 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGBR%2fCO%2f5&Lang=en

3 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGBR%2fQPR%2f6&Lang=en

4 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGBR%2f6&Lang=en

Domestic legal framework

“ Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”

Universal Declaration of Human Rights



Domestic legal framework

The Convention in domestic law

1. With reference to the Committee’s previous concluding observations (para. 7), please provide detailed information on the measures taken to incorporate all the provisions of the Convention into the State party’s legislation, including the adoption of a definition of torture in domestic criminal law that is consistent with article 1 of the Convention.

The Scottish Government is committed to creating a modern, inclusive Scotland which protects, respects and realises internationally recognised human rights standards; to defending existing human rights safeguards (including those provided by the Human Rights Act, Scotland Act and EU law); and to a continuing programme of action which gives further and better effect to international human rights treaty obligations.

The Scottish Ministerial Code⁵ places an overarching duty on all Scottish Ministers “to comply with the law, including international law and treaty obligations.” The Scotland Act 1998 requires that all legislation passed by the Scottish Parliament and all acts of members of the Scottish Government be compatible with rights contained in the European Convention on Human Rights (“the Convention rights”), Article 3 of which provides that no one shall be subjected to torture, inhuman or degrading treatment or punishment. The Human Rights Act 1998 (HRA) requires every public authority in Scotland to act compatibly with the Convention rights and enables human rights cases to be taken in domestic courts.

In 2018 the Scottish Government refreshed Scotland’s National Performance Framework (NPF). The 11 National Outcomes now include an explicit human rights outcome: “We respect, protect and fulfil human rights and live free from discrimination”. A further seven National Outcomes are linked to the international human rights framework, including treaty obligations under the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the UN Convention on the Rights of the Child. A total of 31 (out of 82) national indicators are used by the NPF to track practical progress against the human rights element of these outcomes. In addition, the refreshed NPF was developed to be consistent with the Sustainable Development Goals. The new NPF outcomes and indicators were developed in close consultation with the Scottish Human Rights Commission and with wider civil society.

On 5 September 2017, *A Nation with Ambition: the Government’s Programme for Scotland 2017-18*⁶ was published. It contained commitments to:

- oppose the proposed removal of the European Charter of Fundamental Rights from our laws contained in the EU Withdrawal Bill and oppose any attempt by the UK Government to undermine the Human Rights Act 1998
- ensure existing and relevant future human rights protections provided under EU law are maintained following Brexit

5 <http://www.gov.scot/Publications/2016/08/1393>

6 <http://www.gov.scot/Resource/0052/00524214.pdf>

- consider how Scotland can go further and establish an expert advisory group to lead a participatory process to make recommendations on how Scotland can continue to lead by example in human rights, including economic, social, cultural and environmental rights
- undertake a comprehensive audit on the most effective and practical way to further embed the principles of the UN Convention on the Rights of the Child into policy and legislation, including the option of full incorporation into domestic law

The First Minister's Advisory Group on Human Rights Leadership was chaired by the former Chair of the Scottish Human Rights Commission, Professor Alan Miller, and included the Commission's current Chair. Seven other members contributed expertise in relation to civil, political, economic, social, cultural and environmental rights, and on EU and constitutional matters.

The Group carried out its work entirely independently of government and presented its report and recommendations to the First Minister on 10 December 2018 (Human Rights Day). It had been asked to examine the human rights impacts of UK withdrawal from the EU and how best to protect and promote all human rights across all potential scenarios. In doing so, it applied the three principles articulated by Scotland's Standing Council on Europe:

- there must be no regression from current standards;
- Scotland must keep pace with future EU standards; and
- Scotland should demonstrate leadership on human rights.

The Group also gave particular consideration to the potential for incorporating international human rights treaties into domestic law, and the means by which this might in practice be undertaken.

The seven recommendations made by the Group are that there should be:

- An Act of the Scottish Parliament which provides human rights leadership.
- A public participatory process, to be developed as a vital part of preparation of the Act and its implementation.
- Capacity-building to enable effective implementation of the Act so as to improve people's lives.
- A Scottish Government National Mechanism for Monitoring, Reporting and Implementation of Human Rights
- Development of human rights-based indicators for Scotland's National Performance Framework
- Creation of a National Task Force to implement the recommendations
- A written constitution including a Bill of Rights for Scotland, in the event that Scotland becomes an independent state.

*Delivering for today, investing for tomorrow: the Government's Programme for Scotland 2018-2019*⁷ (2018-19 PfG) commits the Scottish Government to responding in full to the Advisory Group's recommendations, prioritising actions that can be taken to address the human rights and equality impact of withdrawal from the EU. In her response to the report, the First Minister endorsed the report's overall vision of a new "Human Rights Framework" for Scotland and confirmed her intention to establish a national taskforce to carry that work forward.

The Prisons (Scotland) Act 1989 (sections 6A and 7G)⁸ makes explicit reference to the OPCAT and the visiting role of the UN Sub Committee on the Prevention of Torture.

Criminal penalties for torture

2. Please indicate the measures adopted by the State party to ensure that torture or complicity in torture are subject to appropriate penalties commensurate with the seriousness of the crime, in accordance with article 4 of the Convention.

The Scottish Government unreservedly condemns torture as an abhorrent violation of human dignity. The use of torture is a penal offence, as set out in section 134 of the Criminal Justice Act 1988,⁹ which provides that it may be punished with life imprisonment.

Measures are in place to ensure that police officers are held accountable for their actions and steps will be taken against any officer who commits any act of torture. Section 48 of the Police and Fire Reform (Scotland) Act 2012¹⁰ states: "The Scottish Ministers must make regulations as to the governance, administration and condition of service of constables and police cadets." Section 52 of the Act provides that regulations under section 48 must establish, or provide for the establishment of, procedures for dealing with a constable whose standard of behaviour or performance is unsatisfactory.

The International Criminal Courts (Scotland) Act 2001¹¹ provides for the offence of crimes against humanity. This offence includes within it conduct amounting to torture, and the maximum penalty available is up to 30 years' imprisonment.

7 <https://www.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/>

8 By means of the Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015. <http://www.legislation.gov.uk/ssi/2015/39/contents/made>

9 <http://www.legislation.gov.uk/ukpga/1988/33/section/134>

10 <http://www.legislation.gov.uk/asp/2012/8/contents/enacted>

11 <http://www.legislation.gov.uk/asp/2001/13/contents>

Inadmissibility of evidence obtained through torture

3. With regard to the Committee's previous concluding observations (paras 12 and 25), please provide information on the concrete measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

The basic rule in Scots law is that a confession is not admissible in evidence against an accused in criminal proceedings unless the confession has been given freely and voluntarily and was not extracted by unfair or improper means. Accordingly, a confession made as a result of threats, inducement or undue influence would not be admissible in evidence against an accused person. Nor would a confession which is "tainted with an element of bullying or pressure designed to break the will of a suspect or force from him a confession against his will."¹²

Reliance by the prosecutor on evidence obtained by torture would, in any event, be incompatible with the ECHR and accordingly unlawful in Scotland. If the accused puts in issue the question of whether a confession is admissible, the onus is on the prosecutor to establish that the confession was made freely and voluntarily and was not extracted by unfair or improper means.¹³

Moreover, since the general rule in Scotland is that the crucial features of an offence – the fact that the offence was committed, and that it was committed by the accused – must be established by evidence from at least two sources,¹⁴ a confession is insufficient in itself to secure a conviction, without further evidence.

Human Rights Act 1998

4. With reference to the Committee's previous recommendations (para. 8), please provide information on the consultation process on the repeal of the Human Rights Act 1998 and the adoption of a revised Bill of Rights. Please outline the likely impacts of the proposed changes to the legal framework on the human rights protections set out in the Convention, including the extent of their jurisdiction.

The Scottish Government has consistently opposed proposals to repeal the HRA throughout the UK, not just in Scotland.

12 Lord Advocate's Reference (No. 1 of 1983) 1984 SLT 337, 340

13 Thompson v. Crowe 2000 JC 173

14 Smith v. Lees 1997 SCCR 139

Important statements of position include speeches by the First Minister,^{15 16} and evidence to the Scottish Parliament European and External Relations Committee.^{17 18} Repeal of the HRA would diminish the UK's reputation overseas and serve to encourage repressive regimes around the world. Within Scotland, it would impact directly on the rights and interests of everyone in Scottish society and undermine fundamental constitutional principles which are hard-wired into the devolution settlement.

Any attempt to repeal existing human rights protections can be expected to require the consent of the Scottish Parliament, which has definitively expressed its position:

- on 11 November 2014 a motion in support of the HRA was passed by 100 votes to 10.¹⁹
- on 10 January 2017 a motion passed by 93 votes to 30 called on the UK Government to “give an undertaking not to take, or propose, any action that weakens or undermines participation in ... international human rights mechanisms, including in particular the Council of Europe and the European Convention on Human Rights, and records [the] opposition [of the Scottish Parliament] to any loss in Scotland of the human rights, equality, social protection and other safeguards and standards enshrined in EU law and set out in the EU Charter of Fundamental Rights.”²⁰

15 <http://news.gov.scot/speeches-and-briefings/human-rights>

16 <http://news.gov.scot/speeches-and-briefings/snap-human-rights-innovation-forum>

17 http://www.parliament.scot/S4_EuropeanandExternalRelationsCommittee/General%20Documents/Scottish_Government.pdf

18 <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10416&i=95872>

19 <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=9616>

20 <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10722&i=98397>

Access to justice

“ Giving individuals substantive legal rights is of little value if they lack the capacity and the means to enforce them or to participate effectively in the justice system. Assisting citizens to realise their legal rights contributes to a just and fair society.”

Martyn Evans, Rethinking legal Aid, 2018



Access to justice

Legal aid

5. Please outline the recent legal aid reforms and their impact on access to justice and effective remedies.

The eligibility criteria for those accessing legal aid in Scotland are consistent and transparent.²¹ There is no requirement to be resident in Scotland when applying for legal assistance under the Legal Aid (Scotland) Act 1986.²² Advice and Assistance is available for matters of Scots law. Legal Aid is available for proceedings in the Scottish courts. Both Advice and Assistance and Legal Aid are subject to eligibility criteria.

Children can access legal advice and representation on the same broad range of issues that adults can so long as they have the capacity to instruct a solicitor.

The Criminal Justice (Scotland) Act 2016²³ ensures that every person detained at a police station has the right to a private consultation, at any time, with a lawyer and to have a lawyer present during interview, and this applies also to those attending voluntarily for interview, where they are suspected of committing an offence. The requirement for legal aid contributions for advice and assistance given in a police station was removed on 1 April 2016 and it is now free for every person detained at a police station to have access to a lawyer.

On 1 February 2017, the Scottish Government announced a comprehensive, independent review of legal aid. *Rethinking Legal Aid, An Independent Strategic Review*,²⁴ published in February 2018, recognises that the current system compares very well internationally and sets out a 10-year vision for legal aid in Scotland. It makes 67 recommendations on how this vision can be delivered. Following discussions with stakeholders – such as the Law Society of Scotland, the Faculty of Advocates, the Scottish Legal Aid Board and others in the third sector – the Scottish Government published its response on 29 November 2018.²⁵ The response signals the Scottish Government's willingness to take forward supported recommendations that will deliver an enhanced system of legal aid across Scotland and the ambition that publicly funded legal assistance continues to be recognised as an invaluable public service. During 2019 a public consultation will be conducted on future reforms that will deliver an improved, user-focused legal aid service for Scotland.

21 <http://www.slab.org.uk/public/>

22 <http://www.legislation.gov.uk/ukpga/1986/47/contents>

23 <http://www.legislation.gov.uk/asp/2016/1/contents>

24 <http://www.gov.scot/Resource/0053/00532544.pdf>

25 <https://www2.gov.scot/Publications/2018/11/4857>

Closed material procedures

6. With regard to the Committee's previous concluding observations (para. 12), please provide information on the steps taken to ensure that all measures used to restrict or limit fair trial guarantees on national security grounds, including the use of closed material procedures, are fully compliant with the provisions of the Convention.

Concerning the use of closed material procedures, consideration of “secret evidence” must be dealt with by a judicially managed process involving special counsel. This is set out in the disclosure regime established by the Criminal Justice and Licensing (Scotland) Act 2010.²⁶ However, there is little, if any, actual experience with special counsel in Scotland.

26 <https://www.legislation.gov.uk/asp/2010/13/contents>; see Part 6

Monitoring and oversight

National Preventive Mechanism

7. Further to the Committee's previous concluding observations (para. 14), please indicate whether the State party has ended the practice of seconding individuals working in places of deprivation of liberty to the national preventive mechanism bodies. Please provide information on the material, human and budgetary resources allocated for the effective functioning of those bodies.

The UK NPM was set up in 2009 to ensure regular visits to places of detention in order to prevent torture and other ill-treatment, as required by OPCAT. The NPM is made up of 21 statutory bodies, including six based in Scotland, that independently monitor places of detention. Information on the material, human and budgetary resources of these bodies can be found in their respective annual reports (see footnote references).

- Her Majesty's Inspectorate of Prisons for Scotland (HMIPS)²⁷
- Her Majesty's Inspectorate of Constabulary in Scotland (HMICS)²⁸
- Scottish Human Rights Commission (SHRC)²⁹
- Mental Welfare Commission for Scotland (MWCS)³⁰
- Care Inspectorate (CI)³¹
- Independent Custody Visitors Scotland (ICVS)³²

Her Majesty's Chief Inspector of Prisons (HMCIP) is working to reduce reliance on secondees from the Scottish Prison Service (SPS), but also notes that there are some benefits from this practice, including accessing current, up to date, professional expertise and technical advice, and also the transfer of skills and expertise back to the inspected body at the end of periods of secondment, which may increase understanding and impact.

27 https://www.prisonsofscotland.gov.uk/publications?tid_1=1

28 <https://www.hmics.scot/publications/annual-reports>

29 <http://www.scottishhumanrights.com/policy-publications/?fileType=Corporate+documents>

30 <http://www.mwscot.org.uk/publications/corporate-reports/>

31 <http://www.careinspectorate.com/index.php/publications-statistics/43-corporate-annual-reports-accounts/annual-reports-accounts>

32 <http://www.spa.police.uk/icvs/>

Complaints of acts of torture and ill-treatment

8. As requested in the Committee's previous concluding observations (para. 35), please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality, and place of detention, on complaints of acts of torture and ill-treatment recorded during the reporting period (since May 2013). Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions applied. Please provide examples of relevant cases and/or judicial decisions.

No specific record is kept of allegations of torture, however such allegations may form part of the conduct which constitutes another offence (for example assault, murder etc.). See paragraph 10 below for references to a range of statistical data collated by the Scottish Government concerning convictions and victims of crime.

Complaints about Police Scotland can be made in a number of ways:

- write, phone or email the police service concerned
- give the details at any police station (or to any police officer)
- ask a solicitor, MSP or local councillor to take the matter up with the Chief Constable

Full details of police complaints procedures in Scotland can be found on Police Scotland's website.³³

Independently of the SPS, the Procurator Fiscal investigates allegations that a prison officer has committed a crime. Additionally, all allegations of staff-on-prisoner assault within an establishment are reported to the police and investigated in the same way as allegations against police officers.

The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about prisons (and other public services) in Scotland. The SPSO normally investigates complaints after individuals have gone through the standard prison complaint procedure.

33 <http://www.scotland.police.uk/about-us/police-scotland/complaints-about-the-police/the-complaints-process/>

Redress and compensation

9. With reference to the previous concluding observations (para. 35), please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to the victims of torture or their families since the consideration of the previous periodic report (May 2013). That should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

The Criminal Injuries Compensation Scheme (CICS) provides compensation payments to blameless victims of violent crime (subject to certain criteria) in Scotland, England and Wales. While this is a devolved area, the Scottish Government has chosen to participate in the UK Government scheme rather than establish a separate scheme.

