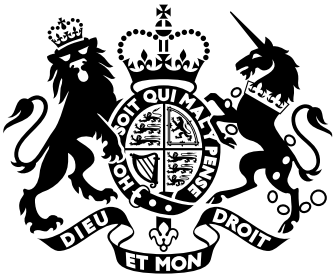
national preventive mechanism

Monitoring places of detention during COVID-19

12th **Annual Report** of the United Kingdom's National Preventive Mechanism **2020/2021**

CP 607



Monitoring places of detention during COVID-19

12th Annual Report of the United Kingdom's National Preventive Mechanism

2020-2021

Presented to Parliament by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty
February 2022

CP 607

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Foreword by John Wadham, NPM Chair

This National Preventive Mechanism (NPM) annual reporting year has been dominated by the COVID-19 pandemic. This unprecedented situation has posed a distinct threat to people in detention because they are often kept in close confinement and are wholly reliant on the state for their care. The 12th annual report by the NPM focuses exclusively on the unique challenges this has brought to both NPM members and people deprived of their liberty in the UK.

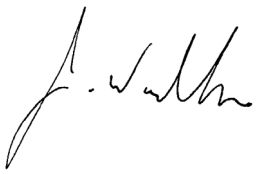
During this difficult period, the NPM's role has been more important than ever. NPM members worked hard to ensure that independent detention monitoring continued to be carried out. The pandemic has also generated important international human rights guidance on COVID-19 which has emphasised that protective measures to combat COVID-19 must never result in inhuman and degrading treatment of persons deprived of their liberty.

NPM evidence, collected during the first year of COVID-19, shows the commendable response from authorities in limiting the spread of COVID-19 in detention. The projections for the rates of infection, hospitalisation and death in detention settings were frighteningly high, and while there were sadly deaths in detention due to COVID-19, the NPM's members found that effective measures were put in place to keep the crisis largely under control.

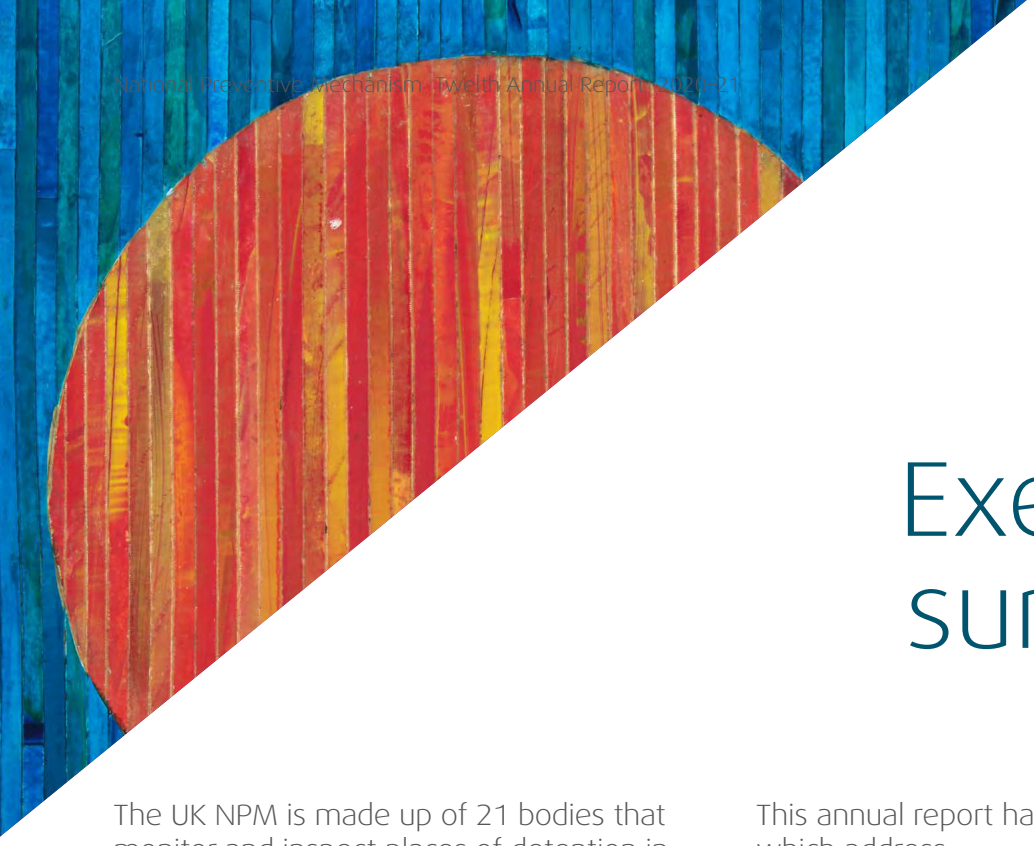
However, the impact of these restrictions cannot be underestimated. NPM members found significant human rights concerns in detention during the first year of the pandemic. There was evidence of isolating prisoners being kept in conditions that meet the widely accepted definition of solitary confinement. Serious safeguarding concerns were raised about the lack of social care provision for some very vulnerable prisoners with disabilities. Some children spent extremely limited amounts of time out of cell, which was both disproportionate and avoidable. Almost all detainees in long-term detention settings in the UK faced issues in maintaining contact with their families as in-person social visits were suspended. We also report on patients detained in hospitals facing severe delays to their care pathways to less secure facilities or placements in the community due to COVID-19. On a positive note, NPM members reported that virtual arrangements developed for those in detention to keep in touch with the outside world during the pandemic were generally implemented effectively.

The threat of COVID-19 will certainly be felt for years to come. Therefore, I hope you find the 12th NPM annual report useful in its attempt to document how inspection and monitoring work has continued during the pandemic, and to reveal findings on the treatment of people in detention during this challenging year.

It is vital that the government takes the necessary steps to properly analyse and address reported NPM concerns, and ensures that measures are in place to prevent these issues recurring as we continue to deal with the pandemic. NPM members will continue to monitor and report on these issues



John Wadham
Chair
UK National Preventive Mechanism



Executive summary

The UK NPM is made up of 21 bodies that monitor and inspect places of detention in the UK to prevent torture and ill-treatment for those deprived of their liberty. NPM members work collectively to fulfil the NPM's mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

OPCAT is designed to strengthen protections for people deprived of their liberty, as they are particularly vulnerable to ill-treatment. According to OPCAT, efforts to combat torture and ill-treatment should focus on its prevention, which is best achieved by setting up an NPM to visit all places of detention independently and on a regular basis. The UK ratified OPCAT in December 2003 and designated its NPM in March 2009.

The NPM annual report this year focuses on the impact of the COVID-19 pandemic on both the NPM's approach to monitoring in detention, as well as on people in detention. It updates and builds on information provided in the NPM factsheet, **'Preventing ill-treatment in the context of COVID-19'**, and the NPM July 2020 **submission to the Joint Committee on Human Rights inquiry into COVID-19**.

UK-wide lockdown measures imposed to limit the spread of COVID-19 in March 2020 dramatically altered day-to-day life for people deprived of their liberty. In-person social visits were initially suspended, face-to-face education was limited and crucial detainee advocacy services became virtual.

This annual report has four chapters which address:

- recent international human rights guidance on COVID-19 and its relation to people in detention
- the necessary changes that NPM members made to their detention monitoring methodologies due to the risks of COVID-19, with examples
- emerging themes from across the UK facing people in detention during the first year of the pandemic (outlined in brief below)
- key additional highlights from the NPM Secretariat's work in 2020 to 2021

Scope and methodology

This report includes information on the situation for people in detention in England, Wales, Scotland and Northern Ireland, and covers the period from 23 March 2020 to 1 April 2021.

The information presented in this report was gathered by asking NPM members about their key findings from monitoring and inspecting places of detention across the year. The NPM Secretariat asked members to complete a COVID-19 evidence template with their findings at two stages (from March to June 2020, and from June to September 2020) in order to collect, analyse and compare information at different stages of the pandemic. The report also references published findings from NPM members on places of detention up until April 2021.

Key emerging themes

Despite the range of organisations making up the UK NPM and the different types of detention they monitor, members are nonetheless able to identify common issues. From NPM member evidence collected during the first year of the pandemic, the following key themes emerged.

- From the outset of the pandemic, effective measures appeared to be put in place across places of detention to protect people from the risk of COVID-19.
- NPM members raised significant concerns about the severity of restrictions used to limit the spread of COVID-19, which were widespread and used over considerable periods of time, often without adequate safeguards.
- Prolonged time in cells had a cumulative impact on prisoners' mental health and led to spikes in self-harm, particularly in the women's estate, and remained an ongoing concern.
- The suspension of in-person social visits greatly affected people in detention, but many establishments successfully implemented virtual alternatives, including rapid access to video visits in some prisons. NPM members welcomed this, but noted that these alternative methods should not replace face-to-face visits.
- Children and young people in detention have been distinctly impacted by COVID-19 restrictions, with evidence of unacceptable treatment for some children in the secure estate. However, best practice was seen in secure children's homes where, after the initial period of the pandemic, children were engaged in an almost normal routine, including full-time education.
- The effective and safe implementation of public health guidance in places of detention posed significant challenges, including difficulties maintaining social distancing.
- There was a mixed picture on the use of alternatives to detention to reduce detained populations, with an initial dramatic reduction in the use of immigration detention but negligible progress for other forms of detention.
- An increase in the time detainees were required to stay in police custody and transportation vehicles was observed in multiple settings, with the exception of Scotland.
- The right to legal representation and other critical safeguards for detainees were not always maintained or applied consistently.
- Lengthy delays to progression, rehabilitation and care pathways were observed in many different detention settings.