The CICS is administered by the Criminal Injuries Compensation Authority (CICA), a cross-border public body. The Scottish Government provides around £17 million per annum to the CICA to administer and deliver compensation to victims of crime in Scotland. While it is not possible to identify individual figures in relation to compensation for victims of torture, in 2017-18 the CICA awarded over £12 million to victims of criminal injuries sustained in Scotland.

In 2018-19, the Scottish Government is providing £17.9 million in funding to victims' organisations, such as Victim Support Scotland, to enable them to provide free practical and emotional support to victims of crime.

Violence against women and girls

Efforts to eliminate violence against women

10. Please provide updated information on the legislative, administrative and other measures taken to eliminate all forms of violence against women, including domestic violence, sexual harassment, gender-based bullying in the education system and female genital mutilation. Please also provide updated information on the protection and support services available to victims of gender-based violence in the State party. Please include statistical data, disaggregated by the age and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences handed down in cases of gender-based violence since the consideration of the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland in May 2013.

Violence against women and girls

The Scottish Government is implementing *Equally Safe*,³⁴ Scotland's strategy to tackle all forms of violence against women and girls – working with stakeholders to prevent violence from occurring in the first place, build the capability and capacity of mainstream and specialist services to support survivors and those at risk, and strengthen the Justice response to victims and perpetrators. Central to the Scottish Government approach is primary prevention of violence, which seeks to change attitudes and tackle inequality. The 2017-18 PfG contained a commitment to publish and implement a delivery plan for *Equally Safe*. Following a consultation on a draft version, *Equally Safe – A Delivery Plan for Scotland's Strategy to Prevent Violence Against Women and Girls* was published on 24 November 2017.³⁵

On 15 February 2019, the Scottish Government launched a consultation paper, *Equally Safe: a consultation on legislation to improve forensic medical services for victims of rape and sexual assault*.³⁶ The consultation, which can be tracked via twitter channel @EquallySafeScot and #EquallySafeFMS, seeks views from health and justice organisations, medical professionals, the third sector and survivors. The paper includes a commitment to take a human rights approach to the development of a Bill, in line with the recommendations of the First Minister's Advisory Group on Human Rights Leadership.

The Domestic Abuse (Scotland) Act 2018³⁷ creates a new specific offence of domestic abuse, which provides that it is an offence for a person to engage in a course of behaviour that is abusive of their partner. The definition includes physical violence and overt threats, and psychological abuse and coercive and controlling behaviour, which are difficult to prosecute using the existing law.

The 2018 Act makes provision for a number of reforms to criminal procedure intended to prevent the abuse of a complainant through the court process, for example by prohibiting the accused from personally conducting their own defence or precognition of the complainant. It provides for a presumption against bail where someone is accused on indictment of a domestic abuse offence – or any serious sexual or violent offence – and has a previous

34 <http://www.gov.scot/Publications/2016/03/7926>

35 <http://www.gov.scot/Publications/2017/11/5647>

36 <https://www.gov.scot/news/strengthening-support-for-sexual-assault-victims/>

37 <http://www.legislation.gov.uk/asp/2018/5/contents/enacted>

track record of serious violent, sexual or domestic abuse offending. The Act also makes provision for the leading of expert evidence and provides for a presumption that the court shall impose a non-harassment order on a person convicted of domestic abuse unless, in the particular case, the court concludes such an order is not necessary to protect the victim.

The Act provides for a statutory sentencing aggravation that where the perpetrator uses a child in committing the offence; directs behaviour at a child in committing the offence; where the child sees, hears or is present when the abuse is taking place; or where a child is likely to be adversely affected by the perpetrator's behaviour, the offence is aggravated. Where the aggravation is proven, the court is required to take account of this in sentencing the offender and state how the sentence differed from that which the court would otherwise have imposed. This ensures that the harm caused to children by the abuse of their parent or carer is formally recognised and recorded.

It is anticipated that the new offence will come into force in early 2019. Effective implementation is important: the Scottish Government is ensuring training for 14,000 police officers and staff, and is working with police, COPFS and third sector stakeholders to consider what measures must be put in place.

The following provisions of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016³⁸ came into force on 24 April 2017:

- the introduction of a “statutory domestic abuse aggravator” to ensure courts take domestic abuse into account when sentencing offenders
- power for courts to make non-harassment orders in cases where they cannot do so at present
- a requirement for judges to give juries specific directions when dealing with sexual offence cases to help improve access to justice for victims
- the extension of Scottish courts’ extra-territorial jurisdiction over sexual offences committed against children to cover the other jurisdictions of the UK

The 2017 Act also created a specific offence of sharing private intimate images without consent (commonly known as “revenge porn”), with a maximum penalty of five years’ imprisonment, which came into force on 3 July 2017. Through the work of the Equally Safe Justice Expert Group, the Scottish Government is looking at both medium- and longer-term improvements that can be made to the justice system for all victims of this type of violence, including domestic abuse victims and their children.

The Scottish Government undertook a publicity campaign – *Not yours to share* – to coincide with the commencement of the offence criminalising the non-consensual sharing of intimate images in the 2016 Act.³⁹ The campaign aimed both to raise awareness of the new offence and to challenge “victim blaming” attitudes.

38 <http://www.legislation.gov.uk/asp/2016/22/contents/enacted>

39 <http://notyourstoshare.scot/>

In the face of significant austerity, equality funding has been held in Scotland at similar levels since 2012. The Scottish Government is investing significant levels of funding to tackle violence against women and girls, including nearly £30 million over 2017-20 from the Equality budget. This includes direct provision for front line domestic abuse and sexual assault services, as well as funding for the National Domestic Abuse, Forced Marriage and Rape Crisis Helplines. The Scottish Government has also invested an additional £20 million over 2015-18 from Justice budgets, which includes increased support for advocacy provision.

Additional funding of £30,000 (from the £20 million Violence against Women and Girls Justice Fund) was allocated to Rape Crisis Scotland to develop a campaign to increase public understanding of responses to rape.⁴⁰ The campaign complements the jury directions provisions introduced by the 2016 Act, which introduce a requirement for judges to give directions to juries on how people may respond to becoming a victim of rape. These directions are designed to ensure that any pre-conceived views about how someone who has been raped should react do not influence how a jury reaches a decision in a case.

Police Scotland has established a National Domestic Abuse Taskforce to target the most prolific perpetrators, and the Crown Office has a dedicated National Prosecutor for Domestic Abuse. A new Joint Protocol has been published, which commits Police Scotland and COPFS to a consistent and robust approach to domestic abuse, and recognises the significant and enduring impact that domestic abuse can have on victims and children.

There are currently 477 refuge spaces in Scotland for women and their children affected by domestic abuse.

Legal aid is available to victims of domestic and gender-based violence seeking protection through civil actions, where they meet the statutory eligibility criteria. There is no residency test and no requirement to demonstrate that domestic abuse has taken place. In criminal cases, the state investigates offences and prosecutes alleged offenders. Victims of domestic and gender-based violence have the status of “complainer” and can access advice and assistance on the criminal process.

In addition to the general availability of publicly-funded legal assistance, the Scottish Government has provided funding, through SLAB, to support the Scottish Women’s Rights Centre, which offers free legal information and advice to women who have experienced gender-based violence, including a national helpline. The Scottish Government has also made available publicly-funded legal assistance for those seeking representation in recovery proceedings where sensitive records are sought, following the judgment in *WF v Scottish Ministers* [2016] CSOH 27.

40 <https://www.rapecrisisscotland.org.uk/i-just-froze/>

The Scottish Government Justice Directorate commissioned a national scoping exercise of advocacy services relating to the criminal justice system for victims of violence against women and girls.⁴¹ The exercise included advocacy services for victims of domestic abuse, prostitution, human trafficking, rape and sexual assault, and advocacy services available for children and for men where these may have an impact on women's services.

The Scottish Government funds a number of women's support organisations that provide specialist services for black and ethnic minority women, for instance Shakti, Saheliya, Kenyan Women in Scotland Association (KWISA) and Community Infosource. These community-based organisations work to support women affected by so-called honour-based violence, including FGM, forced marriage and domestic abuse.

Anti-bullying

The recently refreshed *Respect for All: National Approach to Anti-Bullying for Scotland's Children and Young People*⁴² will help everyone involved in the lives of children and young people to identify and address all types of bullying, whether it happens online or offline. The Scottish Government will continue to wholly fund *respectme*, the national anti-bullying service, to build confidence and capacity to address all types of bullying effectively, aligned to *Respect for All*.

Relationships, Sexual Health and Parenthood (RSHP) education is an integral part of the health and wellbeing area of the school curriculum in Scotland.⁴³ The curriculum is not statutory and it is for local authorities and schools to decide how to deliver the curriculum based on local needs and circumstances. The Scottish Government published updated guidance for teachers in 2014,⁴⁴ which encourages equality and mutual respect from an early age and will support teachers to deal with issues such as misogyny in schools. Through the delivery of RSHP education, all children and young people are encouraged to understand the importance of consent, dignity and respect for themselves and the views of others. In addition, the Mentors in Violence Prevention Scotland Programme⁴⁵ aims to tackle gender stereotyping and attitudes that condone violence against women and girls.

The Scottish Government committed to undertaking a national review of personal and social education (PSE), which commenced in July 2017 and was conducted in three phases. The review also considered the role of guidance in local authority schools, services for counselling and the evidence base for children and young people.

41 <https://beta.gov.scot/publications/national-scoping-exercise-advocacy-services-victims-violence-against-women-girls/documents/00523297.pdf?inline=true>

42 <http://www.gov.scot/Publications/2017/11/6766>

43 <http://www.gov.scot/Topics/Education/Schools/HLivi/sex-education>

44 <http://www.gov.scot/Publications/2014/12/8526>

45 <http://mvpscotland.org.uk/>

*Review of Personal and Social Education: preparing Scotland's children and young people for learning, work and life*⁴⁶ was published on 23 January 2019. It identified 16 priority actions to strengthen the delivery of PSE and the wider network of pastoral guidance available to all pupils. The recommendations include:

- a new toolkit to improve learning in health and wellbeing;
- an enhanced support network offering pastoral guidance to every pupil;
- new guidance to ensure consent education is taught in a manner appropriate to children and young people's age and stage of learning, and is relevant to the issues facing children and young people in today's society, especially from online influences; and
- new resources to support all school staff and pupils, with an initial focus on resources to address the issue of sexual harassment in schools.

The Review has recognised the important and vital role that young people themselves can play in delivering engaging learning. A senior phase PSE Mentoring programme will be established to enable pupils to design and deliver aspects of PSE, providing opportunities for young people to develop their skills, knowledge and confidence.

The recommendations will be taken forward by a new Delivery and Implementation Group, which will monitor progress against each of the recommendations, with the aim of full delivery by the end of the current parliamentary session in March 2021.

Female genital mutilation

*Scotland's National Action Plan to Prevent and Eradicate Female Genital Mutilation (FGM) 2016-2020*⁴⁷ sets out a range of agreed actions and associated activities to be taken forward by the Scottish Government and its partners to prevent and ultimately eradicate FGM. A multi-agency National Implementation Group, which includes statutory and third sector and community based organisations, is overseeing the implementation and monitoring progress. A *Year One Update* was published in October 2017.⁴⁸

To support the action plan, over £250,000 has been invested (2017-18) and the Scottish Government will continue to invest a similar amount over the period 2017-20. Multi-agency guidance was published in November 2017,⁴⁹ setting out how agencies, individually and together, can protect girls and young women from FGM, and how to respond appropriately to survivors.

FGM has been unlawful in Scotland since 1985. The Prohibition of Female Genital Mutilation (Scotland) Act 2005 re-enacted the Prohibition of Female Circumcision Act 1985 and extended protection by making it a criminal offence to have FGM carried out either in Scotland or abroad by giving those

46 <https://www.gov.scot/publications/review-personal-social-education-preparing-scotlands-children-young-people-learning-work-life/>

47 <http://www.gov.scot/Publications/2016/02/8232>

48 <https://beta.gov.scot/publications/scotlands-national-action-plan-prevent-eradicate-female-genital-mutilation-fgm/>

49 <https://beta.gov.scot/publications/responding-female-genital-mutilation-fgm-scotland-multi-agency-guidance-978-1-78851-364-7/>

offences extra-territorial powers. Amendments made by the Serious Crime Act 2015 closed a loophole in the 2005 Act to extend the reach of the extra-territorial offences to habitual (as well as permanent) UK residents.

All referrals made to the police from partner agencies in relation to concerns for girls who were at risk of harm from FGM have been fully investigated and no criminality has been found.

National Guidance for Child Protection in Scotland,⁵⁰ which is used by all children's services such as education, includes a section on FGM. If there are concerns that a school pupil may have been subject to, or may be at risk of, FGM, this becomes a child protection matter and Part 4 of the National Guidance provides advice. Other resources to assist schools raise awareness of, and respond to, potential cases of FGM include a UK Home Office leaflet entitled *Female Genital Mutilation – the Facts*,⁵¹ and training materials produced by the Women's Support Project.⁵²

Investigations and prosecutions

A range of statistical data is collated by the Scottish Government on convictions and victims of crime, including cases involving gender-based violence. For example, statistical information on domestic abuse incidents is collated by adding a specific marker to any offence where the conduct falls within the overall category of domestic abuse. In the financial year 2017-18, proceedings were initiated against 11,800 people in Scottish courts for an offence with a domestic abuse marker and resulted in 9,782 convictions. The penalties for people convicted of an offence with a domestic abuse marker included custodial sentences (15%), community sentences (33%), financial penalties (22%) and other sentences (31%), which were mostly made up of admonishments.

Further relevant data can be found in the following Scottish Government publications:

- Scottish Crime and Justice Survey, 2016-17⁵³
- Criminal Proceedings in Scotland, 2017-18⁵⁴
- Reconviction Rates in Scotland, 2015-16 offender cohort⁵⁵
- Recorded Crime In Scotland, 2017-18⁵⁶
- Domestic Abuse in Scotland, 2017-18⁵⁷

50 <http://www.gov.scot/Publications/2014/05/3052>

51 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482799/6_1587_HO_MT_Updates_to_the_FGM_The_Facts_WEB.pdf

52 <http://www.womenssupportproject.co.uk/vawtraining/content/femalegenitalmutilation/277,234>

53 <http://www.gov.scot/Topics/Statistics/Browse/Crime-Justice/crime-and-justice-survey/publications>

54 <https://www.gov.scot/publications/criminal-proceedings-scotland-2017-18/>

55 <https://www.gov.scot/publications/reconviction-rates-scotland-2015-16-offender-cohort/>

56 <https://www.gov.scot/publications/recorded-crime-scotland-2017-18/pages/>

57 <https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2017-18/>

Victims and witnesses

The Victims and Witnesses (Scotland) Act 2014⁵⁸ introduces measures to improve support for victims and witnesses and helps meet Scotland's obligations under European Directive 2012/29/EU,⁵⁹ which establishes minimum standards on the rights, support and protection of victims of crime.

In Scotland, children are entitled to special measures to assist with giving evidence in court. This can include the court allowing pre-recorded statements to be admitted into evidence by means of a prior statement (as evidence-in-chief) or allowing evidence to be taken by a commissioner appointed by the court. Evidence by a commissioner can be used for evidence-in-chief, cross examination and re-examination, and must be visually recorded.

For child witnesses, the prior statement can take the form of a visually recorded Joint Investigative Interview (JII). This is carried out by police and social work investigative interviewers mainly for evidential purposes and to assess if necessary whether the child (or any other child) is in need of protection. The interview is conducted in a way that treats the best interests of the child as a primary consideration and includes the gathering of evidence when it is suspected a crime may have been committed against the child and gathering of evidence which may lead to a ground or referral to a children's hearing being established.

The Scottish Courts and Tribunals Service (SCTS) led work on an Evidence and Procedure Review, intended to take Scotland towards a criminal justice system at the forefront of best practice in relation to children and vulnerable witnesses. This included the publication of the 2015 *Evidence and Procedure Review*⁶⁰ and the 2016 *Evidence and Procedure Review - Next Steps*.⁶¹

The 2016 *Next Steps* report emphasised the importance of ensuring such interviews are of a consistently high standard and follows a methodology that produces the best possible outcome in terms both of the witness' experience and the quality of evidence elicited. The report recommended that the current guidelines for interviewing children, which were issued in 2011, should be reviewed and updated. Further recommendations were made for how the current model for JIIs and the initial interview process could be strengthened, including reviewing training for specialist interviewers, and improving the technology and facilities available to support child victims and witnesses to provide the best possible evidence.

The Scottish Government is working with key partners to take forward these recommendations. A joint project is currently underway by Police Scotland and Social Work Scotland to create a revised model for JIIs and develop a training programme which recognises the depth of knowledge and skills required for this interview process. The project will also design national standards for quality assuring JIIs, and develop key principles for

58 <http://www.legislation.gov.uk/asp/2014/1/contents>

59 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>

60 <http://www.scotcourts.gov.uk/docs/default-source/aboutscs/reports-and-data/reports-data/evidence-and-procedure-full-report---publication-version-pdf.pdf?sfvrsn=2>

61 <http://www.scotcourts.gov.uk/docs/default-source/SCS-Communications/evidence-and-procedure-report---next-steps---february-2016.pdf?sfvrsn=2>

new statutory guidance for JIIs. Improving the quality of these interviews should lead to their increased use as a child's evidence in chief in criminal proceedings.

The *Evidence and Procedure Review* also considered whether the best use is being made of pre-recorded evidence. The SCTS has launched a revised High Court Practice Note, *Taking of evidence of a vulnerable witness by a commissioner*,⁶² which came into effect on 8 May 2017. The Practice Note aims to encourage better preparation in the use of existing legislation to allow child and other vulnerable witnesses to provide pre-recorded evidence in front of a person commissioned by the court, avoiding the need to attend court to give evidence at the trial, thereby reducing the risk of future trauma to the witness.

Between 29 June and 29 September 2017, the Scottish Government consulted on pre-recording evidence of child and other vulnerable witnesses.⁶³ The focus of the consultation was on addressing identified legislative and practical gaps within the current arrangements for enabling child and other vulnerable witnesses to have their evidence pre-recorded in advance of trial, with a particular focus on strengthening and improving the current arrangements for evidence being taken by a Commissioner. The analysis of consultation responses, of which there were 47 from individuals and organisations, was published in December 2017.⁶⁴ The majority of respondents were supportive of the removal of legislative barriers to the greater use of pre-recording and the longer-term aim of a presumption in favour of child and vulnerable adult witnesses having all their evidence taken in advance of the criminal trial. There was general support for the initial focus being on child witnesses and complainers and also for focusing on the most serious crimes in the High Court.

To facilitate these legislative changes, in September 2017 the Scottish Government announced plans to introduce a Bill on Vulnerable Witnesses and Prerecorded Evidence. The Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill was introduced in the Scottish Parliament on 12 June 2018.⁶⁵ It is intended to add to wider improvements to strengthen and improve the rights and experiences of victims and witnesses, and remove any legislative barriers to enable the greater use of pre-recorded evidence.

62 <http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/practice-notes/criminal-courts/criminal-courts---practice-note---number-1-of-2017.pdf?sfvrsn=4>

63 <https://consult.gov.scot/criminal-justice/pre-recorded-evidence-for-criminal-trials/>

64 <http://www.gov.scot/Publications/2017/12/9674>

65 <http://www.parliament.scot/parliamentarybusiness/Bills/108702.aspx>

Human trafficking

“ Slavery was, in a very real sense, the first international human rights issue to come to the fore. It led to the adoption of the first human rights laws and to the creation of the first human rights non-governmental organization. And yet despite the efforts of the international community to combat this abhorrent practice, it is still widely prevalent in all its insidious forms, old and new.”

Kofi Annan


TRAFFICKING AND EXPLOITATION STRATEGY

“ When this happened I didn't feel like a human being. You are less than a human being and you close up”

“ It is embarrassing that in the 21st century, this still goes on and it's getting worse. The more people are poor the more they can be trafficked”

“ People need to know what happens to us. Poverty meant I had no options”

“ I need someone I can totally believe in, who can lead me on the right way and make me feel safe”

 Scottish Government
Riaghaltas na h-Alba
gov.scot

Human trafficking

Complaints and prosecutions

11. Please provide updated information, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions and sentences imposed in cases of human trafficking since the consideration of the State party's previous periodic report (May 2013).

Since May 2013, proceedings have been raised in respect of 92 human trafficking charges in Scotland. This is not the same as the number of prosecutions, as a prosecution may encompass a number of charges. Five convictions have led to imprisonment and proceedings in respect of 59 charges are ongoing.

On 15 March 2018 two men were sentenced to 10 years' and seven years' imprisonment respectively. Amongst other charges, both were convicted of a contravention of section 4(1) of the Human Trafficking and Exploitation (Scotland) Act 2015 (slavery, servitude and forced or compulsory labour). This prosecution, conducted by the national lead prosecutor for human trafficking, resulted in the first convictions under the 2015 Act since it came into force.

Both men were also made subject to Trafficking and Exploitation Prevention Orders. Again, these are the first orders of their kind to be imposed in Scotland since they came into force on 30 June 2017. The terms of the order mean that, for five years after the men are released from prison, both will be restricted in who they can employ and the property they can use, and they must notify police of any plans to travel outside Scotland. They are also restricted in the number of communications devices they may own.

Combating trafficking and supporting victims

12. Please also provide information on:

(a) Any new legislation or measures that have been adopted to prevent, combat and criminalize trafficking in persons, including the Modern Slavery Act 2015 and the Human Trafficking and Exploitation (Scotland) Act 2015;

(b) The measures adopted to ensure that victims of human trafficking have access to effective remedies and reparation. Please comment on reports pointing out shortcomings in the Modern Slavery Act, such as a lack of detail in provisions to identify and provide support to victims, gaps in criminal legislation and weaknesses in the powers of the Anti-Slavery Commissioner and the resources available to him;

(c) The signature of agreements with countries concerned to prevent and combat human trafficking.

Legislation

The Human Trafficking and Exploitation (Scotland) Act 2015⁶⁶ consolidates and strengthens criminal law against human trafficking and exploitation. The offences in the Act now carry a maximum sentence of life imprisonment. It also introduces trafficking and exploitation prevention and risk orders.

The Act takes forward improved protection for victims, through the Lord Advocate's instructions on the presumption against the prosecution of victims of trafficking and exploitation in certain circumstances, and by placing a duty on the Scottish Ministers to provide support and assistance for adult victims of human trafficking.

Most provisions of the Act are now in force, with work under way to implement those that remain outstanding.

Prosecutions

The 2015 Act makes it more straightforward for Scotland's law enforcement agencies to take action but trafficking is a complex crime, with control and coercion often exerted by traffickers over victims in subtle and hidden ways. Victims can be highly traumatised and can take time to fully describe what has happened to them and who was involved. These factors can combine to make building a case a time-consuming process. It is also important to remember that:

- for each proceeding there could be multiple charges and multiple victims;
- there may be cases where warrants are outstanding for accused persons;
- there may be cases that have been deserted with a view to re-raise at a later date;
- there may be cases that are currently ongoing or not been prosecuted yet; and
- there will be situations where accused have been reported to COPFS for human trafficking offences but prosecuted for offences other than human trafficking offences.

Trafficking and Exploitation Strategy

The 2015 Act requires the development of a Trafficking and Exploitation Strategy. This was laid before the Scottish Parliament on 30 May 2017 and will be reviewed every three years.⁶⁷ It was produced by working closely with stakeholders, including victims of trafficking and exploitation, and covers four elements:

- identifying victims and supporting them to safety and recovery;
- identifying perpetrators and disrupting their activity;
- addressing the wider factors that foster trafficking and exploitation; and
- specific actions for child victims of trafficking.

66 <http://www.legislation.gov.uk/asp/2015/12/contents/enacted>

67 <http://www.gov.scot/Publications/2017/05/6059>

Implementation groups have been established for each of the four elements and meet on a quarterly basis to drive forward action towards the goals of the Strategy.

Actions contained within the Strategy include the development of a public awareness-raising campaign of the issue of human trafficking; raising awareness with those who may encounter potential victims in the course of their work; developing clear processes and pathways for victims to access support; making full use of the powers available to disrupt the activities of perpetrators; and supporting UK-wide activity resulting from the Transparency in Supply Chains (TISC) duty under the UK Modern Slavery Act 2015.

A public awareness-raising campaign was launched by the Cabinet Secretary for Justice on 29 August 2017.⁶⁸ Public surveys undertaken in Spring 2018 show increased awareness of human trafficking, and also that more people say they would report concerns about trafficking to the police.⁶⁹

A corporate group has been established, drawing together representatives from key businesses in Scotland who have a role to play in tackling trafficking. The group is looking into the provision of guidance and training to businesses on human trafficking; raising awareness and sharing best practice; and improving the quality of Slavery and Human Trafficking Statements.

On 14 June 2018 the first annual progress report on implementation of the Strategy was published.⁷⁰

Support for adult and child victims

On 1 April 2018 changes came into force to increase, from 45 to 90 days, the statutory minimum period for which adult victims of human trafficking and exploitation recovered in Scotland would be provided with support, and for victims of slavery, servitude and forced or compulsory labour. This is double the previous minimum period and is a longer statutory support period than anywhere else in the UK.

To reflect this commitment, as well as the increase in victims identified through the National Referral Mechanism, the Scottish Government has increased funding to two organisations that support trafficking victims in Scotland: Trafficking Awareness Raising Alliance (TARA) and Migrant Help, and has established a three-year funding agreement to provide greater stability. Over £3 million has been committed over a three-year period. In addition, the Scottish Government has increased funding for psychological trauma support for adult trafficking victims through The Anchor – a 65% increase to £115,000 for 2018-19.

68 <https://news.gov.scot/news/human-trafficking-is-closer-to-home-than-most-scots-think>

69 <https://news.gov.scot/resources/human-trafficking-report>

70 <http://www.gov.scot/Publications/2018/06/7045/0>

Children are supported through the child protection system and eligible children are given the additional support of an independent child trafficking guardian. Section 4 of the Strategy makes clear that local Child Protection Committees should ensure that there are specific and appropriate arrangements on child trafficking and exploitation in place through guidance, protocols or procedures, which are known and complemented by relevant services.

In 2013, the Scottish Government published *Inter-agency Guidance for Child Trafficking*,⁷¹ which provides information and guidance to all members of the children's workforce so that professionals and others are able to identify child victims to ensure they can receive appropriate support and protection. The Scottish Government has already invested in an additional guardianship support service for unaccompanied child trafficking victims. However, where a child for whom no one in the UK holds parental rights or responsibilities has been, or is suspected of having been, trafficked, the Act makes provision for an independent child trafficking guardian to be appointed to provide additional assistance and support. A consultation with stakeholders is planned regarding the roles and responsibilities of this new guardianship service, which will work alongside existing statutory provision.

The 2015 Act also requires relevant authorities to presume that a victim of human trafficking is a child in circumstances where the age of a victim is uncertain but there are reasonable grounds to believe that the victim is a child (under 18 years of age). The victim is presumed to be a child for the purpose of receiving immediate age-appropriate support and services until their age is formally established. To reflect the change in legislation, the 2012 Age Assessment Guidance for social workers has been revised.⁷² The Scottish Government is also seeking to bring forward guidance on the use of sections 22 and 25 of the Children (Scotland) Act 1995 regarding provision of accommodation and support.

Under section 8 of the 2015 Act, the Lord Advocate's instructions for prosecutors state that: if there is sufficient evidence that a child aged 17 or under has committed an offence, and there is credible and reliable information to support the fact that the child is a victim of human trafficking or exploitation, and the offending took place in the course of or as a consequence of being the victim of human trafficking or exploitation, then there is a strong presumption against prosecution of that child for that offence.

Implementation of those actions specific to children will be supported and overseen by the Child Trafficking Strategy Group. Action to tackle child trafficking cuts across existing Scottish Government strategies is referenced in the update of the *National Action Plan to Prevent and Tackle Child Sexual Exploitation* (2016)⁷³ and the *National Action Plan on Child Internet Safety in Scotland* (2017).⁷⁴ These are all workstreams included within the current Child Protection Improvement Programme.

71 <http://www.gov.scot/Publications/2013/11/3285>

72 <http://www.gov.scot/Publications/2018/03/7841/0>

73 <http://www.gov.scot/Resource/0049/00497283.pdf>

74 <http://www.gov.scot/Publications/2017/04/1061>

The Victims and Witnesses (Scotland) Act 2014 obliges Police Scotland to direct victims of crime towards the Victims' Code for Scotland,⁷⁵ which contains information about compensation and is available in a number of languages. In addition, victim support organisations routinely assist victims in understanding the support that may be available. In Scotland, the position of victims of trafficking in criminal proceedings and their access to legal aid is no different to that of other victims of crime with an interest in a criminal case. Access to legal aid on some human trafficking matters is not contingent on formal recognition of victim status. Beyond the provision of legal aid, assistance can be provided through grant-funding programmes.

The Scottish Government is committed to partnership working with the UK Government, police, prosecutors, support agencies and others to combat human trafficking and exploitation. In addition, the remit of the Independent Anti-Slavery Commissioner covers the whole of the UK.

75 <https://www.mygov.scot/victims-code-for-scotland/>

Education and training

“ Judicial training must be designed by judges for judges and delivered by judges.”

Director of the Judicial Institute for Scotland, interview, 15 September 2014



Photo credit: Police Scotland

Education and training

Law enforcement officials and prison staff

13. With reference to the previous concluding observations (para. 35), please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, prison staff and border guards are fully aware of the provisions of the Convention and know that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please indicate whether the State party has developed methodology to assess the effectiveness of training and educational programmes in reducing cases of torture and ill-treatment and, if so, please provide information on the methodology.

Police officers

Integrity, fairness, respect and compliance with human rights are central to Police Scotland's professional ethics and values. Police Scotland training has been reviewed to ensure that human rights, organisational values and the Code of Ethics (CoE)⁷⁶ must be considered in the design specification of every course. New recruits receive training on the ethics and values, as well as on both the ECHR and the HRA. In addition, all police officers are required to make the 'Declaration of Constable', which includes a commitment to uphold fundamental human rights. These principles have been incorporated into central functions, such as standard operating procedures and operational orders, and the personal development review process has been revised to ensure that the values and CoE are central tenets for development and progression. A presentation on the CoE, which includes the protection of human rights, has been delivered to senior management teams for cascading to all police officers and staff, and all staff have been sent a pocket guide on the values, CoE and the National Decision-Making Model.

Prison staff

In Scotland all prison staff undertake human rights awareness training, which was developed by the SPS College and is delivered by trained officers. The training is undertaken by existing prison staff and new recruits to the SPS. *Respecting Individuals and Recognising Rights Part 1* was introduced in 2006 and Part 2 in 2009. The last major revision to the course was undertaken in 2012 following an amendment to Prison (Scotland) Rules. The Equality and Diversity training course also undertaken by all staff includes specific reference to the ECHR.

Following the introduction of new arrangements for monitoring of prisons in Scotland, around 150 volunteers have been appointed to the role of Independent Prison Monitor. As part of their induction programme, the Scottish Human Rights Commission supported HMIPS to develop training around human rights, for delivery in 2016-17.

76 <http://www.scotland.police.uk/about-us/code-of-ethics-for-policing-in-scotland/>

Electrical discharge weapons

14. Bearing in mind the Committee's previous concluding observations (para. 26), please provide details on the training methodology and programmes used when instructing police officers and other security personnel in the use of electrical discharge weapons for direct contact, or any other less-than-lethal device or implement used by security forces. Please provide details on any instances of alleged excessive use of force that have occurred as a result of using such devices, and on the outcomes of any investigations into those cases.