Types of detention

Prisons and young offender institutions

- HMI Prisons (with CQC and Ofsted), and IMB (England)
- HMI Prisons (with HIW) and IMB (Wales)
- HMIPS with CI, SHRC and MWCS (Scotland)
- CJINI and HMI Prisons with RQIA, and IMB NI (Northern Ireland)

Police custody

- HMICFRS, HMI Prisons, and ICVA (England and Wales)
- HMICS, ICVS (Scotland)
- CJINI with RQIA, NIPBICVS (Northern Ireland)

Escort and court custody

- Lay Observers and HMI Prisons (England and Wales)
- HMIPS (Scotland)
- CJINI (Northern Ireland)

Detention under the Terrorism Act

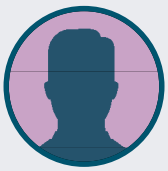
- IRTL (United Kingdom)
- ICVA (England and Wales)
- ICVS (Scotland)
- NIPBICVS (Northern Ireland)

Children in secure accommodation

- Ofsted (jointly with HMI Prisons and CQC in relation to secure training centres (England)
- CIW (Wales)
- CI (Scotland)
- RQIA, and CJINI (Northern Ireland)

Children (all detention settings)

- CCE (England)



Detention under Mental Health Law

- CQC (England)
- HIW (Wales)
- MWCS (Scotland)
- RQIA (Northern Ireland)

Deprivation of liberty and other safeguards in health and social care

- CQC (England)
- HIW and CIW (Wales)
- CI and MWCS (Scotland)
- RQIA (Northern Ireland)

Immigration detention

- HMI Prisons and IMB (England, Wales and Scotland)
- HMI Prisons with CJINI, IMB (Northern Ireland)

Military detention

- HMI Prisons (United Kingdom)

Customs custody facilities

- HMICFRS, HMI Prisons and HMICS (United Kingdom)

Geographical coverage

Scotland

- Her Majesty's Inspectorate of Prisons for Scotland (HMIPS)
- Her Majesty's Inspectorate of Constabulary in Scotland (HMICS)
- Independent Custody Visiting Scotland (ICVS)
- Mental Welfare Commission for Scotland (MWCS)
- Scottish Human Rights Commission (SHRC)
- Care Inspectorate (CI)

England

- Care Quality Commission (CQC)
- Children's Commissioner for England (CCE)
- Office for Standards in Education, Children's Services and Skills (Ofsted)

United Kingdom

- Independent Reviewer of Terrorism Legislation (IRTL)

Northern Ireland

- Criminal Justice Inspection Northern Ireland (CJINI)
- Independent Monitoring Boards for Northern Ireland (IMB NI)
- Northern Ireland Policing Board Independent Custody Visiting Scheme (NIPBICVS)
- Regulation and Quality Improvement Authority (RQIA)

Wales

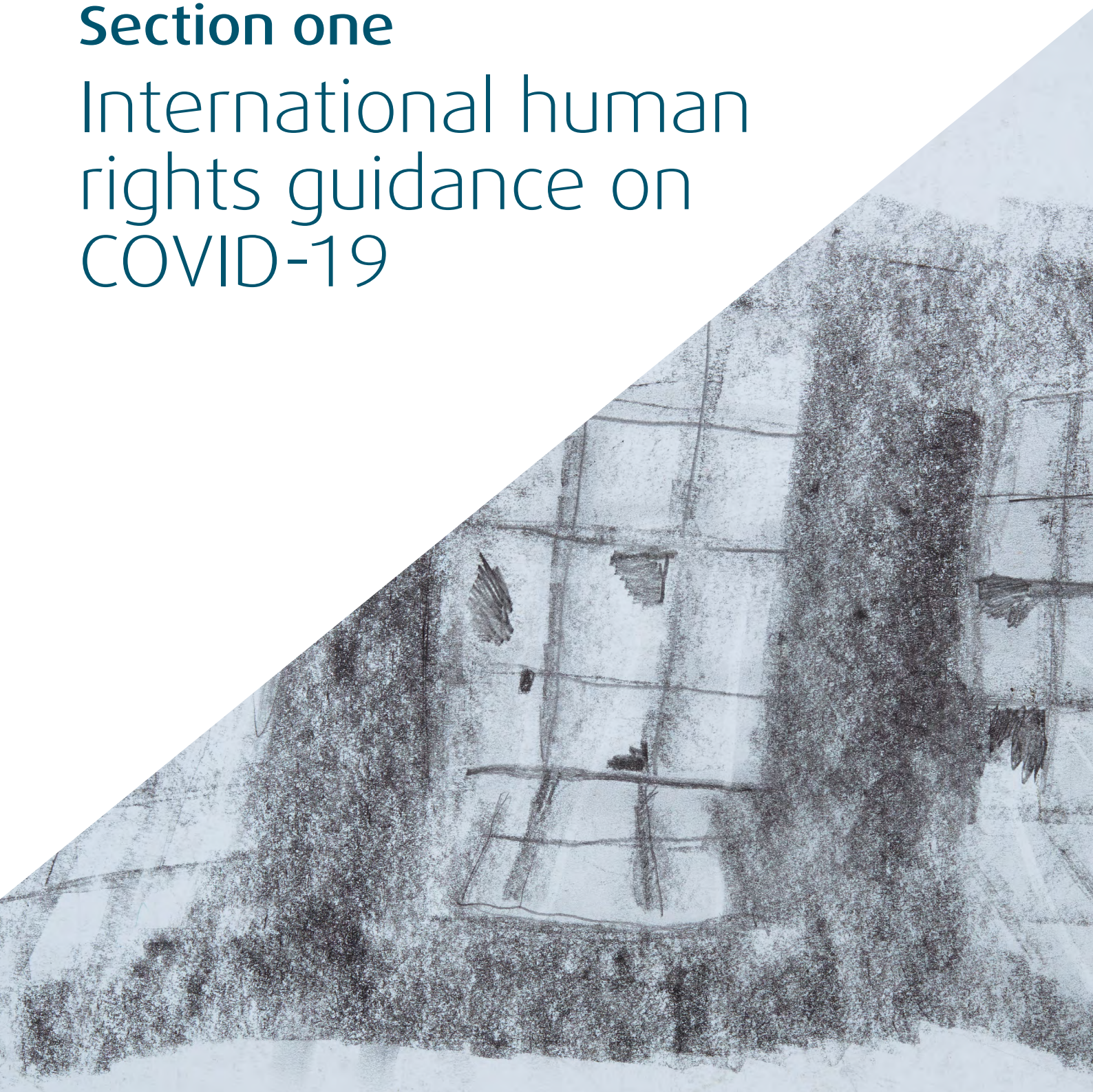
- Care Inspectorate Wales (CIW)
- Healthcare Inspectorate Wales (HIW)

England and Wales

- Her Majesty's Inspectorate of Prisons (HMI Prisons)
- Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)
- Independent Custody Visiting Association (ICVA)
- Independent Monitoring Boards (IMB)
- Lay Observers (LO)

Section one

International human rights guidance on COVID-19



The NPM welcomes valuable guidance issued by international bodies regarding COVID-19 and the human rights of people deprived of their liberty.[1] NPM work has been guided by the following advice in particular:

- World Health Organisation's (WHO) interim guidance, **'Preparedness, prevention and control of COVID-19 in prisons and other places of detention'**
- UN Subcommittee on Prevention of Torture (SPT), **'Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic'**
- Council of Europe Committee for the Prevention of Torture (CPT), **'Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic'**
- UN Working Group on Arbitrary Detention, **'Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies'**

This guidance unequivocally outlines that COVID-19 poses a distinct threat for people in detention. As the SPT highlights, persons deprived of their liberty "comprise a particularly vulnerable group owing to the nature of the restrictions which are already placed upon them and their limited capacity to take precautionary measures".[2]

International guidance also emphasises that people in detention are at greater risk of ill-treatment in the context of COVID-19. The WHO notes that "people in prisons and other places of detention are not only likely to be more vulnerable to infection with COVID-19, they are also especially vulnerable to human rights violations".[3] The CPT reminds detention authorities that "protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty".[4]

International guidance is therefore clear on the need to put human rights at the centre of decision making on COVID-19. States must ensure that all measures taken in response to COVID-19 in detention settings are lawful, proportionate and necessary.

1 OPCAT Article 4 (2) defines deprivation of liberty as "any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority".

2 UN SPT, March 2020, *Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on 25 March 2020)*, **https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf**

3 WHO Europe, March 2020, *Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance*, **https://apps.who.int/iris/bitstream/handle/10665/336525/WHO-EURO-2020-1405-41155-55954-eng.pdf?sequence=1&isAllowed=y**

4 CPT, March 2020, *Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic*, **https://rm.coe.int/16809cfa4b**. In a follow-up to their 'statement of principles', the CPT highlights that the pandemic has taken place "against the background of pre-existing flaws in various criminal justice systems" in an environment which has been the subject of CPT recommendations for very many years. Elsewhere in the detention estate, the CPT stresses that the people in detention hit hardest by the pandemic were those in settings which had not implemented key recommendations made by the CPT to uphold the rights of people in detention – see **https://www.coe.int/en/web/cpt/-/covid-19-cpt-issues-follow-up-statement**.

The WHO, SPT, CPT and UN Working Group on Arbitrary Detention outline steps that governments and detention authorities should take to protect people in detention during COVID-19, which are detailed here.