In Scotland, just over 2% of police officers have authority to carry firearms. All Police Scotland Authorised Firearms Officers (AFOs) are trained in the use of Conducted Energy Device (CED) (TASER) as a less lethal option to be used in support of armed operations. This training is delivered in line with current national UK practices and procedures as directed by the College of Policing and National Armed Policing. The specific National Police Firearms Training Curriculum module and Authorised Professional Practice set out the guidelines relevant to the use of CED (TASER) by police officers.⁷⁷ This includes guidance on policy, dealing with vulnerable people, post deployment procedures, safe weapons handling, the application of the National Decision Model as well as successful completion of a nationally mandated qualification shoot and practical based formative and summative scenario training.

The College of Policing mandates that all officers receive a minimum of 18 hours (three days) training contact time for this module. In Scotland AFOs receive 18 hours and train in the Taser X26 device.

In December 2017, Police Scotland took the operational decision to recruit and train Specially Trained Officers (STOs) in the use of TASER. These officers are local policing resources based in locations across all 13 Divisions of Police Scotland, with 52 on duty at any one time. STOs will be deployed to incidents where an assessment has been made that this is necessary and proportionate. The deployment of STOs allows for an officer to maintain a safe distance from the perpetrator, reducing the risk of injury and enabling a safer, quicker resolution. Roll-out began on 1 June 2018 and was completed in September 2018. The Scottish Police Authority (SPA) and Police Scotland will keep the deployment of STOs under regular review. The Scottish Institute of Policing Research was also engaged to review the impact of the roll-out. An initial report was provided to Police Scotland in late 2018 and further work has been commissioned before the report is finalised.

STOs receive 24 hours training time in the X2 device to allow for additional scenario-based tactics and judgemental training due to having no prior firearms training.

77 <https://www.app.college.police.uk/app-content/armed-policing/use-of-force-firearms-and-less-lethal-weapons/>

There is a wide range of scrutiny measures and oversight arrangements in place to hold the Chief Constable of Police Scotland to account for the actions that he takes and the decisions that he makes. These checks and balances include oversight by the Scottish Police Authority, which reports annually to the Scottish Parliament, HMICS, the Police Investigations and Review Commissioner (PIRC) and the Parliament's Sub-Committee on Policing. The Chief Constable is required to report to the PIRC any incident where any person serving with Police Scotland has used a firearm. The PIRC will then carry out an independent assessment and decide if a full investigation is required, making recommendations as necessary. The PIRC publishes its reports on its website.⁷⁸

Judges and medical personnel

15. Please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting physical and psychological sequelae of torture. Do such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)?

Judges

Judicial training in Scotland is the responsibility of the Head of the Judiciary, the Lord President. He has established the Judicial Institute to deliver training, with a serving judge as its chair. The Institute does not provide to judges specific training on aspects of torture, however, training on issues around equality and diversity is embedded as appropriate in all of the courses it delivers. Additionally, the Institute publishes for judges the Equal Treatment Bench Book (ETBB), the function of which is to offer assistance and advice to judges, who are duty bound to ensure that all who come before the courts are dealt with in an understanding and sensitive fashion, regardless of their personal backgrounds. The ETBB is available to the public and is kept under review by the Institute.

In an adversarial (as opposed to an inquisitorial) system, it would be for litigants to produce their own evidence of physical and psychological torture, rather than for the judge to detect it.

On 30 January 2019, the Judicial Institute for Scotland announced plans to provide new refreshed training for all sheriffs and judges ahead of the Domestic Abuse (Scotland) Act 2018 coming into force on 1 April 2019. This includes trauma training and will be delivered via online learning and through face-to-face courses. The face-to-face courses will build on the online learning and focus on the practicalities and issues arising for the judiciary, from investigation and prosecution to conviction and sentencing.

78 <http://pirc.scotland.gov.uk/>

The Scottish Government plans to host a roundtable in early 2019 for NHS Education for Scotland (NES), the Law Society for Scotland and other stakeholders from the legal profession to discuss opportunities to develop a bespoke trauma informed training resource for solicitors to count towards continued professional development.

Medical personnel

NHS Education for Scotland runs a training course entitled ‘Essentials in Sexual Offences Forensic Examination and Clinical Management (Adults and Adolescents)’. The course provides an introduction to the medical, psychological, social and legal aspects of rape and sexual assault, and focuses on “an empathic victim-focused approach to appropriate management, forensic examination, evidence collection, documentation and preparation for presentation of evidence in a Scottish court.” In December 2017 Health Improvement Scotland published *Standards for forensic medical examination and management of victims of sexual assault by health and social care services*,⁷⁹ and the interim quality indicators underpinning these were published in December 2018.⁸⁰

A National Trauma Training Programme is currently being developed by NES to support frontline workers across all sectors of the Scottish workforce who are responding to psychological trauma. This three-year programme will deliver intensive training and support to senior leaders and in-house trainers to incorporate trauma awareness into organisations’ learning and development activity and to help them design services in a way that recognises the impact of trauma. The new national training programme will be consistent with the 2017 Scottish Government/NES publication, *Transforming psychological trauma: a knowledge and skills framework for the Scottish workforce*.⁸¹ This framework lays out the essential and core knowledge and skills needed by all tiers of the Scottish workforce to ensure that the needs of children and adults who are affected by trauma are recognised, understood and responded to in a way which recognises individual strengths, acknowledges rights and ensures timely access to effective care, support and interventions for those who need them.

79 http://www.healthcareimprovementscotland.org/our_work/reproductive_maternal_child/programme_resources/sexual_assault_services.aspx

80 http://www.healthcareimprovementscotland.org/our_work/person-centred_care/resources/sexual_assault_indicators.aspx

81 <https://www.nes.scot.nhs.uk/media/3971582/nationaltraumatrainingframework.pdf>

Custody and detention

“ All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

International Covenant on Civil and Political Rights



Custody and detention

Treatment of people in custody

16. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous periodic report (May 2013). Please indicate the frequency with which they are reviewed.

Police custody

In Scotland, procedures for arrest are contained within Part 1 of the Criminal Justice (Scotland) Act 2016,⁸² which came into force on 25 January 2018. In light of this, Police Scotland has revised its Standard Operating Procedure on the *Care and Welfare of Persons in Police Custody*.⁸³ This reflects the provisions in sections 50 and 51 of the 2016 Act, which place a duty on Police Scotland not to detain a person (which includes a child) unnecessarily in custody and to consider a child's wellbeing as a primary consideration when making decisions in relation to a child, including a decision whether or not to hold a child in custody.

Access to solicitors for arrested persons is provided for under the chapter 4 provisions within Part 1 of the 2016 Act. Persons arrested under section 1 of the 2016 Act are entitled, under section 43, to have details of their detention sent to a solicitor and, under section 38, to one other person without any unnecessary delay. Under section 44 the person also has a right to a private consultation with a solicitor at any time whilst in police custody. The consultation can be by any appropriate means, including advice over the telephone.

The following rights are applicable to suspects who are going to be interviewed by the police regarding a crime or offence:

- Section 32 – right to have a solicitor present – will entitle a suspect to have a solicitor present while they are being questioned by the police. There is an exceptional circumstances caveat, which would allow the police to interview an individual without delay in the interests of the investigation or the prevention of crime, or the apprehension of offenders.
- Section 33 – consent to interview without solicitor – will allow a suspect to waive their right to have a solicitor present. Certain groups of people cannot waive this right, such as:
 - people under 16;
 - 16-17 year olds subject to a supervision order;
 - 16-17 year olds not under a supervision order can waive their right with the agreement of a “relevant person” (who must be an adult); and
 - people who, owing to a mental disorder, cannot understand sufficiently what is happening or communicate effectively with the police.

82 <http://www.legislation.gov.uk/asp/2016/1/contents>

83 <http://www.scotland.police.uk/assets/pdf/151934/184779/care-and-welfare-of-persons-in-police-custody-sop>

An arrested person suspected of a crime is entitled to decline any questions, other than confirming their identity, address and nationality, and no adverse legal consequences arise from such a silence, though, depending on the circumstances, it may raise later problems of credibility. This will not change as a result of the 2016 Act.

Prisons

Sections 6A to 7G of the Prisons (Scotland) Act 1989 (as amended) provide the statutory basis for inspection and monitoring of prisons in Scotland, and it is explicitly stated that the provisions are in pursuance of the objectives of OPCAT.

Her Majesty's Chief Inspector of Prisons for Scotland (HMCIPS) continues to be responsible for ensuring that a systematic programme of inspection is carried out on individual prisons in Scotland and, in August 2015, was given a statutory role in overseeing the new arrangements for independent monitoring of prisons in Scotland. HMCIPS is accountable to the Scottish Ministers and operates independently and impartially from the SPS. She must report to the Scottish Ministers on the findings of individual inspections and annually on (a) the conditions in prisons and the treatment of prisoners; and (b) the exercise of functions of independent prison monitors. Annual reports must be laid before the Scottish Parliament. HMCIPS assesses the treatment and care of prisoners across the prison estate against a pre-defined set of standards, which are set out in the document *Standards for Inspecting and Monitoring Prisons in Scotland* (March 2015).⁸⁴ The standards articulate what is expected of a well-run prison and clearly identify what will be monitored and inspected.

Under the new arrangements for monitoring prisons in Scotland, monitoring is now carried out by Independent Prison Monitors (IPM), who are members of the public and representatives of civil society. Section 7D of the Prisons (Scotland) Act 1989 sets out the powers and duties of IPMs, including the power to visit and access any part of the prison to which they have been assigned and speak in private with any prisoner, visitor, prison officer or other person working at the prison. There is a statutory requirement that at least one IPM must visit each prison once a week.

A Prison Monitoring Advisory Group has been established by HMCIPS, in line with section 7F of the Prisons (Scotland) Act 1989, to keep the effectiveness of prison monitoring under review, contribute to the guidance published by HMCIPS and keep that guidance under review. A feature of the new arrangements is that an obligation was placed on the Scottish Ministers in terms of section 7G of the 1989 Act to make arrangements for prison visits by the Subcommittee on the Prevention of Torture established under Article 2 of OPCAT.

Prisoners may also take complaints to the SPSO if they are not satisfied with the response given to a complaint made under the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (as amended).⁸⁵

84 <http://www.gov.scot/Publications/2015/03/8256/0>

85 <http://www.legislation.gov.uk/ssi/2011/331/contents/made>

Prison population and alternatives to imprisonment

17. In the light of the previous concluding observations (para. 31), please describe the measures taken by the State party to reduce prison overcrowding, including alternatives to imprisonment, both before and after trial.

Scotland's prison population has continued to fall over the past few years. The average daily population in 2016-17 stood at 7,552, roughly 6% lower than the equivalent figure in 2011-12 (8,178).

Evidence shows that short-term imprisonment is not effective and can in fact increase long-term offending by weakening social bonds and decreasing job stability. The 2018-19 PfG re-affirms the Scottish Ministers' commitment to extend the current presumption against short sentences from three months to 12 months in the year ahead, once relevant measures within the Domestic Abuse (Scotland) Act 2018 are implemented. The majority of all respondents (85%) to a public consultation on proposals to strengthen the presumption supported an extension and, of those who expressed a view, 84% supported an extension to cover sentences of 12 months or less.

There is also a drive to tackle reoffending through the greater use of robust community sentences. Individuals released from a custodial sentence of 12 months or less are reconvicted nearly twice as often as those who are given a Community Payback Order. Community sentences have accounted for a greater proportion of all penalties handed down by Scottish Courts every year since 2011-12 and the differential between the two has increased steadily over that time. In 2015-16, community sentences accounted for 19% of all penalties; whereas custodial sentences accounted for only 14% (fines were the single most common penalty in each of those years, accounting for over 50% of all penalties).

The fall in the use of custodial sentences has been most pronounced among young people – the number of custodial sentences involving 16-20 year olds (or under 21s) fell by 61% between 2006-7 (3,270) and 2015-16 (1,262). This has been driven by the adoption of the Whole System Approach (WSA), which aims to achieve positive outcomes for young people by helping various statutory and non-statutory bodies to work together to build a more consistent approach to prevent and reduce offending by children and young people through early and effective intervention.

The Scottish Government intends to expand its successful approach to include, where possible, young people up to the age of 21 and care experienced young people up to the age of 26.

The Scottish Government is committed to addressing the underlying causes of offending and promoting the least intrusive intervention at the earliest possible time. This includes working with Community Justice Scotland, Criminal Justice Social Work (CJSW) and COPFS to maximise the availability and appropriate use of diversion across the country. CJSW funding has been maintained at record levels of around £100 million per year.

Bail support and supervision is aimed at people who would otherwise be held on remand, enabling them to be supervised in the community. This allows families to stay together and sustain employment or stable housing, both of which are proven to reduce reoffending. The Scottish Government is committed to working with CJSW teams to share good practice, and will issue revised guidance and provide additional funding for supervised and supported bail to ensure that remand is only used where necessary and appropriate.

The SPS continues to invest in the modernisation of the prison estate and implement its transformational change agenda, which has an emphasis on building a person-centred, asset-based approach in order to invest in rehabilitation and reintegration services. The reintegration of people leaving custody is a priority for the SPS, including investment in the maintenance of family relationships and contact in prison, a review of purposeful activity provision and an emphasis on respectful relationships between staff and prisoners. Purposeful activity is a major component of the SPS integration model, which provides a pathway to desistance-focused, asset-based approaches to assisting prisoners prepare for release.

Approximately 40 Throughcare Support Officers across the prison estate provide support to people to help prepare for release and work with them beyond release in the community.

18. Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention.

Prison population figures in Scotland are published online and updated regularly.⁸⁶

86 <http://www.sps.gov.uk/Corporate/Information/SPSPopulation.aspx>

Prison population (excluding home detention curfew) Scotland
Average daily population for 1 April 2016 to 31 March 2017

Women	366
<i>Remand</i>	
Untried	3
Convicted awaiting sentence	5
<i>Sentenced</i>	279
Men	7,185
<i>Remand</i>	
Untried	1,042
Convicted awaiting sentence	240
<i>Sentenced</i>	5,903
Total	7,552
Under 21	
<i>Remand</i>	
Untried	100
Convicted awaiting sentence	35
<i>Sentenced</i>	282
21 and over	
<i>Remand</i>	
Untried	1,006
Convicted awaiting sentence	230
<i>Sentenced</i>	5,900

Source: Scottish Government Justice Analytical Services. Management information from the Scottish Prison Service PR2 system

(NOTE: Figures in the table above may not add up due to rounding.)

Prisoners in Custody by Nationality as at 9 February 2018

Nationality	Number of Prisoners
Afghan	4
Albanian	8
Algerian	3
American	1
Austrian	1
Bangladeshi	2
Barbadian	1
Belgian	1
Brazilian	1
British	7,165
Bulgarian	6
Cameroonian	1
Chadian	1
Chinese	9
Congolese	1
Danish	1
Dominican	1
Dutch	3
Egyptian	1
Eritrean	1
Estonian	2
French	4
Georgian	1
Ghanaian	1
Guinean	2
Hungarian	1
Indian	7
Iranian	7
Iraqi	6
Irish	24
Italian	5
Jamaican	2
Latvian	8
Libyan	1
Lithuanian	16
Malaysian	2
Moroccan	3
Nigerian	6
Pakistani	7
Polish	67

Prisoners in Custody by Nationality as at 9 February 2018	
Nationality	Number of Prisoners
Portuguese	2
Romanian	11
Russian	1
Seychelloise	1
Slovakian	4
Somalian	8
South African	2
Spanish	5
Sri Lankan	1
Sudanese	3
Swedish	1
Tanzanian	1
Turkish	3
Ukrainian	2
Undetermined	1
Vietnamese	10
Zimbabwean	5
TOTAL	7,445

Source: Scottish Government Justice Analytical Services. Management information from the Scottish Prison Service PR2 system

Both the design capacity and operational capacity of establishments are different and can change for reasons of policy, maintenance and changing operational requirements. The table below shows the occupancy levels of each prison in Scotland when measured against capacity.

	2010	2011	2012	2013	2014	2015	2016	Feb 2018
Aberdeen	143%	156%	128%	111%	0	0	0	0
Addiewell	100%	107%	113%	100%	100%	100%	100%	99%
Barlinnie	134%	145%	126%	123%	132%	118%	118%	110%
Cornton Vale	99%	107%	96%	67%	79%	72%	79%	83%
Dumfries	109%	112%	110%	105%	99%	95%	95%	96%
Edinburgh	103%	104%	105%	102%	101%	99%	98%	97%
Glenochil	97%	107%	100%	100%	98%	95%	95%	97%
Grampian	0	0	0	0	47%	71%	89%	84%
Greenock	107%	102%	97%	95%	95%	83%	93%	95%
Inverness	134%	138%	130%	126%	119%	113%	113%	113%
Kilmarnock	111%	124%	123%	100%	100%	100%	100%	100%
Low Moss	0	0	89%	102%	107%	105%	96%	97%
Open Estate	58%	66%	85%	81%	89%	84%	73%	69%
Perth	98%	108%	104%	105%	102%	100%	98%	99%
Peterhead	97%	99%	91%	73%	0	0	0	0
Polmont	97%	95%	91%	84%	68%	64%	66%	59%
Shotts	100%	98%	98%	99%	99%	99%	99%	98%

The occupancy rate is calculated by dividing the population by the design capacity.

The table below shows the number of sentenced and remanded children detained in Scotland's secure care homes in the period 1 August 2016 to 31 July 2017. The cells with <5 are suppressed to maintain confidentiality.

	Boys	Girls
Sentenced	<5	<5
Remanded	32	11

This information is published annually in the Scottish Government, Children and Social Work Statistics.⁸⁷

Court custody and health-care provision in prisons

19. Please inform the Committee on the measures taken to address concerns regarding conditions of detention in court custody and health-care provision in prisons. What measures are in place to prevent ill-treatment of patients who are receiving health-care services?

Court custody

HMIPS has published standards for inspecting court custody provision in Scotland.⁸⁸ The standards are referenced against relevant law, international and professional guidance, policy and research findings. By articulating what is expected to be found within court custody units they are intended to assist those who are running such units, and to encourage openness and transparency in the scrutiny of places of detention. The standards have been drawn up in collaboration with the SCTS, SPS and the current custody service provider, G4S. Each organisation is highly supportive of the work of HMIPS in this area, and is firmly of the view that the standards will contribute positively to the effective scrutiny of court custody provision in Scotland and encourage continuous improvement in the quality of care and custody of people held in court cells.

Healthcare provision in prisons

Healthcare services in custody are provided by NHS Scotland, and NHS standards for health-care provision, including primary care, apply within the prison setting. The Scottish Government expects health boards to act appropriately to meet these standards.

87 <https://www.gov.scot/Publications/2018/03/6242/downloads>

88 <https://www.prisoninspectorscotland.gov.uk/publications/standards-inspecting-court-custody-provision-scotland>

The General Medical Council (GMC) has statutory responsibility for ensuring proper standards in the practice of medicine and for registering all doctors who are allowed to practise in the UK, whatever their employment conditions. The GMC has powers to investigate allegations which call into question a doctor's fitness to practise and, where allegations are proven, take appropriate action. Such action may include issuing a warning, removing the doctor from the register, or suspending or placing conditions on a doctor's registration.

The Scottish Government has established a Health and Justice Collaboration Improvement Board, which will bring together senior leaders from across Health and Justice to improve outcomes for people and communities, including prisons; support ambitions to reduce health inequalities and risk of offending; improve performance and achieve greater value for money across the whole system; improve collaborative working; and prioritise prevention.

Isolation, use of force, strip searches and custody records

20. Please comment on reports indicating that there are inconsistencies in the use of isolation and solitary confinement, and on the assertion in the sixth annual report of the National Preventive Mechanism entitled “Monitoring places of detention” (2015) that “improvements in the collection and monitoring of information on the use of force and strip searches were needed, as well as in the quality and quality assurance of custody records, risk assessments and transfer of information about detainees”.

Police Scotland

In cases where a strip search of a person who is not in custody is considered necessary, it must be carried out in accordance with Annex C of the *Code of Practice on the Exercise by Constables of Powers of Stop and Search of the Person in Scotland*.⁸⁹ Strip searches of people who have been arrested are covered by Police Scotland's Standard Operating Procedure, *Care and Welfare of Persons in Police Custody*.⁹⁰ Strip searches conducted within the environs of a police station are recorded on the National Custody System and will also include the rationale and authorisation for the strip search taking place.

In January 2017 Police Scotland introduced a National Custody System. Information relating to detainees in police custody can be accessed across the country so that quality assurance checks can be carried out. Custody cluster inspectors from the Criminal Justice Services Division carry out dip sampling of custody records to ensure there is consistency of approach to completing the records.

89 <https://beta.gov.scot/publications/code-practice-exercise-constables-power-stop-search-person-scotland/documents/00512924.pdf?inline=true>

90 <http://www.scotland.police.uk/assets/pdf/151934/184779/care-and-welfare-of-persons-in-police-custody-sop>

Police Scotland carries out a risk assessment of all persons entering police custody, which covers medical needs and other specific concerns relating to their time in police custody, such as being violent. When Police Scotland transfers custody to G4S (prisoner handling service), all information relating to the prisoner's risk assessment is disclosed to that organisation and prisoner property records are transferred.

Courts

The SCTS is committed to providing court custody units that are up to standard. In 2017 HMIPS published *Standards for Inspecting Court Custody Provision in Scotland*.⁹¹ This was an important, authoritative piece of work that has helped raise the standard of court custody accommodation, ensuring improved safety and wellbeing, as well as protecting the dignity of prisoners. The report was welcomed by the SCTS and resulted in demonstrable improvements on the ground. For example, the report highlighted as being deficient the accommodation for women prisoners in Glasgow Sheriff Court, resulting in a major programme of improvement.

Prisons and young offender institutions

“Solitary confinement” is not a term recognised within SPS. There are, however, occasions where, due to the behaviour of a person or a risk to their safety and wellbeing (both physically and mentally) or the safety and wellbeing of others, it may be necessary to remove them from association for a limited period of time and place them in a Separation and Reintegration Unit (SRU).

Rule 95 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011 enables a governor to remove a person in their care from association with other persons where they are satisfied that it is appropriate to do so to protect their safety, or that of any other person, or where there is a risk to the good order or discipline of the prison or Young Offender Institution (YOI). The rule also provides important safeguards for persons removed from association, which ensure that the reason for removal is clearly communicated to the person, they are afforded the opportunity to make representations against their removal, and they are monitored and reviewed regularly. Whilst removed from association there will normally be no unnecessary restrictions on their entitlements to visits, including legal visits, access to telephones and correspondence. The focus throughout will be to reintegrate the person at the earliest and safest opportunity into the mainstream population, thus minimising any time spent separate from others.

91 <https://www.prisonsofscotland.gov.uk/publications/standards-inspecting-court-custody-provision-scotland>

The key principles underpinning the policy are:

- removal from association should be used sparingly and for the minimum time necessary
- consideration should be given as to whether removal from association is necessary, proportionate, and balanced
- the reason for removal should be transparent, recorded and clearly communicated to the prisoner
- a multi-disciplinary case conferencing approach is used to formulate appropriate monitoring and management plans with a view to reintegrating the prisoner into mainstream circulation
- the governor's focus (and that of other prison staff and any advisory groups) throughout the period of removal should be the reintegration of the prisoner to mainstream population as soon as it is appropriate to do so
- all prisoners removed from association should be monitored regularly
- a management plan for the prisoner's detention in either a residential hall or a SRU, and anticipated reintegration to mainstream population, should be established and kept under review
- there should be no unnecessary restriction on a prisoner's entitlements, such as visits, including legal visits, access to telephones and correspondence as set out in the Prison Rules, unless the rules authorise the governor to do so
- the range of incentives and privileges available should, so far as reasonably practicable, be consistent with those available to prisoners who are in mainstream population

Secure accommodation

Young people in secure accommodation are never held in solitary confinement. Each secure service has its own written policy on the use of single separation/segregation, which is an extreme measure to be taken only when other appropriate measures have been tried and have been unsuccessful. Segregation is never used as punishment and should only be used as a last resort to:

- prevent the young person from significantly injuring themselves
- prevent the young person from significantly injuring others
- prevent the young person from absconding from the building
- prevent significant damage to property
- calm a potentially disruptive group situation

Normally single separation should continue for no longer than 3 hours in any 24 hour period and for no more than two separate occasions in 24 hours. Every use of this practice is recorded and there are strict limits on its implementation. During the period of segregation the young person will be monitored at least every 15 minutes.

Restraint

21. Please comment on information before the Committee indicating that serious concerns persist regarding the use of restraint affecting detained individuals in health-care and detention settings. Please provide information on any new legislation or measures that have been adopted relating to the use of restraints in health- and social care settings. With reference to the previous concluding observations (para. 28), please inform the Committee about measures taken to ensure that children in young offender institutions are restrained as a last resort only and exclusively to prevent harm to the child or others.

Prisons and young offender institutions

The SPS recognises that all those in its care are individuals with their own unique needs, and promotes equality by dealing sensitively and appropriately with all those in its care, including children and young people.

In all cases where force has been used, a 'Use of Force Report' is required to be completed and submitted. SPS Heads of Operations ensure that there is a robust recording process in place at each establishment in order to accurately review situations where force has been used. Where necessary, the Head of Operations will fully investigate any identified concerns.

Techniques intended to induce pain are not used on children and young people in YOIs in Scotland. SPS staff are required to demonstrate competence in the use of restraints on an annual basis. By training staff to the highest standard, the SPS ensures that actions are lawful, necessary, reasonable and proportionate to the situation presented. Staff will, wherever possible and practicable, use communication skills and other non-physical techniques to enlist the willing co-operation of young people in an attempt to de-escalate the situation. The use of force will only be considered when all other means have been exhausted or are deemed unlikely to succeed. Where force is used, a record is kept by establishment Heads of Operations. This record is monitored by managers, audited and examined by HMIPS.

Secure accommodation

Mechanical restraints or spit hoods are not used in secure accommodation services in Scotland. Pain compliance techniques are not part of any training programme used in residential or secure accommodation. Young people in secure care will only be physically restrained by trained care staff when:

- they are behaving in an unsafe or dangerous way;
- there is a serious risk of harm to themselves or another person; and
- there is no other effective way of keeping the young person or others safe.

If it is necessary to physically restrain a young person they will only be restrained for the shortest time possible, using as little force as necessary. Published in 2005 and updated in 2013, the Scottish Government *Holding Safely* guidance⁹² outlines the parameters for physically restraining a child: staff must act lawfully, and staff restraining a child must be appropriately trained and have the required skill and judgement. The amended guidance encourages all secure services to develop clear plans for reducing the use of physical restraint.

After a physical restraint, and when the young person is ready, care staff will speak to the young person about the restraint, taking account of the young person's view to try to better understand why it happened and minimise the need for restraint in the future. Staff will ask the young person how they are feeling and, if necessary, the young person will be seen by a nurse. Full written details of the incident, including the young person's comments, will be recorded by the unit and copied in to the young person's care plan. The young person will receive help to contact an advocacy worker (for example a children's rights officer or a Who Cares? Scotland worker) or to make a complaint if they wish.

Each secure care home has a written policy and procedures on the conditions where restraint may be used. Staff are fully trained and supported in the use of restraint. If restraint is necessary at any time, this is written in an individual's care plan. Records are kept of any incidents involving restraint, and individuals can expect to be supported after any episode of restraint.

The Care Inspectorate is responsible for the regulation of secure care services for children and young people in Scotland. It ensures children and young people in these services are kept safe and that their rights to privacy, choice and dignity are promoted. It carries out inspections of secure units, including restraint procedures.

The Care Inspectorate has developed a notification summary tool, which can measure and benchmark the number of incidents across care services, including secure units, on a monthly basis. These data are now used as part of the risk analysis when considering regulatory contact with secure services and also the scope and intensity of inspections. The incidence of restraint, restraint training and the quality of staff interventions are assessed at every inspection, with young people's views key to this assessment. This is then publicly reported within service inspection reports. The national review of notifications is ongoing, with the aim of improving the quality of restraint data received from services to further inform and improve both operational and regulatory scrutiny.

92 <https://www.gov.scot/Topics/People/Young-People/protecting/lac/residentialcare/Publications/MPRRCC>

Health and social care

The *Health and Social Care Standards*,⁹³ which came into force on 1 April 2018, will, for the first time, be applicable to all health and social care services. Designed with a human rights-based approach, the Standards focus on supporting improvement and delivering better personal outcomes for those using health and/or care services. They seek to ensure that individuals are treated with respect and dignity, and that human rights are upheld.

For example, in relation to restrictions on an individual's independence, control and choice, Standard 1 ("I experience high quality care and support that is right for me") makes clear that such restrictions should comply with relevant legislation and must be justified, kept to a minimum and carried out sensitively.

Inter-prisoner violence

22. Please provide information about the frequency of inter-prisoner violence, including any cases involving possible negligence on the part of law enforcement personnel, the number of complaints made in this regard and their outcome. What preventive measures have been taken?

The *HM Chief Inspector of Prisons for Scotland: Annual Report 2017-18*⁹⁴ states that:

"It is a fundamental requirement of a well-run prison that people who live and work there should feel confident in its stability and order. We should never take for granted the good order that is maintained in Scotland's prisons."

Against that background the data requested are:

Year	Prisoner on prisoner assaults (minor and no injury)	Prisoner on prisoner assaults (serious)	Total
2012-13	1,735	74	1,809
2013-14	1,822	82	1,904
2014-15	1,767	66	1,833
2015-16	1,971	79	2,050
2016-17	2,136	74	2,210
2017-18	2,173	94	2,267

(Source – SPS Annual Reports)

93 <http://www.gov.scot/Publications/2017/06/1327>

94 <https://www.prisonsofscotland.gov.uk/publications/hm-chief-inspector-prisons-scotland-annual-report-2017-2018>

The SPS takes responsibility for prisoner safety extremely seriously. It operates a Violence Reduction Strategy whereby each prison has its own plan, which encompasses guidance on cell sharing risk assessments and anti-bullying measures. The SPS provides staff with appropriate training in order to detect, deter, de-escalate and, if necessary, protect themselves, prisoners and others from violent acts. SPS staff are required to demonstrate competence in the use of restraints on an annual basis. By training staff to the highest standard, SPS seeks to ensure that actions taken are lawful, necessary, reasonable and proportionate to the situation presented.

Deaths in custody

23. Please provide statistical data regarding deaths in custody, including in mental health detention and police custody, during the period under consideration (since 2012), disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased and cause of death. Please provide information on the results of the investigations into those deaths and on the measures taken to prevent similar cases occurring in the future. Please indicate whether relatives received compensation in any of the cases.

Police custody

According to its Annual Report 2016-17,⁹⁵ the PIRC investigated three deaths in police custody and 19 into deaths following police contact. Figures for each year since the PIRC was established in 2013 are:

Year	Deaths in Custody investigated by the PIRC	Deaths following contact with the police, investigated by the PIRC
2013-14	7	11
2014-15	2	8
2015-16	2	12
2016-17	3	19

Dame Elish Angiolini's review of deaths in police custody in England and Wales⁹⁶ recommended improvements to the collection and recording of data on deaths in police custody. The Lord Advocate, as head of the system of investigation of deaths in Scotland, is considering the report's implications for Scotland, in conjunction with Scottish Government officials.