Equivalence of care

During COVID-19, there continues to be a requirement for governments to ensure that people in detention and deprived of their liberty receive the same standard of healthcare as people in the community. Providing equivalence of care is a key part of a state's obligations under the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).[5] The SPT emphasises the need to ensure that people in detention are provided with the facilities and resources for the same level of personal hygiene as the rest of the population.[6] The CPT states that special attention must be paid to vulnerable and at-risk people in detention. People in detention should also be offered psychological support during the pandemic.[7]

Reducing detained populations

Where possible, authorities should make use of alternatives to deprivation of liberty and reduce detained populations through early, provisional or temporary release for detainees. Reducing detained populations can help mitigate the inherent risk of maintaining people in close confinement. This is particularly important for detainees with underlying health conditions, children and those in other vulnerable categories. The UN Working Group on Arbitrary Detention recommends that governments refrain from detaining those older than 60, pregnant women, women who are breastfeeding, persons with underlying health issues and persons with disabilities.[8]

5 United Nations, January 2016, *Standard minimum rules for the treatment of prisoners*, (the Nelson Mandela Rules), Rule 24, **https://undocs.org/A/RES/70/175**

6 UN SPT, March 2020, *Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on 25 March 2020)*, Part II Paragraph 10, **https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf**

7 CPT, March 2020, *Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic*, **https://rm.coe.int/16809cfa4b**, Principle 6

8 UN Working Group on Arbitrary Detention, May 2020, *Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies*, Part IV Paragraph 15, **https://www.ohchr.org/Documents/Issues/Detention/DeliberationNo11.pdf**

Medical isolation

Medical isolation should only be authorised by medical professionals. It is critical that the use of isolation in places of detention to control the spread of COVID-19 is proportionate and subject to safeguards to prevent ill-treatment. It is also vital that people in detention are kept informed of the reasons for their isolation.[9] The CPT states that people in medical isolation or quarantine should be provided with meaningful human contact every day.[10]

Visits

People in detention and deprived of their liberty should be able to maintain contact with their families and the outside world. Given the suspension or reduction of in-person visits in places of detention to limit the spread of COVID-19, international guidance reiterates the need for adequate access to alternatives, such as video-call technology or additional telephone access. Alternatives to in-person visits should, according to the SPT, be frequent and free.[11]

Independent scrutiny of places of detention

Places of detention, including places of quarantine, must be subject to independent oversight and monitoring. The COVID-19 outbreak must not be used by the state as justification for objecting to visits from the NPM and other independent visiting bodies. Indeed, the role of visiting bodies is crucial during COVID-19, as people in detention are placed under more restrictions that may engage their human rights.

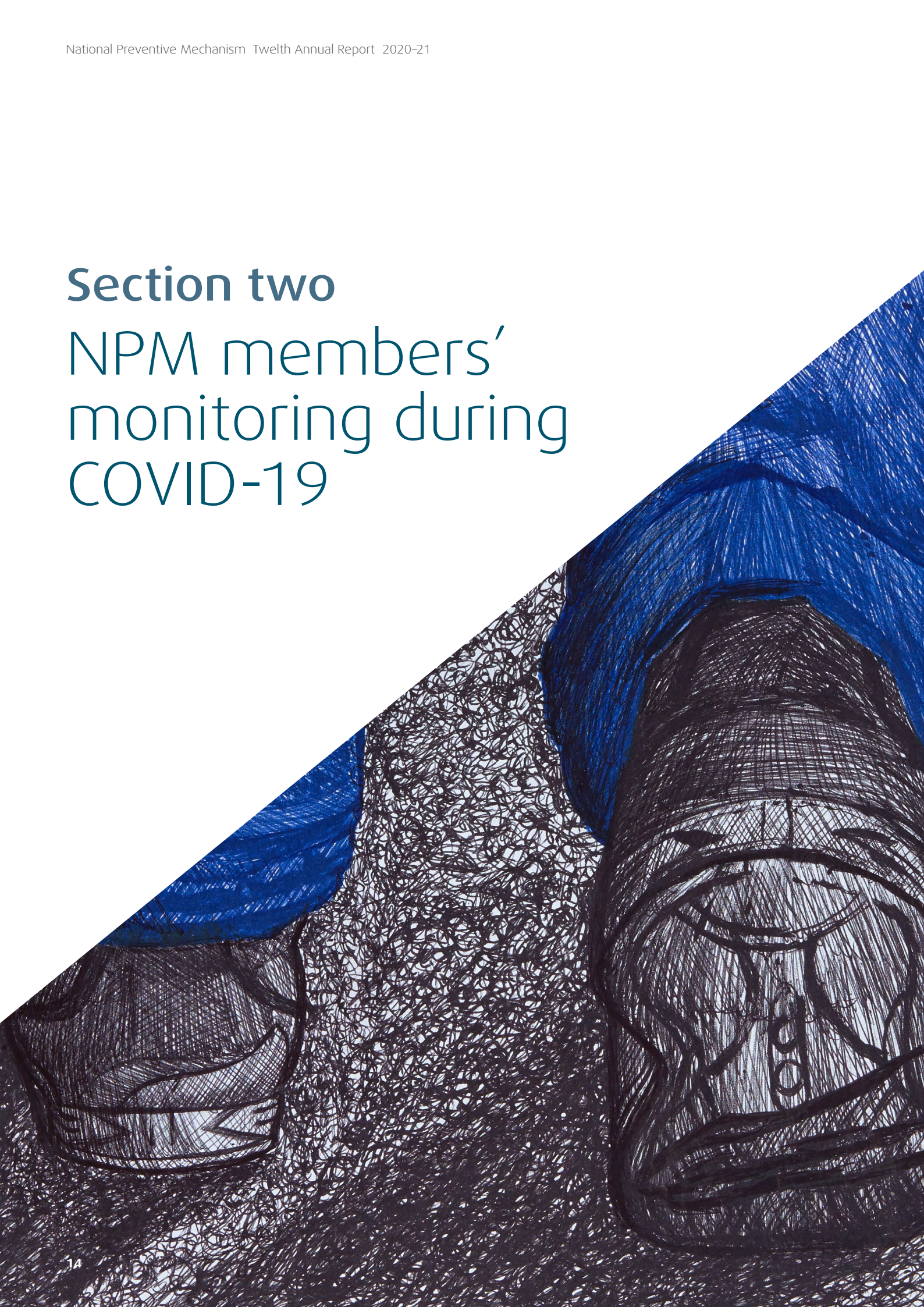
9 WHO Europe, March 2020, *Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance*, **https://apps.who.int/iris/bitstream/handle/10665/336525/WHO-EURO-2020-1405-41155-55954-eng.pdf?sequence=1&isAllowed=y**, Part 3

10 CPT, March 2020, *Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic*, **https://rm.coe.int/16809cfa4b**, Principle 8

11 UN SPT, March 2020, *Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on 25 March 2020)*, Part II Paragraph 11, **https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf**

Section two

NPM members' monitoring during COVID-19



Throughout the pandemic, many NPM members prioritised developing alternative approaches to monitoring, to fulfil their statutory functions to report on the situation in places of detention and prevent ill-treatment.

NPM members adapted their monitoring methodologies to ensure that they uphold the principle of 'do no harm', by taking every possible step to minimise risk of spreading the virus to both people and staff in detention when undertaking visits.

To date, these new approaches to monitoring places of detention across the NPM in the context of COVID-19 have included:

- adapting methodologies to perform shorter and more focused on-site visits – in many cases, these visits have been based on data from a more varied range of sources and have focused on a smaller number of themes, such as safety
- using confidential phone hotlines, as well as video and online services and technology, to enable direct, remote contact with people in detention
- monitoring data on detention requested both at a national level and from individual detention establishments
- organising remote meetings with staff and volunteers and delivering a programme of remote, online training
- modifying the type and frequency of reporting, with some members issuing more regular reports on findings from on-site visits and remote monitoring to detention authorities
- working with non-governmental organisations, advocacy groups and other members of civil society to gather information about the situation in detention, and to contact people in detention

The following table highlights examples of the approach to detention monitoring taken by some individual NPM members during the pandemic.

NPM member	Detention settings	Monitoring approach during COVID-19
Independent Monitoring Boards (IMBs)	Prisons, Young Offender Institutions (YOIs) and Immigration Removal Centres (IRCs)	IMBs conducted limited on-site visits to prisons, YOIs and IRCs within public health guidelines during the first year of COVID-19. Remote monitoring methods were developed by the IMB Secretariat at the beginning of the pandemic. This included the setting up of a freephone application line for prisoners and detainees in IRCs. Between April 2020 and May 2021 over 10,000 calls were received. Other remote monitoring methods implemented included contact with prisoners and wing representatives via in-cell telephones, surveys of prisoners, ensuring IMBs receive daily updates from individual establishments and dialling into reviews on prisoners' segregation.

NPM member	Detention settings	Monitoring approach during COVID-19
Her Majesty's Inspectorate of Prisons (HMI Prisons)	Prisons, YOIs and IRCs	HMI Prisons suspended their full inspection programme on 17 March 2020. HMI Prisons announced the **short scrutiny visits (SSVs)** model on 8 April 2020. SSVs took place in prisons, YOIs and IRCs and involved a small team of inspectors visiting establishments for one day. During an SSV, inspectors focused on essential issues such as safety. SSVs were replaced in August 2020 by **scrutiny visits**, which were short inspections that took place over two days. Scrutiny visits took place in prisons, YOIs and IRCs and reintroduced the prisoner/detainee survey.
Her Majesty's Inspectorate of Prisons in Scotland (HMIPS)	Prisons, YOIs and court custody units	HMIPS developed an adapted methodology to inspection and monitoring, resulting in a **Remote Monitoring Framework** and a **Liaison Visits Framework**. Liaison visits to prisons and court custody units were carried out by two to three inspectors and, where possible, a representative from Health Improvement Scotland, the Care Inspectorate (CI) and Education Scotland. Visits took place over two days, as opposed to one to two weeks, and HMIPS visited every establishment and working court custody unit during COVID-19. HMIPS engaged in remote monitoring which involves telephone calls to prisoners and staff and comprehensive data collection. A blended model for prisons of on-site and remote monitoring with volunteers was subsequently developed.

NPM member	Detention settings	Monitoring approach during COVID-19
Independent Custody Visiting Association (ICVA)	Police custody and detention under the Terrorism Act	Some independent custody visitors continued to conduct unannounced, in-person visits to people detained in police custody and under terrorism legislation to check on their rights, entitlements and wellbeing. Independent custody visitors were designated as key workers by the Home Office to ensure that visits could continue during the pandemic. ICVA developed their guidance on how independent custody visitors should carry out monitoring in the context of COVID-19, including remote monitoring. Volunteers collected data from police custody and schemes carried out reviews of detainees' custody records to monitor their treatment. ICVA also has an online hub where scheme managers can share ideas and resources on monitoring during the pandemic. The Scottish Government did not provide the same for independent custody visitors in Scotland. Independent Custody Visiting Scotland ceased visiting in March 2020 and carried out telephone, virtual and dip sampling of custody records.
Care Quality Commission (CQC)	Detention under mental health law and deprivation of liberty and other safeguards in health and social care	CQC temporarily suspended their programme of routine inspections on 16 March 2020. However, CQC conducted some on-site visits to places of mental health detention and care homes to follow up on specific concerns. Routine Mental Health Act monitoring has taken place by telephone or video conference. In 2020/21, CQC carried out 628 remote monitoring reviews of wards and spoke with 1,916 patients, 1,113 carers, and advocates and ward staff.

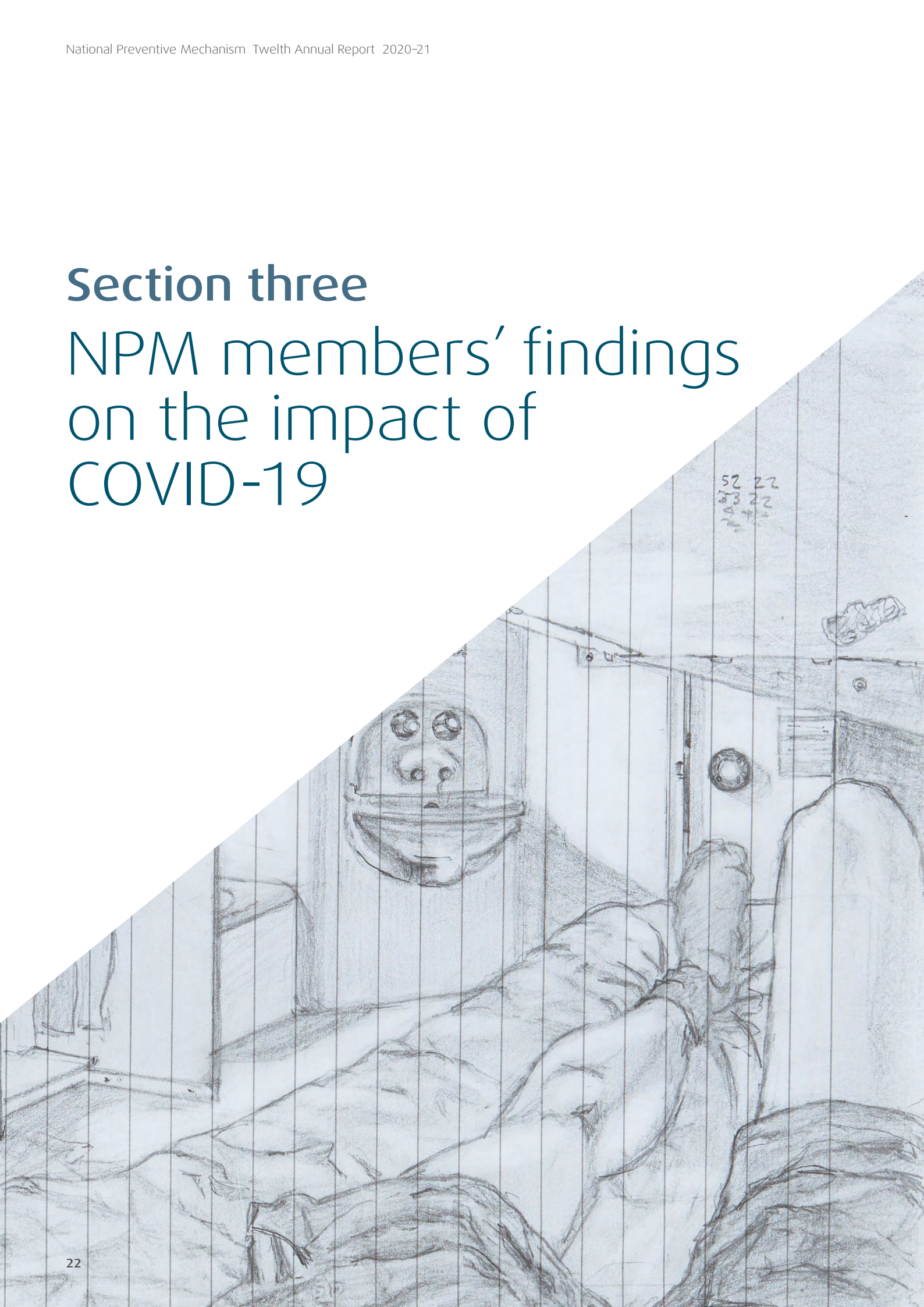
NPM member	Detention settings	Monitoring approach during COVID-19
Healthcare Inspectorate Wales (HIW)	Detention under mental health law and deprivation of liberty and other safeguards in health and social care	HIW temporarily paused routine inspection and review activity in March 2020, undertaking a small number of on-site visits in response to specific concerns, such as higher-than-usual numbers of reportable incidents and concerns raised by HIW's risk and escalation process. Remote quality checks were undertaken to seek assurance from healthcare services. Telephone monitoring arrangements (established in partnership with Welsh NHS commissioners and the National Collaborative Commissioning Unit) were implemented for independent hospitals to check on COVID-19 outbreaks, staffing levels, patient wellbeing and Personal Protective Equipment (PPE) availability. The Review Service for Mental Health was continued through digitally enabled means and video/ teleconferencing arrangements.
Regulation and Quality Improvement Authority (RQIA)	Prisons and YOIs, with the Criminal Justice Inspection Northern Ireland (CJINI) and HMI Prisons, police custody (with CJINI), children in secure ccommodation Detention under mental health law and deprivation of liberty and other safeguards in health care	In March 2020, RQIA reduced its non-statutory inspections and adopted a targeted approach on the basis of risk, continuing to inspect and using both on-site and remote inspections as required. This followed a Department of Health and Social Care direction enabling RQIA to prioritise its inspections on an evidence, intelligence-led and risk-assessed basis. Where evidence indicated risk that further inspection or monitoring was required, RQIA implemented an Inspection Decision Making Procedure which informed how inspections were to be completed – i.e. remotely (using technology), on-site or a blended approach. Between March 2020 and April 2021, RQIA conducted 957 inspections across the health and social care sector, inpatient facilities including mental health and learning disability hospitals, care homes, children's homes, supported living facilities and prisons. Of these, 712 inspections were on-site.

NPM member	Detention settings	Monitoring approach during COVID-19
Her Majesty's Inspectorate of constabulary in Scotland (HMICS)	Police custody and custom custody facilities	HMICS introduced a remote monitoring approach for police custody centres. This included regular meetings with the Police Scotland continuous improvement unit, and with independent custody visitors. HMICS has monitored custody throughput data provided weekly and maintained close links with Police Scotland in respect of progress with the custody transformation strategy.
Mental Welfare Commission for Scotland (MWCS)	Detention under mental health law and restrictions according to incapacity legislation	MWCS postponed scheduled visits in March 2020 and returned to a visiting programme in August 2020. All subsequent visits have been undertaken on an announced basis. Monitoring, telephone advice and guidance continued throughout, as well as the provision of written guidance specifically related to COVID-19 and intelligence gathering.
Lay Observers (LOs)	Escort and court custody	LOs reluctantly ceased all in-person monitoring in March 2020. A programme of remote monitoring was established using focused questions to identify treatment of detainees. Regular reports were presented to Police Escort Custody Services and the HM Courts and Tribunals Service, with whom remote meetings were held to discuss the findings. LOs noted positive responses and continued improvement in a number of areas of concern. In late July 2020, LOs returned to visiting until lockdown procedures in October 2020 resulted in a further suspension of in-person visits. LOs continued to report frequently on remote contacts presenting at the height of restrictions. There were 128 reports in a single month (November 2020).

NPM member	Detention settings	Monitoring approach during COVID-19
Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)	Police custody and custom custody facilities	HMICFRS carried out a thematic inspection to assess how police forces were responding to the pandemic. This looked at how well forces avoided custody if possible, and how detainee risks, care and individual rights were managed. A range of techniques were used to gather the inspection evidence, including limited fieldwork in some forces. In addition, HMICFRS worked with other organisations to gather and monitor important information to show how detainees in police custody were being affected by the requirements to keep everyone safe and minimise COVID-19 risks in the custody environment.