As with all other deaths of which they are informed, the police are required to investigate the death and report the circumstances to the relevant Procurator Fiscal. All deaths in police custody are subject to a Fatal Accident Inquiry (FAI).

⁹⁵ <https://pirc.scot/publications/?cat=our%20business&category=Annual>

⁹⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655401/Report_of_Angiolini_Review_ISBN_Accessible.pdf

Prisons

The SPS records all deaths in custody in calendar years and publishes information for the preceding 10 years.⁹⁷ (Figures for deaths in prisons in Scotland since 2012 are contained in the Annex). The SPS is committed to the preservation of life and to ensuring that lessons are learned from previous deaths in custody through its Self-Inflicted Death in Custody Audit, Analysis and Review Policy. Following the commencement of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016⁹⁸ all deaths in prison are subject to a mandatory FAI, as was the case under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.⁹⁹

Suicide prevention

In November 2016, the SPS launched its new Suicide Prevention Strategy, *Talk to Me*, which replaces *ACT2Care*. This strategy is intended to enable the whole prison community to work together to identify vulnerable individuals, share information and encourage those “at risk” to accept help and support. All prison staff and partners working with prisoners are provided with mandatory training on *Talk to Me* to ensure that they are competent to fulfil their role in the management of prisoners with suicidal ideation.

The Scottish Government Suicide Prevention Action Plan, *Every Life Matters*,¹⁰⁰ was published on 9 August 2018. It sets out an ambitious set of measures for a step change in action and culture around prevention of suicide, designed to continue the strong long-term downward trend in the rate of suicide in the general population in Scotland. It also cross-refers to a separate commitment (in the Mental Health Strategy 2017) to provide 800 more mental health workers to support mental health specialist access in a variety of front-line settings, including police custody suites and prisons.

In instances of self-harm which present to the NHS, the Scottish Government expects clinicians to investigate thoroughly and to support the patient both to recover and to avoid repetition of the self-harming.

All instances of death by suicide under NHS care are subject to review by the relevant NHS Board, which will work with Healthcare Improvement Scotland (HIS) to establish what lessons can be learned to improve future safety for patients. HIS also coordinates a Suicide Review Community of Practice to help inform improvements in patient safety across the NHS in Scotland.

All suicides in Scotland are reported to the Scottish Fatalities Investigation Unit (SFIU), a specialist unit within COPFS. The SFIU reports to the Lord Advocate, who is responsible for the investigation of deaths in Scotland, and will consider whether there has been a systematic failure in care which contributed to the person taking their life, and will ordinarily request and consider the relevant NHS Board’s adverse event review reports related to the death. In addition, when investigating cases, the SFIU may consider instructing an independent expert to consider the circumstances, which may

97 <http://www.sps.gov.uk/Corporate/Information/PrisonerDeaths.aspx>

98 http://www.legislation.gov.uk/asp/2016/2/pdfs/asp_20160002_en.pdf

99 <https://www.legislation.gov.uk/ukpga/1976/14/contents>

100 <https://www.gov.scot/Publications/2018/08/8874>

include consideration of the review report and its learning outcomes. At the conclusion of its investigation, the SFIU will consider whether there should be an FAI.

The Mental Welfare Commission for Scotland has clear notification criteria which apply following the death of an individual by suicide. In particular, it requires notification of suicides of people detained under the Mental Health (Care and Treatment) (Scotland) Act 2003.¹⁰¹ The MWCS may formally investigate circumstances of the person's care to identify if there were any deficiencies in care or treatment and if there are any issues to inform wider learning. These investigation reports would be shared with the specific NHS Board and would be anonymised if published.

Patients detained under mental health legislation

A joint letter from the Scottish Government's Chief Medical Officer and the Crown Agent and Chief Executive of COPFS was issued to health boards in November 2015 requiring medical practitioners to report to the Procurator Fiscal any death of a person subject to an order under either the Mental Health (Care and Treatment) (Scotland) Act 2003 or part VI of the Criminal Procedure (Scotland) Act 1995 (whether detained in hospital or being treated in the community).¹⁰² The change was introduced to ensure that these deaths are given the appropriate level of scrutiny in accordance with Article 2 of the ECHR. This allows discretionary FAIs as appropriate, as in any reported death.

Healthcare providers are required to notify the MWCS of the death of any person subject to an order under the 2003 Act or the 1995 Act.

The Scottish Government conducted a review, under section 37 of the Mental Health (Scotland) Act 2015, into the arrangements for the investigation of deaths of certain categories of people with mental health conditions, including patients detained in mental health services subject to orders under the 2003 Act or 1995 Act referenced above. The report of the review was published on 17 December 2018.¹⁰³ Action 4 of the report relates to statistical information on deaths:

“The Scottish Government will work with the Mental Welfare Commission for Scotland, Healthcare Improvement Scotland, and NHS National Services Scotland to identify an appropriate set of publicly reportable measures that reflect best practice in the investigation of deaths and can be used to identify where improvement is required.”

101 <http://www.legislation.gov.uk/asp/2003/13/contents>

102 Scottish Government/COPFS, CMO(2015) 20, [https://www.sehd.scot.nhs.uk/cmo/CMO\(2015\)20.pdf](https://www.sehd.scot.nhs.uk/cmo/CMO(2015)20.pdf)

103 <https://www.gov.scot/publications/review-arrangements-investigating-deaths-patients-being-treated-mental-disorder/>

Women prisoners

Special needs of women in detention

24. Please provide information on the efforts by the State party to meet the special needs of women in detention.

Scotland has established standards for treatment of women in a custodial setting, which comply with the broad principles set out in the Bangkok Rules.¹⁰⁴

Following a period of consultation in 2015, the Scottish Government announced the decision to build a new national prison for women on the current site of HMP and YOI Cornton Vale, and up to five small community-based custodial units across Scotland. All aspects of the custodial estate will be run and managed by SPS but services will be delivered through multi-disciplinary teams working together to provide a consistent and holistic approach to the management of women who are held in custody and, importantly, linking them to the services they will need on their release back into the community.

The Scottish Government funded STORM training across Scotland's secure accommodation services to provide a sustainable programme of self-harm and suicide prevention. STORM is an evidence-based programme that helps to build the skills and confidence of staff to ask the difficult questions around self-harm, suicide and self-injury.

The Scottish Government has also provided local justice and third sector organisations with additional funding to develop local community justice services for women. This includes funding for female mentoring services, bail supervision, and early and effective intervention services.

104 <https://cdn.penalreform.org/wp-content/uploads/2016/07/BangkokRules-Updated-2016-with-renumbering-SMR.pdf>

Mental health

“ We firmly believe that respect for human rights can and should inform decision-making, develop better participation for patients, foster strong working relationships, and ensure that care is personalised.”

Mental Welfare Commission for Scotland,
Human Rights in Mental Health Services (2017)



Mental health

Access to mental health care and placement of children

25. Please also provide information on the concrete measures taken by the State party to address concerns about deficiencies in access to appropriate mental health-care and about the inappropriate placement of children.

Mental health services

The Scottish Government has implemented the bulk of the provisions of the Mental Health (Scotland) Act 2015 and will promote independent advocacy and advance statements, alongside a rights-based approach in the statutory guidance on the use of mental health legislation.

The Scottish Government has a Ministerial post dedicated to mental health and has set aside £150 million to invest in improving mental health. The *Mental Health Strategy 2017-2027*¹⁰⁵ sets out a vision for the next 10 years and how to transform services, with a focus on themes including prevention and early intervention; responses in primary care settings; improving the physical health of those with mental health problems; and improving access to mental health services. The strategy contains an initial 40 actions. Progress will be reported on through stakeholder forums and through an annual report that the Minister for Mental Health will present to Parliament.

As part of the additional £150 million funding, in January 2016 the First Minister announced a £54.1 million package of support to improve access to mental health services for adults and children. This investment includes £24.7 million to improve capacity in health boards to see more people more quickly; £4.8 million through HIS to help redesign local services to be more efficient, effective and sustainable; and £24.6 million to improve workforce supply and train existing staff to deliver mental health services. This funding acknowledges the continued and substantial increase in demand for psychological therapies and Child and Adolescent Mental Health Services (CAMHS). As the capacity and provision of services have increased there has been a sustained increase in the numbers accessing treatment each quarter, and this should be welcomed.

In comparison to the general population, the prevalence of mental health problems among those in contact with the justice system is high. Mental health issues commonly co-exist with problem substance use (alcohol and drugs), chronic physical health conditions, learning difficulties, and homelessness. Relationships with families and other supports may be limited or absent. The Scottish Government has identified potential benefits of closer collaboration between health and justice on a range of issues and has established a Health and Justice Collaboration Improvement Board.

Action 15 of the Mental Health Strategy commits the Scottish Government to give access to dedicated mental health professionals to all A&Es, all GP practices, every police station custody suite, and to prisons. Over the next five years, additional investment will increase to £35 million for 800 additional mental health workers in those key settings.

105 <http://www.gov.scot/Publications/2017/03/1750>

NHS/SPS multi-disciplinary Mental Health Teams provide mental healthcare within prisons equivalent to the care provided for people in the community but designed to meet the recognised increased mental health needs of prisoners.

Following the transfer of responsibility for healthcare from SPS to NHS Health Boards in November 2011, clinical treatment for prisoners with mental health problems sits with NHS. The SPS has a role to play in providing support and activities for prisoners with mental illness and mental health issues, and an environment that encourages prisoners with mental health issues to engage with staff and services. The SPS has funded training for Residential Officers in managing prisoners with challenging behaviours and personality disorders, and NHS Psychiatry operates an in-reach service across establishments in Scotland with a mixture of forensic psychiatrists and general adult psychiatrists in attendance. Several third sector agencies also provide additional services and support for prisoners with mental health issues.

Child and Adolescent Mental Health Services

The Mental Health Strategy is all-inclusive and applies to all individuals and groups. The Scottish Government remains committed to meeting its target of 90% of those referred for specialist CAMHS starting treatment within 18 weeks, and is continuing to work with NHS Boards to help them to make the necessary improvements.

Work on access to CAMHS and on reducing waiting times should ensure that CAMHS is available, accessible, acceptable, of a good quality, and pays particular attention to vulnerable children – such as those living in poverty, children in care, children in contact with the criminal justice system and children with a learning disability and/or autism. Improvement work on access should also consider variations in levels of demand that cannot be explained by factors such as different socio-economic circumstances.

Children and young people referred to CAMHS will generally be treated in the community, however, there may be times when it is necessary to admit them to hospital for specialist treatment. Should this be the case they would be admitted to one of the three regional CAMHS inpatient units. For adolescent inpatient beds, the boards collaborate in three regions:

Unit	No. of beds	Area served
Royal Edinburgh Hospital	12	<u>South East of Scotland</u> Lothian, Fife and Borders
Skye House, Stobhill, Glasgow	24	<u>West of Scotland</u> Greater Glasgow and Clyde, Forth Valley, Lanarkshire, Dumfries and Galloway Ayrshire and Arran
Dudhope House, Dundee	12 (increased from six in May 2015)	<u>North of Scotland</u> Tayside, Grampian, Highland, Shetland, Orkney and Western Isles

The clear expectation is that children and young people requiring psychiatric admission would be admitted to a Child and Adolescent Mental Health (CAMH) specialist unit. However, it may be clinically judged to be more appropriate to admit young people to adult wards, or the young person and their family may have a preference for admission to a local adult ward. There would always be a specific individual reason for this, for example the immediate unavailability of a specialist CAMH bed, or a clinical decision made with the patient and appropriate family members that a local adult bed might be better in rural situations to facilitate ongoing family contact. All admissions would be discussed with patients and appropriate family members prior to admission, ensuring the child and their carer's views form part of a broader consideration of the child or young person's best interests. Consideration would also be given to whether the child or young person is old and mature enough to manage in an adult ward. Most such admissions will be young people aged 16 or 17. The use of adult beds for CAMHS admissions has fallen.

Psychiatric hospitals and persons with psychosocial disabilities

26. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities, including care homes.

The MWCS publishes statistics on the number of people detained under mental health legislation and monitors and reports on the use of incapacity legislation.¹⁰⁶

In general, detention in hospital and treatment on an involuntary basis would not be lawful in Scotland, but is authorised in restricted circumstances under the Mental Health (Care and Treatment) (Scotland) Act 2003,¹⁰⁷ which provides the framework for detention in hospital and compulsory medical treatment for those with a medical disorder; and the Adults with Incapacity (Scotland) Act 2000,¹⁰⁸ which provides for medical treatment to safeguard or promote the physical or mental health of an adult who is unable to consent.

The 2003 Act is underpinned by a set of principles and also contains various measures to protect the rights of those detained. The bulk of the provisions of the Mental Health (Scotland) Act 2015¹⁰⁹ came into force on 30 June 2017.

A person can only be detained if strict criteria are met (including that they have a mental disorder; that the person's decision-making ability is significantly impaired by the mental disorder; that without treatment there is a significant risk to the person or others; and that the order or certificate is necessary). Any civil order longer than 28 days must be granted by the independent Mental Health Tribunal for Scotland or the courts and must be regularly reviewed.

106 <http://www.mwscot.org.uk/publications/statistical-monitoring-reports/>

107 <http://www.legislation.gov.uk/asp/2003/13/contents>

108 <http://www.legislation.gov.uk/asp/2000/4/contents>

109 <http://www.legislation.gov.uk/asp/2015/9/contents/enacted>

Rights contained in the 2003 Act include making an advance statement, access to independent advocacy, and appointing a “named person” (often a family member or carer) to represent the person’s interests. Implementation of the 2015 Act included promotion of independent advocacy and advance statements alongside a rights-based approach in the statutory guidance on the use of mental health legislation.

Anyone carrying out functions under the 2003 Act must have regard to certain principles, including having regard to the present and past views and feelings of the patient, the importance of the patient participating as fully as possible, and carrying out functions that involve the minimum restriction on the freedom of the patient as is necessary. There are additional safeguards with regard to certain treatments and additional provisions relating to children. Treatment can only be given without consent under certain strict circumstances, with certain treatments subject to additional safeguards.

The Adults with Incapacity (Scotland) Act 2000 contains provisions covering the personal welfare and financial affairs of adults who lack capacity to make some or all decisions on their own behalf, and provides safeguards through the roles and functions of the statutory bodies involved.

The 2000 Act sets out arrangements for guardianship orders and intervention orders made by the Sheriff Court, which provide legal authority for someone to act on behalf of the person with impaired capacity, to safeguard and promote their interests. Authority to make welfare decisions can include placement in care settings if specified.

The 2000 Act allows for a person with capacity to grant a power of attorney to someone they trust in the event of loss of capacity and, if they are given healthcare decision-making powers, they can give consent for medical treatment. Where there is no proxy, a doctor is authorised to provide medical treatment in that specific instance, subject to certain safeguards.

Following the Scottish Law Commission’s review of the 2000 Act on compliance with Article 5 of ECHR, specifically in relation to deprivation of liberty in hospital and care home settings, the Scottish Government consulted on the Commission’s recommendations and published an analysis of the responses.¹¹⁰ Work in the longer term is being undertaken with stakeholders on these and wider issues around guardianship, and consideration of circumstances in which supported decision-making can be promoted. A public consultation was completed on 30 April 2018 and analysis published in August 2018.¹¹¹ Working groups have been convened to consider next steps.

Mental health and incapacity legislation confers statutory duties on the independent MWCS to fulfil its safeguarding role. Its work, which includes investigation, monitoring and visiting, is intended to ensure that care, treatment and support are lawful, respect rights and promote the welfare of individuals with mental illness, learning disability and related conditions. Service users and carers are represented on the MWCS Board and also act as visitors.