Section three

NPM members' findings on the impact of COVID-19



In this chapter, we report on NPM members' findings on the situation for people in detention and otherwise deprived of their liberty during the first year of COVID-19 (from March 2020 to April 2021).

1. Preservation of life from risk of COVID-19

1.1 International human rights guidance on COVID-19 makes clear that detained populations are at greater risk of COVID-19 infection. Sadly, there were deaths in places of detention across the UK as a result of COVID-19. However, NPM members found that swift and effective measures were put in place across UK detention settings to limit the spread of COVID-19.

1.2 In the early stages of the pandemic, there were fears about the potentially high rate of infection, hospitalisation and death in prisons as a result of COVID-19.[12] However, in June 2020, the IMBs found that prison authorities in England and Wales had "taken decisive action to minimise risks, so that there have been no explosive COVID-19 infections in prisons, as feared, and far fewer deaths" in the first wave of the pandemic.[13] Such actions included restricting the regimes in prisons and isolating all new, vulnerable or symptomatic prisoners. NPM members in Scotland praised detention authorities for reducing the number of people in prisons in response to COVID-19.[14]

1.3 HMI Prisons reported that in surveys sent to all staff in prisons subject to SSVs, the majority believed that reasonable steps had been taken to keep them and prisoners safe.[15] Prisoners themselves reported to HMI Prisons that they felt the initial response from the prison service was "necessary and effective in keeping them safe from COVID-19".[16]

1.4 Independent custody visiting schemes in England and Wales found that important measures were put in place to limit the spread of COVID-19. For example, ICVA received reports of increased showers, custody hygiene and enhanced care for children in custody (see Section 6 of this chapter for more on the implementation of public health guidance in detention settings).[17] Robust measures were put in place in police custody centres in Scotland to limit the spread of COVID-19. These included the introduction of designated custody

12 Ministry of Justice, Public Health England and Her Majesty's Prison and Probation Service, April 2020, *Briefing paper – interim assessment of impact of various population management strategies in prisons in response to COVID-19 pandemic in England,* **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882622/covid-19-population-management-strategy-prisons.pdf**

13 IMB, June 2020, Letter from Dame Anne Owers, National Chair IMB to Sir Bob Neill MP, **https://committees.parliament.uk/publications/1416/documents/12925/default/**

14 HM Chief Inspector of Prisons Scotland - Annual Report 2019-20 **https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/HM%20Chief%20Inspectors%20Annual%20Report%202019-20.pdf**

15 HMI Prisons, July 2020, *Short scrutiny visit aggregate report,* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/08/SSV-aggregate-report-web-2020.pdf**

16 HMI Prisons, February 2021, *What happens to prisoners in a pandemic?,* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

17 ICVA, October 2020, *COVID-19 – A six-month review,* **https://icva.org.uk/wp-content/uploads/2020/10/Covid-6-Month-Review-FINAL.pdf**

centres for individuals at risk of infection, enhanced PPE and cleaning processes, a separate booking-in process for at-risk individuals, and increased focus on custody disposal decision making to minimise the number of individuals held in custody to appear at court.

2. The situation for children in detention

2.1 Children deprived of their liberty across the UK are a vulnerable population with particular needs. While it is clear that some secure settings for children maintained a high level of care during the first year of COVID-19, this was not the case across all establishments. NPM members who monitor YOIs, secure training centres (STCs), secure children's homes (SCHs) and children's mental health facilities found that excessive COVID-19 restrictions to rooms and cells, along with disruptions to education and in-person visits, had a distinct and sometimes extremely negative impact on children detained in these settings.

Time out of cells, rooms and wards

2.2 Children in YOIs and STCs were restricted to their cells for excessive periods of time during the first several months of COVID-19. In May 2020, the Children's Commissioner for England (CCE) reported that some children in YOIs and STCs in England were allowed at most three hours and as little as 40 minutes outside their cells per day, presenting potentially serious consequences for children's rights, wellbeing and long-term outcomes.[18] HMI Prisons and IMBs also found concerning disparities in the regimes offered to children at the YOIs across England and Wales in April 2020.[19] For example, time out of cell was around 40 minutes at Cookham Wood, one hour at Wetherby and just over three hours at Parc.[20] HMI Prisons carried out a second visit to YOIs in July 2020. They found that nearly all children had been locked up for more than 22 hours every day since COVID-19-related restrictions began, some 15 weeks prior to their visit.[21]

2.3 By January 2021, indicative data suggests that the average time out of cell for children in YOIs in England was 4 hours and 40 minutes (up by one hour from August 2020). However, this average covers a wide range of actual regimes and CCE stresses the large differences in timetables offered to children in YOIs at the weekends, when time out of cell was on average much lower.[22] It is the NPM's view that while an increase in time out of cells, rooms and wards is welcome, every establishment should be providing as much time out of these settings as possible.

18 Children's Commissioner for England, May 2020, *Briefing: Children in custody,* **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/05/cco-children-in-custody.pdf**

19 Letter from IMB to Sir Bob Neil MP – Update on Independent Monitoring Board findings **https://committees.parliament.uk/publications/1416/documents/12925/default/**

20 HMI Prisons, April 2020, *Report on short scrutiny visits to young offender institutions holding children,* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/05/YOIs-SSV-Web-2020-1.pdf**

21 HMI Prisons, July 2020, *Report on short scrutiny visits to young offender institutions holding children,* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/07/YOI-SSV-2.pdf**

22 Children's Commissioner for England, May 2020, Briefing: Children in custody, **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2021/02/cco-children-in-custody-during-lockdown.pdf**

Good practice in SCHs

The situation was starkly different for children detained in SCHs across the UK.

In SCHs in England, Ofsted found that from May 2020 to April 2021, children were generally offered a normal daily routine including full-time face-to-face education.

In Northern Ireland, RQIA and CJINI reported that children detained in Lakewood House SCH and Woodlands Juvenile Justice Centre were not restricted to their rooms or cells in the same way. For example, CJINI reports that children were out of their rooms for about 19 hours per day.

In Wales, at Hillside SCH there were a number of periods of lockdown due to outbreaks of COVID-19 mainly amongst staff, although some young people were affected. The responses to these outbreaks caused some initial concerns regarding the length of time that children were in isolation. However, discussion between providers and Care Inspectorate Wales (CIW) facilitated alternative ways of managing the situation. An additional area for admissions was opened and the service responded rapidly by setting up their own COVID-19 testing regime for staff. This led to the service being very quick at identifying risk and taking responsive action to avoid the spread of COVID-19.

In Scotland, secure accommodation for children operated 'bubble arrangements' to minimise the risk of outbreaks, which was structured on a unit-by-unit basis. This did limit young people's opportunities, but they continued to socialise and mix within their bubble or unit. Children were required to isolate on arrival in secure accommodation, but these timescales were reduced as testing capacity improved throughout the year. CI found that services were proactive and considered in their support of children's admissions during this period. However, at the other end of their stays, CI reported that some children left secure accommodation without the normal introductory visits to services that they were moving on to, where visits were precluded by COVID-19 restrictions.

Good practice at the Woodlands Justice Juvenile Centre in Northern Ireland

CJINI reported that the Woodlands Juvenile Justice Centre in Northern Ireland struck an effective balance between the requirement to isolate and the wellbeing young people. This was achieved by using testing widely and in early November 2020 at Woodlands, an internal 'track and trace' system was introduced to help reduce and monitor the movement of people and the use of 'bubbles'. In January 2021, Woodlands implemented a two-stage isolation process.

All young people admitted are accommodated in one house, tested on admission and kept in isolation in their bedrooms for up to 72 hours or until the results are known. If they test negative, step-down units to phase young people out of the isolation unit are used, where they have free movement, access to activities and a courtyard. Second tests are undertaken until five days are complete. Masks and sanitisation are used. Those testing positive continue to isolate in accordance with public health guidance. It should be noted that this process was aided by very low numbers of young people in the centre.

2.4 Newly admitted children to SCHs in England were required to isolate for 14 days on arrival. The same policy was in place in the early stages of the pandemic at the SCH in Wales. Ofsted reported that this policy had a negative impact on vulnerable children's wellbeing, with the 14-day isolation undermining children's safety and sometimes leading to physical attacks or self-harm.[23] Ofsted notes that practice has since developed as COVID-19 PCR tests are available for day one and day five. If both are negative, the isolation period can end. However, this has presented challenges as many of the test results are not received promptly so in practice, some young people are still undergoing seven to ten days of isolation.

2.5 Children living in mental health wards under normal circumstances are usually entitled to leave the hospital and spend time in the community. This includes those detained there under the Mental Health Act. CCE found that of the wards they surveyed in England, 94% allowed children to go on trips to local towns prior to COVID-19. But nearly all of these wards (98%) suspended these trips during lockdown.[24] Around three-quarters (78%) of the wards had since resumed these trips, while 22% had not.

23 Ofsted, December 2020, *COVID-19 series: briefing on children's social care providers, November 2020*, **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943485/COVID-19_series_briefing_on_children_s_social_care_providers__November_2020.pdf**

24 Children's Commissioner for England, 2020, *Inpatient mental health wards during COVID-19*, **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/10/cco-inpatient-mental-health-wards-during-covid-19.pdf** (childrenscommisioner.gov.uk)

Education

2.6 NPM members found that education provision for children was offered inconsistently during the course of the pandemic. These inconsistencies were of concern to NPM members, particularly in light of government guidance which states that children who are deemed vulnerable should continue with in-person education.[25] [26]

2.7 In the Juvenile Justice Centre in Northern Ireland, education has still been maintained even with low numbers of young people, except during the first six weeks of restrictions. In addition, Woodlands continued to engage the vocational training tutors who delivered horticulture and catering lessons across the week. In June, this was extended to three and a half hours per day and to four hours per day by August. Young people remained in a 'house bubble'. In comparison, CCE reported that from March to May 2020, only two secure establishments in England and Wales continued offering in-person education to children. Positively, at Oakhill STC, access to taught education increased to 10 hours per week from July and increased to 20 hours per week by the end of September.[27]

2.8 IMBs found that in YOIs in England in the early days of the first national lockdown, very little education was provided. In-cell provision was woefully lacking, poorly delivered and largely consisted of distraction packs rather than learning materials, although there were pockets of good practice.[28] This gradually improved but by the end of 2020, provision still fell well short of the level and standard it had reached prior to the pandemic.

2.9 The CI found reduced teaching hours for children in secure care in Scotland. Virtual and blended teaching were implemented at these times and there continued to be high levels of engagement. The CI found that there appeared to be fewer interruptions to learning for children in secure settings than those in the wider mainstream schools education sector. But young people reported that restricted access to sports halls, gyms and swimming pools frustrated them at times, and this impacted on their moods. RQIA reports that while education at the SCH in Northern Ireland was initially suspended, this changed to a mixture of in-person and remote learning. Ofsted found that in some cases, children were more engaged in education than before the pandemic. This was sometimes because there were fewer children in the SCH, and

25 In their report on children in the secure estate in England, CCE states that the Youth Custody Service made an announcement to protect education, family visits and on-site advocacy for children during the second COVID-19 national lockdown. See Children's Commissioner for England, December 2020, *Injustice of in justice: Children and the justice system,* **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/12/cco-injustice-or-in-justice.pdf**

26 HMI Prisons, July 2020, *Report on short scrutiny visits to young offender institutions holding children,* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/07/YOI-SSV-2.pdf**

27 Children's Commissioner for England, December 2020, *Injustice of in justice: Children and the justice system,* **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/12/cco-injustice-or-in-justice.pdf**

28 YOIs in England 2019/20 annual report (June 2021). See section 3.4 **https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/06/YOI-annual-report-2019-20-for-circulation.pdf**

reduced group sizes meant that teachers had more time to spend with children.[29] Ofsted and CIW in Wales also found that SCHs implemented creative ways to continue providing education for children in Wales. For example, in one home, an outbreak of COVID-19 impacted on most of the teaching staff, leading to self-isolation. They had a plan for such an event and had set up a platform where they could continue teaching remotely, ensuring that children had continuity of education.

2.10 CCE found that many inpatient mental health wards in England suspended face-to-face education. It found that of 53 wards where information was gathered, 47% suspended face-to-face education at some point between 23 March and 31 May 2020.[30] Where face-to-face education provision was suspended, education had to be delivered by ward staff and nurses in some cases, which created extra work as these staff did not have the appropriate training or qualifications. Some wards also found that they had difficulties contacting the schools at which children were enrolled, while other wards moved their education provision online.

Visits

2.11 Children in detention told inspectors and monitors about the negative impact that the loss of most in-person social visits had on their wellbeing. However, NPM members across all settings reported in many instances that virtual visits were implemented effectively to allow for increased contact between children and their loved ones.

2.12 HMI Prisons report that the main complaint from children in England about lockdown restrictions was the suspension of social visits.[31] CCE documented the negative impact that the lack of visits had on children and young people in custody in England, with one child on the helpline reporting that the lack of visits was "the hardest thing I've gone through".[32]

2.13 Ofsted reported that national Public Health England guidance meant that children's families have not been able to visit them, which had a significant impact on children.[33] Despite restrictions, staff in SCHs worked hard to ensure that children kept in contact with their families and people important to them. Staff arranged for children to speak to their families remotely through video

29 Ofsted, December 2020, *COVID-19 series: briefing on children's social care providers, November 2020,* **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943485/COVID-19_series_briefing_on_children_s_social_care_providers__November_2020.pdf**

30 Children's Commissioner for England, 2020, *Inpatient mental health wards during COVID-19,* **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/10/cco-inpatient-mental-health-wards-during-covid-19.pdf** (childrenscommissioner.gov.uk)

31 HMI Prisons, July 2020, *Short scrutiny visit aggregate report,* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/08/SSV-aggregate-report-web-2020.pdf**

32 Children's Commissioner for England, May 2020, *Briefing: Children in custody,* **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/05/cco-children-in-custody.pdf**

33 Ofsted, December 2020, *COVID-19 series: briefing on children's social care providers, November 2020,* **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943485/COVID-19_series_briefing_on_children_s_social_care_providers__November_2020.pdf**

technology and provided technical advice to families. Children were given increased access to phones and other communication devices.

2.14 CCE also documented the impact of reduced in-person social visits in inpatient mental health facilities for children. According to CCE survey data, between 23 March and 31 May 2020, 71% of mental health wards suspended family visits at some point during this period. NHS guidance issued in April 2020 stated that parents should be allowed to visit children in hospital, but CCE found that there was still significant variation in how this was applied and when wards managed to facilitate visits. Nevertheless, 99% of wards reported that children were able to contact their families through virtual means. This is a positive development that many have been advocating for years.[34]

2.15 The CI in Scotland also reported that the main restrictive practice in place for children in secure care was the suspension of visits from family and others in the community. However, the CI in Scotland and CIW in Wales identified the investment made by services in purchasing additional devices to support children to maintain contact with family and friends and to be involved in meetings and other activities. Young people reported that this had worked well for them in most instances. Services also imaginatively repurposed and used the outdoor space available to them to enable face-to-face contact. Nonetheless, it was clear that COVID-19 restrictions impacted on young people's physical access to and contact with their social workers and other professionals, such as psychologists.

2.16 Despite this positive practice, NPM members have highlighted the importance of ensuring that virtual visits do not become a substitute for children meeting with their families and loved ones, bearing in mind that virtual visiting technology is not suitable for all children in detention settings.

Transfers

2.17 There were concerns raised in England about the situation for children who were due to be transferred to the adult estate. Delays in transfers to the adult estate, already reported as a concern prior to the pandemic by IMBs, were exacerbated by the slowdown in transfers across the prison estate designed to reduce the COVID-19 transmission risk. By autumn 2020 at Feltham, 10% of its under-18 cohort were in fact over 18 and awaiting transfer.[35] HMI Prisons heard from children who believed they were not gaining the necessary skills or training to prepare them for the adult estate.[36]

34 Children's Commissioner for England, October 2020, *Inpatient mental health wards during COVID-19*, **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/10/cco-inpatient-mental-health-wards-during-covid-19.pdf**

35 IMB, January 2021, *Annual Report of the Independent Monitoring Board at HMYOI FELTHAM for reporting year 1 November 2019 to 31 August 2020*, **https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/01/AR-Feltham-2019-20-for-circulation.pdf**

36 HMI Prisons, February 2021, *What happens to prisoners in a pandemic?* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

2.18 Research by CCE appears to suggest that the existing issue of delays in discharges back to the community for children in mental health wards has been exacerbated by COVID-19.[37] CCE reports that 38% of wards they spoke to faced challenges discharging patients, with increased difficulty in contacting social care or community mental health teams.

Access to advocates

2.19 CCE reported issues associated with access to advocates for children in custody in England. CCE found that the ability of children in custody to challenge decisions reduced during the first six months of COVID-19. According to data collected from CCE, while advocates were working remotely, there was an 87% decrease in the number of advocacy referrals across all secure settings.[38] Advocacy staff from Barnardo's were not working on-site in YOIs until summer 2020.[39] HMI Prisons reported that it "could see no good reason for the continued decision, made by Barnardo's, to withdraw this service".[40] HMI Prisons also reported that the service had a low profile and many children and staff spoken to were unaware of it.[41]

2.20 CCE also reported that there was a 67% reduction in the number of advocates visiting children living in mental health wards in person during lockdown. This is particularly concerning when things are likely to have been even more difficult for children, and they may have needed to have their concerns heard more than ever. 10% of wards reported that children found it harder to engage with the process when it was done remotely. [42]

37 Children's Commissioner for England, 2020, *Inpatient mental health wards during COVID-19*, **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/10/cco-inpatient-mental-health-wards-during-covid-19.pdf** (childrenscommissioner.gov.uk)

38 Children's Commissioner for England, September 2020, *Childhood in the time of COVID*, **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/09/cco-childhood-in-the-time-of-covid.pdf**

39 IMB, January 2021, *Annual Report of the Independent Monitoring Board At HMYOI Cookham Wood for reporting year 1 August 2019 to 31 August 2020*, **https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/01/AR-Cookham-Wood-2019-20-for-circulation.pdf**

40 HMI Prisons, July 2020, *Report on short scrutiny visits to young offender institutions holding children by HM Chief Inspector of Prisons (7 July 2020)*, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/07/YOI-SSV-2.pdf**, see page 11 point 1.17

41 HMI Prisons, February 2021, *Report on a scrutiny visit to HMYOI Feltham A by HM Chief Inspector of Prisons (9 and 17 February 2021)*, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/03/Feltham-SV-web-2021.pdf**, see point 1.31

42 Children's Commissioner for England, October 2020, *Inpatient mental health wards during COVID-19*, **https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/10/cco-inpatient-mental-health-wards-during-covid-19.pdf**

3. Treatment and conditions of people isolating, quarantining or shielding

3.1 NPM members monitored the treatment of people in detention who were isolating, quarantining or shielding.[43] These measures have been used for specific medical purposes, as an important and effective way of limiting the spread of COVID-19.