110 <http://www.gov.scot/Publications/2016/07/5000>

111 <https://consult.gov.scot/health-and-social-care/adults-with-incapacity-reform/>

Youth justice

“ All professionals, regardless of their organisation, have roles and responsibilities in respect of child protection and children’s rights. Children and young people who are involved in offending behaviour are first and foremost, children. Their welfare and potential need for protection must be the paramount concern for all agencies involved with the child and their family.”

Centre for Youth and Criminal Justice,
A Guide to Youth Justice in Scotland: policy, practice and legislation (2018)

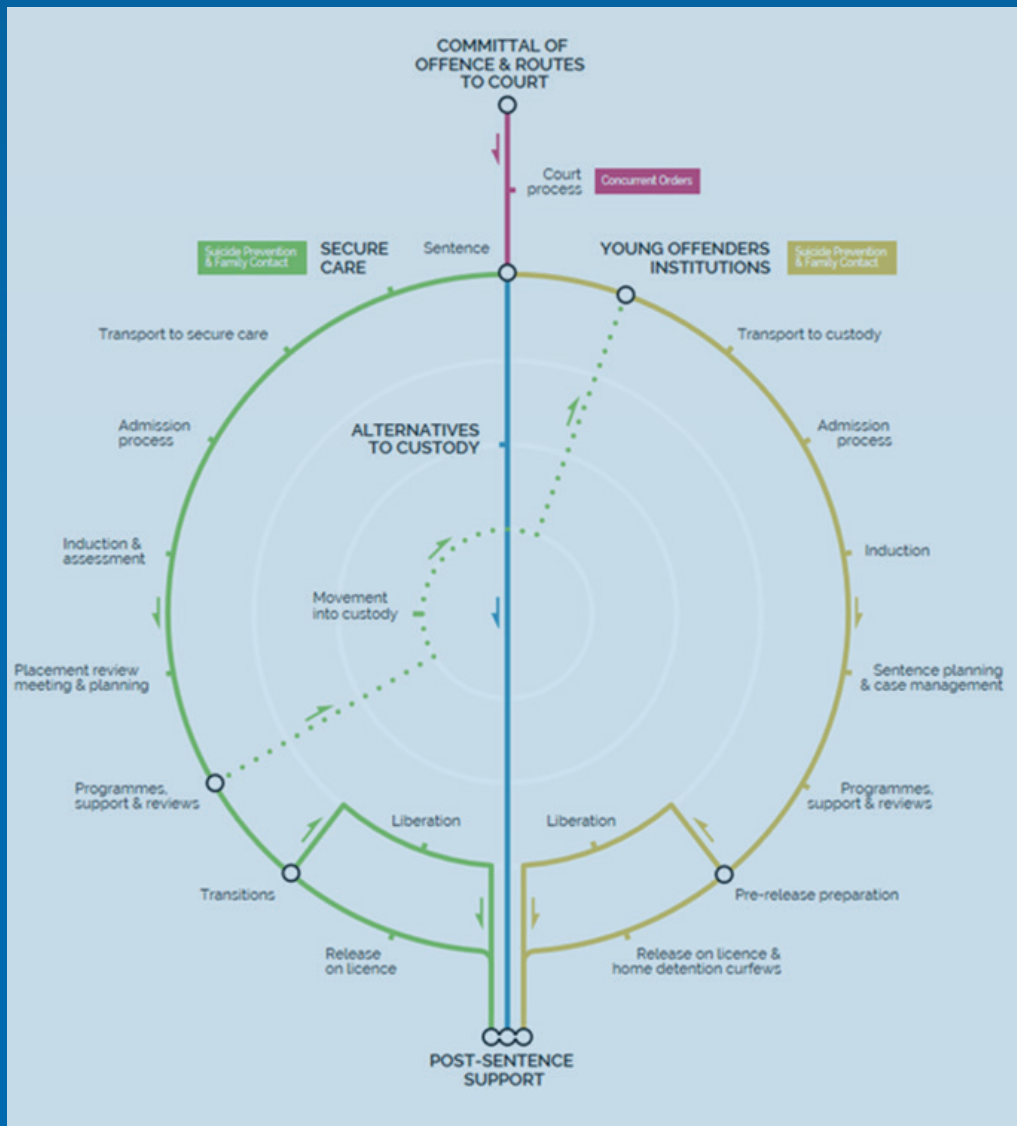


Photo credit: Centre for Youth and Criminal Justice

Youth justice

Special needs of minors in detention

27. Please provide information on the efforts by the State party to meet the special needs of minors in detention.

Secure accommodation

The majority of young people placed in secure accommodation are placed through the children's hearings system as a result of a secure accommodation authorisation (SAA) made in conjunction with, for example, a compulsory supervision order (CSO). A CSO may only include an SAA if:

- (a) the order contains a requirement that the child resides at a specified place;
- (b) one or more of the following conditions are met:
 - (i) the child has previously absconded and is likely to abscond again and, if the child were to abscond, it is likely that the child's physical, mental or moral welfare would be at risk
 - (ii) the child is likely to engage in self-harming conduct
 - (iii) the child is likely to cause injury to another person; and
- (c) having considered other options available (including a movement restriction condition) the children's hearing is satisfied that it is necessary to include an SAA in the order.

Responsibility for implementing an SAA rests with the chief social work officer (CSWO) and can only be done with the consent of the person in charge of the establishment containing the secure accommodation. In considering the possibility of placing a child in secure accommodation, a CSWO needs to identify the aims and objectives of such a placement in terms of the child's assessed behaviour and needs, and the capacity of the establishment to meet those aims and objectives.

Placement in secure accommodation is designed to rehabilitate the child and, where necessary, protect the public. Secure placements, once made, are only for so long as it is in the best interests of the child. The suitability of the placement must be reviewed at intervals of not more than three months, or sooner if necessary or appropriate in light of the child's development.

A Secure Care Strategic Board (SCSB) was set up in October 2017 to lead the development of a strategic approach to responses to children and young people in, and on the edges of, secure care in Scotland, providing a clear set of strategic proposals. The board was tasked with developing Secure Care National Standards to improve the experiences and outcomes for some of Scotland's most vulnerable young people. The Board will report to Ministers in early 2019.

Children and young people in custody

No child in Scotland under the age of 16 years is detained in a prison. Young people aged 16 to 17 who are not subject to a CSO can be sentenced or remanded by the court to a YOI.

The Scottish Government is championing the use of the Whole System Approach (WSA),¹¹² which continues to see a marked reduction in the number of young people receiving custodial sentences (see paragraph 17 above). The Youth Justice Strategy, *Preventing Offending: Getting it right for children and young people* (2015),¹¹³ promotes the use of the WSA, ensuring that children and young people receive appropriate interventions and services that help to address and reduce the risk of offending and improve life chances.

Improving life chances and supporting young people to move on is the best way of reducing reoffending and minimising the number of future victims, contributing to improving public life, and reducing the prison population. Where a child or young person does require to be detained, the WSA encourages support to be initiated from the outset to support effective transitions back to the community.

The SPS has adopted as policy a *Vision for Young People in Custody*,¹¹⁴ which sets out medium- and longer-term intentions for young people's learning and development while in custody, based upon individual needs. At HMYOI Polmont:

- a community safety unit has been created, working with a wide range of partner organisations from the community, education sector and Scottish Government. Polmont has been designated as a “community” for specific focus by the Scottish Government Community Safety Steering Group.
- Police Scotland has committed to a “campus cop” resource on site to challenge constructively attitudes to authority and support anti-violence work, both in the establishment and in the community on release. A range of interventions is being developed and deployed on site:
 - restorative practices for conflict resolution
 - anti-violence and anti-bullying workbooks
 - group work for bullying and knife crime
 - associated staff training
- SPS is undertaking development work on issues such as domestic abuse and those types of crime which undermine equality and diversity in society, as well as creating links between the community safety and parenting teams on site to support integrated learning.
- Research is being taken forward on a number of issues to inform understanding of the needs of young men. Many of the underlying issues which lead to violent behaviour, such as trauma, bereavement, and learning difficulty, are being addressed through education-based interventions and assessment. Speech and language therapy resources from NHS have been increased and a review of the wider regime is in progress.

112 <http://www.gov.scot/Topics/Justice/policies/young-offending/whole-system-approach>

113 <http://www.gov.scot/Publications/2015/06/2244>

114 <http://www.sps.gov.uk/Corporate/Publications/Corporate12.aspx>

- Arrangements have been put in place to reduce the population on-site at Polmont, with a view to each young man having access, where possible, to a room of their own. This is already improving the environment and allowing more intensive staff interaction.
- Following a curriculum review undertaken by Education Scotland, a wide range of additional activities, including those focused on relationship skills and citizenship, is being developed. These include life skills, parenting, peer support and one-to-one support for those who are most disengaged, many of whom also exhibit violent behaviour.
- All staff at Polmont are receiving training, co-delivered with Education Scotland, which focuses on the emotional and social wellbeing of young people and their personal development.

Placement in police detention of children with mental disabilities

28. Please clarify the current policy regarding the placement in police detention of children with mental disabilities.

In terms of current operational practice, Police Scotland attempts to ensure that all children and young people are kept in custody for as short a time as possible. When very minor crimes are committed it is common for children not to be taken to a custody centre at all, but rather taken home and, if deemed necessary, cautioned and charged in front of their parents or carers.

Sections 50 and 51 of the Criminal Justice (Scotland) Act 2016, which came into force on 25 January 2018, place a duty on Police Scotland not to detain a person (which includes a child) unnecessarily in custody and to consider a child's wellbeing as a primary consideration when making decisions in relation to a child, including a decision whether or not to hold a child in custody. Police Scotland operating procedures have been updated to reflect these provisions (see paragraph 16 above).

Age of criminal responsibility

29. With regard to the Committee's previous concluding observations (para. 27), is the State party considering the possibility of increasing the minimum age of criminal responsibility in line with international standards?

The current age of criminal responsibility in Scotland is 8 years old, however a child under 12 cannot be prosecuted through the courts but can be referred on an offence ground to the children's hearing system. A Minimum Age of Criminal Responsibility Advisory Group was established to address the underlying issues of a change in the minimum age of criminal responsibility, with a view to bringing forward recommendations for public consultation in early 2016. The Advisory Group report¹¹⁵ recommended that the age be raised from 8 to 12, and that the move be accompanied by a number of safeguards.

115 <http://www.gov.scot/Publications/2016/03/3627>

On 1 December 2016, the Scottish Government announced that it would introduce a Bill in the current Parliamentary session, which will increase the age from which a child can be held criminally responsible from 8 to 12 years old, aligning it with the current minimum age of prosecution and reflecting Scotland's commitment to international human rights standards.

The Age of Criminal Responsibility (Scotland) Bill¹¹⁶ was introduced in the Scottish Parliament on 13 March 2018. The Bill will mean that:

- children under the age of 12 will no longer be stigmatised at such a young age due to being criminalised and labelled as “an offender”
- harmful behaviour involving children under 12 will continue to be addressed with bespoke new measures introduced to ensure police can thoroughly investigate the most serious incidents
- victims of harm will continue to receive appropriate support and information
- release of information on Disclosure certificates about harmful behaviour by children under 12 will no longer be automatic but will be subject to independent review on a case-by-case basis

116 <http://www.parliament.scot/parliamentarybusiness/Bills/107986.aspx>

Physical punishment of children

Corporal punishment

30. With respect to the previous concluding observations (para. 29), please indicate the measures taken to ensure that corporal punishment of children is explicitly prohibited in all settings, including in the family, schools and alternative care settings.

The existing legislation in Scotland makes it illegal to punish children by shaking, hitting on the head or using an implement. John Finnie MSP is bringing forward a member's Bill in the Scottish Parliament to remove the existing defence for parents. This would have the effect of prohibiting all forms of physical punishment. The Scottish Government has indicated that it is in favour of removing the defence and has set up an implementation group to consider what steps need to be taken if Mr Finnie's Bill should be enacted by Parliament.

Section 16 of the Standards in Scotland's Schools etc. Act 2000¹¹⁷ bans corporal punishment in local authority and independent schools. Corporal punishment is also banned in residential accommodation¹¹⁸ and in relation to day care of children, child minding or a child care agency.¹¹⁹

117 <https://www.legislation.gov.uk/asp/2000/6/contents>

118 [Residential Establishments – Child Care \(Scotland\) Regulations 1996](#)

119 [Social Care and Social Work Improvement \(Scotland\) \(Requirements for Care Services\) Regulations 2011](#)

Asylum seekers

Immigration detention

31. In the light of the previous concluding observations (para. 30), please indicate the measures taken by the State party to ensure that detention of asylum seekers and migrants is used only as a last resort, where necessary and for as short a period as possible, and to further implement in practice alternatives to detention. Please provide information on the steps taken to ensure the early identification of victims of torture and to ensure that such individuals are not detained within the context of asylum procedures. What measures have been taken to introduce a limit for immigration detention and to prevent cases of de facto indefinite detention? According to the information before the Committee, judgments handed down by the High Court and the Court of Appeal in June and July 2015 found significant deficiencies in the State party's "detained fast-track" asylum process, including a failure to prevent torture survivors from entering the detained fast-track system and to provide effective access to legal representation. Please clarify whether the State party is planning to reintroduce the fast-track procedure as a central pillar for managing asylum in the country. If so, please provide detailed information on the measures taken to ensure that the detained fast-track system is fully compliant with the State party's obligations under the Convention.

Immigration and asylum are matters reserved to the UK Government. The Scottish Government believes that asylum seekers must be treated fairly and with dignity and respect at all stages of the asylum process, maintaining that integration should begin from day one, not just when leave to remain has been granted. This is reflected in Scotland's second *New Scots Refugee Integration Strategy*, which was launched in January 2018.¹²⁰

Immigration detention is a matter reserved to the UK Government. The Scottish Government supports calls for a 28-day time limit on immigration detention and for the presumption to be in favour of community-based solutions. The Scottish Government believes that children should not be held in immigration detention.

120 <http://www.gov.scot/Publications/2018/01/7281>

Hate crime

Measures to combat hate crime and increase reporting

32. What measures have been taken to combat hate crimes, including crimes committed on the basis of race, nationality and religion? Please comment on reports of a rise in Islamophobic and anti-Semitic hate crimes. Please provide information on the specific measures taken to address underreporting of disability and transgender-motivated hate crimes.

Since 2012, the Scottish Government has invested over £100 million to promote equality and tackle discrimination, and is continuing to work closely with partner organisations to advance the vision of “One Scotland”. Ministers have shown leadership in condemning hate crime as unacceptable and in challenging rhetoric that seeks to divide communities.

On 13 June 2017 the Scottish Government published an ambitious programme of work, *Tackling Prejudice and Building Connected Communities*,¹²¹ in response to the recommendations made by the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion.¹²² A Tackling Prejudice and Building Connected Communities Action Group has been established to take this work forward. It will be chaired by the Cabinet Secretary for Communities and Local Government and includes representation from COSLA, Police Scotland, COPFS, Education Scotland and equalities organisations.

The Tackling Prejudice and Building Connected Communities Action Plan contains a commitment to consider how terminology and definitions may become more useful in seeking to tackle and address these issues. On 13 June 2017 the Scottish Government formally adopted the International Holocaust Remembrance Alliance’s definition of anti-Semitism to help inform work in this area, and will continue to work with key partners, including Police Scotland, to explore how using this definition translates into operational practice.

There are also a number of actions that seek to address the issue of under-reporting, including:

- a six-week “Hate has no home in Scotland” campaign, which launched on 13 October 2017 and aimed to raise awareness of hate crime and encourage reporting
- working with disabled people’s organisations to implement *A Fairer Scotland for Disabled People*¹²³ and address under-reporting of disability hate crime
- consideration of how to break down barriers to reporting, which will be informed by Police Scotland’s work on developing the third party reporting infrastructure

121 <http://www.gov.scot/Publications/2017/06/1336>

122 <http://www.gov.scot/Resource/0050/00506074.pdf>

123 <http://www.gov.scot/Publications/2016/12/3778>

The Scottish Government is also developing its approach to gathering evidence around hate crime. This will include publication of a research report later in 2019 on hate crime recorded by the police, which will contribute to a better understanding of the scale and severity of hate crime in Scotland.