3.2 However, NPM members' evidence indicates that the use of these measures has not always been subject to the appropriate safeguards to limit harmful impacts and to ensure their use is proportionate, contributing to poor treatment for detainees. This is contrary to international guidance on COVID-19, which is clear that all measures taken by authorities in response to the public health emergency must be lawful, necessary and proportionate.[44] The guidance is also clear that "in cases of isolation or placement in quarantine of a detained person…the person concerned should be provided with meaningful human contact every day".[45] The SPT also urges detention authorities to "prevent the use of medical isolation taking the form of disciplinary solitary confinement".[46]

3.3 HMI Prisons found evidence of isolating prisoners being kept in conditions that meet the widely accepted definition of solitary confinement.[47] In their SSV aggregate report covering the period from April to July 2020, HMI Prisons found that some quarantined, isolated or shielded prisoners in England and Wales were effectively held in solitary confinement and, in some cases, in prolonged or indefinite solitary confinement, prohibited under the Nelson Mandela Rules. One example includes a women's prison where inspectors found that "symptomatic prisoners were isolated for seven days without any opportunities to leave their cells, even for a shower or time in the open air".[48]

3.4 IMBs also reported extreme measures used for isolating prisoners in June 2020. At one prison, healthcare staff visited isolating prisoners only on the first and fifth day of their 14-day isolation. Concerns were expressed through the

43 The definitions being referred to here are as follows:
Isolation – this occurs when a person has been infected with COVID-19 and tested positive, requiring them to stay separated from other people
Quarantine – this occurs when a person might have been exposed to the virus because they have been in contact with someone who has tested positive
Shielding – this is an enhanced form of social distancing for those who have health conditions that make them vulnerable to COVID-19 infection

44 UN Working Group on Arbitrary Detention, May 2020, *Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies*, **https://www.ohchr.org/Documents/Issues/Detention/DeliberationNo11.pdf**

45 CPT, March 2020, *Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic*, **https://rm.coe.int/16809cfa4b**, Principle 6

46 UN SPT, March 2020, *Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on 25 March 2020)*, Part II Paragraph 14, **https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf**

47 Solitary confinement is when a person is confined for 22 hours or more per day without meaningful human contact. See Rule 44 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and Rule 60.6(a) of the European Prison Rules. The Nelson Mandela Rules state that prolonged solitary confinement (in excess of 15 days) and indefinite solitary confinement (when someone does not know when their confinement will end) should be prohibited.

48 HMI Prisons, July 2020, *Short scrutiny visit aggregate report*, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/08/SSV-aggregate-report-web-2020.pdf**, see Section 1, Paragraph 1.15

IMB freephone line and to HMI Prisons inspectors that prisoners were reluctant to reveal COVID-19 symptoms to avoid such extreme isolation.[49]

3.5 NPM members found a similarly worrying picture in Scottish prisons in the first three months of the COVID-19 outbreak. HMIPS observed that guidance for prisoners with confirmed or suspected COVID-19 did not allow those in isolation out of their cells for a shower, use of a phone or for fresh air.[50] In May 2020, HMIPS were concerned to find that prisoners at HMP Addiewell and HMP Edinburgh were not given the opportunity to access fresh air during their isolation.[51] [52] HMIPS reported that in September 2020, some of these issues were still not resolved and when an outbreak occurs, time in the fresh air is routinely compromised.

3.6 CJINI and RQIA reported that prisoners in Northern Ireland also had to isolate on entry to prison for between six and 14 days dependent on the prison, with no access to outside space. However, there was adequate access to healthcare and virtual visits.

Practice in mental health facilities

NPM members who inspect mental health, learning disability and autism services reported a mixed picture in response to patients required to isolate. Positive practice was noted that many hospital wards and inpatient settings were prepared. RQIA found that hospital trusts in Northern Ireland successfully transformed old and unused wards into suitable units for isolation. CQC Mental Health Act reviewers observed that many staff organised activity packs, access to fresh air and regular staff contact for patients.

However, there were also some concerns raised for detained patients isolating in England. One patient in a secure setting in England told CQC that "I couldn't get sanitary wear while I was in the COVID-19 room. Being in isolation was like being in solitary confinement."[53] In addition, CQC stated that the reconfiguration of wards to facilitate medical isolation units created some challenges in maintaining activities for patients and gender separation.[54]

49 IMB, June 2020, *Letter from National Chair of the Independent Monitoring Boards, Dame Anne Owers, to Sir Robert Neill, Justice Select Committee,* **https://committees.parliament.uk/publications/1416/documents/12925/default/**

50 HMIPS, *Report on a liaison visit to HMP Edinburgh,* **https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/HMIPS%20-%20COVID-19%20-%20Report%20on%20HMP%20Edinburgh%20Prison%20Liaison%20Visit%20-%20Friday%2C%201%20May%202020.pdf**, (prisonsinspectoratescotland.gov.uk), see page 10

51 HMIPS, *Report on a liaison visit to HMP Addiewell,* **https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/HMIPS%20-%20Report%20of%20Liaison%20Visit%20to%20HMP%20Addiewell%20-%2013%20May%202020.pdf**

52 HMIPS, *Report on a liaison visit to HMP Edinburgh,* **https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/HMIPS%20-%20COVID-19%20-%20Report%20on%20HMP%20Edinburgh%20Prison%20Liaison%20Visit%20-%20Friday%2C%201%20May%202020.pdf**

53 The Mental Health Act 1983's code of practice defines seclusion in paragraph 26.103: "Seclusion refers to the supervised confinement and isolation of a patient, away from other patients, in an area from which the patient is prevented from leaving, where it is of immediate necessity for the purpose of the containment of severe behavioural disturbance which is likely to cause harm to others." **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/435512/MHA_Code_of_Practice.PDF**

54 CQC, November 2020, *Monitoring the Mental Health Act in 2019/20,* **https://www.cqc.org.uk/sites/default/files/20201127_mhareport1920_report.pdf**

4. Restrictive regimes

4.1 NPM members expressed significant concerns around the ongoing proportionality of highly restrictive regimes for some people in detention who were not isolating for any specific reason, but were confined to cells, rooms and wards to limit the spread of COVID-19. Restrictive measures were found to be widespread and used over considerable periods of time.

4.2 In adult prisons in England and Wales, HMI Prisons reported in their SSV aggregate report that most prisoners spent at least 23 hours a day locked in their cell from March to July 2020.[55] As of October 2020, prisoners were still spending on average 22 and a half hours a day in their cells.[56] This was also confirmed in IMB reports.

4.3 Similarly, HMIPS found that prisoners in Scotland were made to spend significant and excessive periods of time in their cells throughout the pandemic and reported that appropriate procedural safeguards, such as impact assessments, were not always applied. Specifically, inspectors found that impact assessments were not always carried out for vulnerable prisoners confined to their rooms.[57] The Scottish Human Rights Commission repeatedly raised concerns to the Scottish Government and Parliament about the lack of meaningful, transparent and accessible data to enable adequate monitoring of prison conditions during the COVID-19 emergency situation.[58]

4.4 HMI Prisons reported serious safeguarding concerns about the lack of social care provision for some very vulnerable prisoners with disabilities, who had been left unassessed and unable to complete basic tasks, such as cleaning themselves, cleaning their cells or collecting food.[59] This was described by HMI Prisons as "woefully inadequate", with one disabled man having resorted to paying prisoners to clean his cell and positioning himself in bed in such a manner as to not fall out, due to the lack of any bed rail. He was unable to wash properly as he had not been provided with a chair for his shower, despite numerous requests. During the pandemic, these prisoners were not treated by the prison as vulnerable, so additional welfare checks had not been conducted on them during the long periods of lockdown.

55 HMI Prisons, July 2020, *Short scrutiny visit aggregate report,* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/08/SSV-aggregate-report-web-2020.pdf**

56 HMI Prisons, February 2021, *What happens to prisoners in a pandemic?* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

57 HM Chief Inspectors Annual Report 2021-22, (**prisonsinspectoratescotland.gov.uk**), see page 20

58 Letter to Scottish Parliament Justice Committee (May 2020): **https://www.scottishhumanrights.com/media/2027/20_05_letter-to-justice-committe-prisons-covid-vfinal2.pdf**; Letter to Cabinet Secretary for Justice (June 2020): **https://www.scottishhumanrights.com/media/2043/shrc-letter-to-cabinet-secretary-for-justice-june-2020.pdf** (scottishhumanrights.com); Letter to Chief Executive of the Scottish Prison Service (Sept 2020): **https://www.scottishhumanrights.com/media/2143/letter-to-sps-sep-2020.pdf** (scottishhumanrights.com); Letter to Cabinet Secretary for Justice (Jan 2021): **https://www.scottishhumanrights.com/media/2145/letter-to-humza-yousaf-msp-15012021.pdf** (scottishhumanrights.com)

59 HM Inspectorate of Prisons – scrutiny visit to HMP Erlestoke (August 2020) **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/09/26aug-sofs-erlestoke-sv-1.pdf** (justiceinspectorates.gov.uk)

4.5 In psychiatric hospitals, many patients were not allowed to continue taking leaves of absence from their hospital ward because of COVID-19. This increased patients' confinement to their wards. However, NPM members HIW, CQC and MWCS report that efforts were made to bring services and activities onto the wards, such as physical health checks, psychology services and leisure activities. CQC found that many hospitals continued to support patients to take leaves of absence to allow a daily hour of exercise, although some services did cancel all leave.[60] HIW noted that in many hospitals, significant efforts had been made to develop additional activities to support patients during this time, including therapies, educational and recreational activities.