In January 2017 Scottish Ministers appointed Lord Bracadale to undertake a review of hate crime legislation in Scotland. The Scottish Government welcomed Lord Bracadale's report,¹²⁴ which was published on 31 May 2018, and accepted his recommendation to consolidate all Scottish hate crime legislation into one new hate crime statute. On 14 November a fourteen week public consultation was launched to seek views on the detail of what should be included in a new hate crime bill, using Lord Bracadale's recommendations as a basis for the consultation.¹²⁵ This will provide a range of organisations and groups, as well as members of the public, with an opportunity to share their views and inform what is included in the new hate crime legislation. All concerns will be listened to - updated hate crime legislation must balance protections required with human rights, freedom of speech and civil liberties.

The Scottish Government recognises that legislation in and of itself is not enough to build an inclusive and equal society, however it forms the basis of understanding what is not acceptable in society.

124 <https://www.gov.scot/publications/independent-review-hate-crime-legislation-scotland-final-report/>

125 <https://www.gov.scot/publications/one-scotland-hate-home-here-consultation-hate-crime-amending-current-scottish-hate-crime-legislation/>

DEATHS IN PRISONS IN SCOTLAND (2012-18)

DEATHS IN CUSTODY - 2012						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Edinburgh	08/09/2012	25/06/2015	47	Male	White	
HMP Glenochil	07/01/2012	20/05/2013	38	Male	White	Natural Cause - Expected
HMP Shotts	18/06/2012	12/08/2014	43	Male	White	Natural Cause - Expected
HMP Edinburgh	30/06/2012	21/08/2013	81	Male	White	Natural Cause - Sudden
HMP Edinburgh	25/12/2012	25/08/2014	61	Male	White	Natural Cause - Sudden
HMP Glenochil	19/09/2012	08/10/2013	53	Male	White	Natural Cause - Sudden
HMP Glenochil	24/03/2012	20/05/2015	46	Male	White	Natural Cause - Sudden
HMP Open Estate	09/05/2012	24/11/2014	76	Male	White	Natural Cause - Sudden
HMP Open Estate	13/08/2012	24/11/2014	50	Male	White	Natural Cause - Sudden
HMP Perth	07/09/2012	10/09/2015	44	Male	White	Natural Cause - Sudden
HMP Perth	20/02/2012	26/03/2014	42	Male	White	Natural Cause - Sudden
HMP Peterhead	01/01/2012	12/06/2012	50	Male	White	Natural Cause - Sudden
HMP Barlinnie	11/03/2012	19/12/2013	42	Male	White	Natural Cause - Sudden
HMP Barlinnie	17/06/2012	16/10/2014	40	Male	White	Suicide
HMP Inverness	13/10/2012	11/10/2013	19	Male	White	Suicide
HMP Perth	06/03/2012	25/09/2014	32	Male	White	Suicide
HMP Shotts	08/11/2012	31/07/2014	31	Male	White	Suicide
HMP Shotts	10/02/2012	03/03/2015	41	Male	White	Suicide
HMYOI Polmont	13/02/2012	07/08/2015	18	Male	White	Suicide
HMP Cornton Vale	12/05/2012	23/03/2016	19	Female	White	Suicide
HMP Barlinnie	02/03/2012	20/05/2014	41	Male	White	Suicide
Total						21

DEATHS IN CUSTODY - 2013						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Shotts	03/06/2013	17/07/2014	35	Male	White	Event of Undetermined Intent
HMP Edinburgh	21/04/2013	28/11/2014	53	Male	White	Natural Cause - Expected
HMP Greenock	11/08/2013	15/09/2015	60	Male	White	Natural Cause - Expected
HMP Low Moss	25/09/2013	19/12/2014	52	Male	White	Natural Cause - Expected
HMP Glenochil	27/02/2013	27/09/2013	60	Male	White	Natural Cause - Expected
HMP Edinburgh	04/05/2013	30/06/2014	40	Male	White	Natural Cause - Sudden
HMP Glenochil	09/05/2013	07/11/2014	62	Male	White	Natural Cause - Sudden
HMP Addiewell	31/05/2013	No Date Set	42	Male	White	Natural Cause - Sudden
HMP Glenochil	15/09/2013	No Date Set	44	Male	White	Natural Cause - Sudden
HMP Barlinnie	22/09/2013	02/06/2014	60	Male	White	Natural Cause - Sudden
HMP Barlinnie	27/09/2013	28/07/2014	48	Male	White	Natural Cause - Sudden
HMP Low Moss	25/10/2013	29/07/2014	48	Male	White	Natural Cause - Sudden
HMP Edinburgh	03/11/2013	18/11/2014	44	Male	White	Natural Cause - Sudden
HMP Edinburgh	30/11/2013	19/05/2015	65	Male	White	Natural Cause - Sudden
HMP Barlinnie	11/12/2013	26/05/2015	74	Male	White	Natural Cause - Sudden
HMP Addiewell	25/02/2013	12/08/2013	45	Male	White	Natural Cause - Sudden
HMP Open Estate	22/05/2013	10/04/2014	25	Male	White	Suicide
HMP Barlinnie	14/06/2013	20/10/2014	45	Male	White	Suicide
HMP Barlinnie	21/12/2013	12/01/2015	56	Male	White	Suicide
HMP Glenochil	23/01/2013	31/03/2015	55	Male	White	Suicide
HMP Barlinnie	27/03/2013	06/02/2015	40	Male	White	Suicide
HMP Perth	28/09/2013	08/06/2017	28	Male	White	Event of unintent overdose
HMP Addiewell	29/09/2013	3/09/2017	24	Male	White	Suicide
HMP Perth	23/01/2013	7/04/2017	24	Male	White	Suicide
Total						24

DEATHS IN CUSTODY - 2014						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Glenochil	14/07/2014	22/05/2015	79	Male	White	Natural Cause - Expected
HMP Glenochil	24/10/2014	23/03/2015	67	Male	White	Natural Cause - Sudden
HMP Addiewell	04/11/2014	29/07/2015	32	Male	White	Natural Cause - Sudden
HMP Greenock	11/02/2014	18/11/2015	51	Male	White	Natural Cause - Sudden
HMP Barlinnie	09/06/2014	23/10/2015	66	Male	White	Natural Cause - Sudden
HMP Edinburgh	30/03/2014	21/08/2015	48	Male	White	Natural Cause - Sudden
HMP Low Moss	15/07/2014	07/04/2015	86	Male	White	Natural Causes - Sudden
HMP Shotts	01/12/2014	06/05/2016	29	Male	White	Natural Causes - Sudden
HMP Shotts	09/12/2014	22/04/2016	44	Male	White	Natural Causes - Sudden
HMP Open Estate	14/09/2014	04/10/2016	49	Male	White	Natural Causes - Sudden
HMP Kilmarnock	22/07/2014	19/08/2015	63	Male	White	Suicide
HMP Edinburgh	11/03/2014	09/06/2016	37	Male	White	Suicide
HMYOI Polmont	14/07/2014	08/04/2016	19	Male	White	Suicide
HMP Shotts	20/11/2014	08/08/2016	25	Male	White	Event of Undetermined Intent
HMYOI Polmont	17/10/2014		17	Male	White	Not Determined - awaiting FAI
HMP Cornton Vale	02/11/2014		19	Female	White	Not Determined - awaiting FAI
HMP Edinburgh	29/03/2014	16/11/2017	46	Female	White	Suicide
HMP Glenochil	29/09/2014		54	Male	White	Not Determined - awaiting FAI

DEATHS IN CUSTODY - 2014						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Kilmarnock	27/06/2014		52	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	20/03/2014	11/10/2017	22	Male	White	Homicide
HMP Edinburgh	02/04/2014	07/11/2017	66	Male	White	Natural cause - expected
HMP Dumfries	03/10/2014	29/09/2016	27	Male	White	Natural cause - sudden
HMP Edinburgh	16/04/2014		46	Male	White	Not Determined - awaiting FAI
HMP Grampian	02/05/2014		47	Male	White	Not Determined - awaiting FAI
Total						24

DEATHS IN CUSTODY - 2015						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Open Estate	05/01/2015	19/11/2015	52	Male	White	Natural Cause - Sudden
HMP Perth	04/01/2015	18/12/2015	45	Male	White	Natural Cause - Sudden
HMP Shotts	05/01/2015	17/03/2016	65	Male	White	Natural Cause - Sudden
HMP Inverness	11/05/2015	11/07/2016	56	Male	White	Natural Cause - Sudden
HMP Low Moss	11/05/2015	07/10/2016	35	Male	White	Suicide
HMP Edinburgh	28/03/2015		30	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	04/01/2015	06/06/2016	47	Male	White	Natural cause - sudden
HMP Glenochil	04/02/2015	19/10/2015	54	Male	White	Natural cause - expected
HMP Addiewell	13/05/2015	06/10/2017	50	Male	White	Natural cause - expected
HMP Barlinnie	08/06/2015	02/09/2016	42	Male	White	Natural cause - expected
HMP Edinburgh	22/01/2015	31/01/2018	71	Male	White	Natural cause - expected
HMP Grampian	29/03/2015		54	Male	White	Not Determined - awaiting FAI
HMP Low Moss	03/04/2015	21/12/2016	50	Male	White	Natural cause - sudden
HMP Edinburgh	13/04/2015	12/12/2017	79	Male	White	Natural cause - expected
HMP Edinburgh	08/07/2015	05/07/2017	57	Male	White	Natural cause - sudden
HMP Edinburgh	21/07/2015	06/03/2017	73	Male	White	Natural cause - sudden
HMP Barlinnie	24/10/2015	26/10/2016	77	Male	White	Natural cause - sudden
HMP Cornton Vale	26/08/2015		51	Female	White	Not Determined - awaiting FAI
HMP Low Moss	27/07/2015	13/11/2017	34	Male	White	Suicide
HMP Perth	31/10/2015	12/09/2017	23	Male	White	Suicide

DEATHS IN CUSTODY - 2015						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Shotts	22/12/2015		56	Male	White	Not Determined - awaiting FAI
HMP Low Moss	19/12/2015	16/02/2017	54	Male	White	Natural cause - expected
HMP Barlinnie	12/12/2015		48	Male	White	Not Determined - awaiting FAI
HMP Perth	28/12/2015		24	Male	White	Not Determined - awaiting FAI
Total						24

DEATHS IN CUSTODY - 2016						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Cornton Vale	17/01/2016	09/03/2017	30	Female	White	Natural cause - sudden
HMP Castle Huntly	17/01/2016		46	Male	White	Not Determined - awaiting FAI
HMP Shotts	23/01/2016	17/03/2017	44	Male	White	Natural cause - sudden
HMP Glenochil	26/01/2016	24/03/2017	24	Male	White	Suicide
HMP Edinburgh	16/02/2016		32	Male	White	Not Determined - awaiting FAI
HMP Castle Huntly	27/02/2016		31	Male	White	Not Determined - awaiting FAI
HMP Perth	11/03/2016		68	Male	White	Not Determined - awaiting FAI
HMP Grampian	19/03/2016		50	Male	White	Not Determined - awaiting FAI
HMP Edinburgh	20/03/2016		33	Female	White	Not Determined - awaiting FAI
HMP Glenochil	17/04/2016		73	Male	White	Not Determined - awaiting FAI
HMP Kilmarnock	28/04/2016	18/12/2017	42	Male	White	Natural cause - sudden
HMP Edinburgh	06/05/2016		35	Male	White	Not Determined - awaiting FAI
HMP Cornton Vale	20/05/2016	29/09/2017	29	Female	White	Suicide
HMP Edinburgh	30/05/2016	20/11/2017	48	Male	White	Suicide
HMP Perth	04/06/2016		39	Male	White	Not Determined - awaiting FAI
HMP Perth	05/06/2016		37	Male	White	Not Determined - awaiting FAI

DEATHS IN CUSTODY - 2016						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Kilmarnock	08/06/2016	29/08/2017	51	Male	White	Natural cause - expected
HMP Kilmarnock	09/06/2016		34	Male	White	Not Determined - awaiting FAI
HMP Low Moss	09/07/2016		43	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	30/07/2016	08/05/2017	51	Male	White	Suicide
HMP Edinburgh	06/08/2016	07/03/2018	46	Male	White	Suicide
HMP Barlinnie	02/08/2016		50	Male	White	Not Determined - awaiting FAI
HMP Grampian	23/08/2016		53	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	03/10/2016	03/05/2017	59	Male	White	Natural cause - sudden
HMP Addiewell	19/10/2016		34	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	11/12/2016		48	Male	White	Not Determined - awaiting FAI
HMP Glenochil	17/12/2016		69	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	25/12/2016	24/11/2017	61	Male	White	Natural cause - sudden
Total						28

DEATHS IN CUSTODY - 2017						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Barlinnie	09/01/2017	20/09/2017	75	Male	White	Natural cause - expected
HMP Low Moss	15/01/2017		29	Male	White	Not Determined - awaiting FAI
HMYOI Polmont	19/01/2017		19	Male	White	Not Determined - awaiting FAI
HMYOI Polmont	21/01/2017		18	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	05/02/2017	11/01/2018	39	Male	White	Suicide
HMP Barlinnie	19/02/2017	19/09/2017	39	Male	White	Suicide
HMP Castle Huntly	02/03/2017		64	Male	White	Not Determined - awaiting FAI
HMP Addiewell	04/03/2017		40	Male	White	Not Determined - awaiting FAI
HMP Glenochil	21/03/2017		56	Male	White	Not Determined - awaiting FAI
HMP Shotts	24/03/2017		32	Male	Asian	Not Determined - awaiting FAI
HMP Barlinnie	25/03/2017		44	Male	White	Not Determined - awaiting FAI
HMP Addiewell	20/04/2017		67	Male	White	Natural Cause - Sudden
HMP Shotts	17/05/2017		46	Male	White	Not Determined - awaiting FAI
HMP Grampian	23/06/2017		67	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	02/07/2017		49	Male	White	Suicide
HMP Addiewell	17/07/2017		29	Male	White	Not Determined - awaiting FAI

DEATHS IN CUSTODY - 2018 to date						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Inverness	03/01/2018		22	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	08/01/2018		49	Male	White	Suicide
HMP Low Moss	10/01/2018		41	Male	White	Not Determined - awaiting FAI
HMP Glenochil	16/01/2018		67	Male	White	Not Determined - awaiting FAI
HMP Glenochil	17/02/2018		46	Male	White	Not Determined - awaiting FAI
HMP Edinburgh	08/03/2018		47	Male	White	Not Determined - awaiting FAI
HMP Grampian	10/03/2018		37	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	27/03/2018		43	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	25/04/2018		49	Male	White	Not Determined - awaiting FAI
HMP Perth	29/05/2018		66	Male	White	Not Determined - awaiting FAI
HMPYOI Polmont	04/06/2018		21	Female	White	Not Determined - awaiting FAI
HMP Glenochil	11/06/2018		33	Male	White	Not Determined - awaiting FAI
HMP Perth	14/06/2018		22	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	17/06/2018		33	Male	White	Not Determined - awaiting FAI
HMP Perth	21/06/2018		37	Male	White	Not Determined - awaiting FAI

DEATHS IN CUSTODY - 2018 to date						
Establishment	Date of Death	FAI Concluded	Age	Gender	Ethnic Group	Death By
HMP Castle Huntly	29/06/2018		47	Male	White	Not Determined - awaiting FAI
HMP Barlinnie	06/07/2018		44	Male	White	Not Determined - awaiting FAI
HMP Perth	19/07/2018		47	Male	White	Not Determined - awaiting FAI
HMP Addiewell	27/07/2018		56	Male	White	Not Determined - awaiting FAI
Total						19



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