Good practice at the State Hospital in Scotland

On their announced visit to the State Hospital in Scotland, MWCS found that some patients reported having more one-to-one time with staff, which they welcomed, and were spending more time outside during COVID-19, which had a positive impact. This was in part due to staff working in other areas of the hospital being redeployed.[61] MWCS stated that: "Patients with grounds access have been spending an increasing amount of time outside [...] Even patients without grounds access have been able to have more regular escorted walks in the grounds and spend more time outside."

Mental health impacts

4.6 NPM members' evidence has shown the impact of such restrictive regimes on prisoners' mental health. For example, one IMB in an open prison noted that in normal times, fewer than 3% of those transferring from closed prisons required mental health assessments. In three months during autumn 2020, this rose to between 27% and 17% per month.[62] Women in prison reported to HMI Prisons that they had begun to "regard the amount of time locked in their cells as a punishment" and believed there were more opportunities for women's prisons to safely offer more time out of cell.[63] Some prisoners told inspectors that they had resorted to using drugs and over-sleeping, and others said that they had resorted to cutting themselves "as a way of managing increased stress, low mood and anxiety".[64] [65]

60 CQC, November 2020, Monitoring the Mental Health Act in 2019/20, **https://www.cqc.org.uk/sites/default/files/20201127_mhareport1920_report.pdf**

61 *MWCS, October 2020, Report on announced visit to: Iona and Lewis Hubs, The State Hospital, 110 Lampits Road, Carstairs Junction, Lanark, ML11 8RP,* **https://www.mwcscot.org.uk/sites/default/files/2020-10/IonaLewis_StateHospital_20200818.pdf**

62 *Annual Report of the Independent Monitoring Board at HMP Springhill for reporting year 1 January 2020 to 31 December 2020,* **https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/05/Springhill-2020-AR-for-circulation.pdf**

63 HMI Prisons, February 2021, *What happens to prisoners in a pandemic?* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

64 ibid **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

65 *Report on a scrutiny visit to HMP Hewell by HM Chief Inspector of Prisons (4 and 11–12 August 2020)* (**justiceinspectorates.gov.uk**) see paragraph 1.28

4.7 IMBs reported concerns about spikes in self-harm in some prisons in England, particularly in the women's estate, resulting from the cumulative effects of lockdown. At Foston Hall, there was a 10% rise in self-harm compared with a similar six-month period in 2019.[66] Women with complex needs sometimes repeatedly self-harmed, and extra measures needed to support this were sometimes affected by COVID-19-related staffing shortages.[67] In autumn 2020, it emerged that HMPPS had decided in 2019, without consulting key stakeholders, that from April 2020, the making of a ligature ('noose-making') would no longer be a reportable self-harm incident unless actually attached to the neck. This caused considerable concern for IMBs and other scrutiny bodies because of the risk of incidents being dismissed as 'manipulation' and opportunities to support vulnerable prisoners being missed. HMPPS agreed to put in some mitigation measures, but concerns remained.

4.8 While the need to manage the risk of COVID-19 to preserve life in places of detention is of crucial importance, NPM members have highlighted the unprecedented proportion of the detained population effectively held in solitary confinement and, in some cases, in prolonged and or indefinite solitary confinement. NPM members are particularly concerned about the long-term mental and physical health impacts of these measures.

5. Loss of in-person visits

5.1 In-person social visits were initially suspended in March 2020 in all places of detention across the UK, although they were later allowed for children in custody and on compassionate grounds. NPM members monitored the implementation of alternative methods that people in detention could use to maintain contact with their loved ones, such as additional phone credit, the distribution of personal mobile phones and video-calling technology. Alternatives to in-person visits are recommended by international human rights bodies to ensure that the right to family life is respected, acknowledging that the loss of in-person social visits will have a specific and disproportionate impact on different types of detainees, such as those who are vulnerable.[68] It is therefore important that decisions to cancel visits consider other risks, such as detainees' mental health and wellbeing.

5.2 NPM members' findings highlight the considerable negative impact to detainees' mental health and wellbeing resulting from the loss of in-person social visits. HMI Prisons' inspectors found that some people detained in the four IRCs they visited in May 2020 were suffering considerable negative impact due to the loss of social visits.

66 Annual Report of the Independent Monitoring Board at HMP/ YOI Foston Hall for reporting year 1 December 2019 to 30 November 2020, **https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/03/Foston-HALL-2019-20-FOR-CIRCULATION.pdf**

67 IMB letter to Justice Committee: Update on Independent Monitoring Boards' findings: November/December 2020 **https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/06/Letter-from-IMB-National-Chair-prisons-080121.pdf**

68 WHO Europe, March 2020, *Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance*, **https://apps.who.int/iris/bitstream/handle/10665/336525/WHO-EURO-2020-1405-41155-55954-eng.pdf?sequence=1&isAllowed=y**, Part 12.5

However, inspectors did find that other forms of contact with family and friends were easily accessible.[69] In contrast, HMI Prisons reported on delays in implementing video-call technology to help mitigate the acute impact of the suspension of social visits in women's prisons.[70] At the time of HMI Prisons' visit to prisons holding women in May 2020, some women had not seen their children for two months. When in-person visits did start again over summer 2020 across the men's and women's estate, the experience was described by HMI Prisons as unsatisfactory as the bans on food, toys and physical contact upset and confused children.[71] IMBs reported that the short time allowed for visits and the prohibition on physical contact caused distress, particularly to children, and many preferred not to meet under these restrictions.[72] IMBs also reported that the over-specification of security measures during in-person visits meant that visits were unnecessarily terminated when, for example, children moved, though there were later attempts to mitigate this.

5.3 NPM members who monitor detention under mental health legislation and deprivation of liberty in health and social care report that during COVID-19, there should never have been a blanket ban on social visits. Rather, assessments should have determined whether visiting was suitable on a case-by-case basis. However, CQC found that some management teams in mental health settings did impose blanket bans on visits even when clinicians disagreed with this approach.[73] RQIA report that the lack of visits for patients in inpatient settings in Northern Ireland was challenging and upsetting for some patients and their families and loved ones.

5.4 The pace of roll-out and innovation of alternative methods for people in detention to stay connected with the outside world was reported by NPM members as inconsistent, with some settings implementing alternatives more successfully than others. For example, CJINI found that the implementation of video technology to replace family visits had been successful in prisons and the Juvenile Justice Centre in Northern Ireland. Access to telephone calls had also increased across the prison estate in Northern Ireland. In contrast, NPM members in Scotland expressed concern that alternatives to family contact, such as virtual visiting technology, had not been implemented in a timely manner in prisons. However, HMIPS reported to the NPM in September 2020 that this was since resolved, in part with the provision of mobile phones to prisoners

69 HMI Prisons, May 2020, *Report on short scrutiny visits to immigration removal centres by HM Chief Inspector of Prisons*, **https://www.justiceinspectorates.gov.uk/hmiprisons/inspections/immigration-removal-centres-short-scrutiny-visit/**

70 HMI Prisons, June 2020, *Report on short scrutiny visits to prisons holding women by HM Chief Inspector of Prisons*, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/06/Womens-prisons-SSV-2020.pdf**

71 HMI Prisons, February 2021, *What happens to prisoners in a pandemic?* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

72 IMB National Annual Report 2020-21 **https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/09/2021-09-23-IMB-National-202021-Annual-Report-FINAL.pdf**, see page 46

73 CQC, November 2020, *Monitoring the Mental Health Act in 2019/20*, **https://www.cqc.org.uk/sites/default/files/20201127_mhareport1920_report.pdf**

in the majority of cases. Prisoners reported being pleased to be able to contact family and friends more readily and in a confidential setting. HMIPS commends the introduction of mobile phones which has allowed greater access to the Samaritans, but has suggested additional measures such as in-cell phones with 24 hour access, the ability for prisoners to top up their accounts, an increase in the number of freephone helplines available and confirmation that in-cell telephony and virtual visits will remain post-pandemic.

5.5 It is clear that allowing people in detention to video call their loved ones as a supplement to face-to-face visits is a positive step forward and should be continued, but it should not be seen as a substitute for in-person visits wherever possible.[74] While many people in detention were content with virtual visit technology, which allowed them to contact their loved ones more frequently, NPM members also warn that technological alternatives are not suitable for everyone. For example, those with cognitive deficits found using technology challenging. Its use should not be considered a long-term solution or replacement for in-person social visits across all detention settings.[75]

6. Challenges in effectively implementing public health guidance

6.1 There are inherent risks of COVID-19 in places of detention, especially in settings that are overcrowded or cramped. International guidance emphasises the need to fully implement public health guidance in places of detention.[76] However, NPM members found that effectively implementing important guidance proved challenging in some places of detention, putting some people in detention at risk and negatively impacting their living conditions.

6.2 The issue was reported as a serious concern in places of short-term detention, such as court and police custody suites. LOs reported that court custody units in England and Wales, by their very nature, sometimes struggled to maintain an adequate social distance between staff and detainees, especially when the number of people in a unit was high. According to LOs' reports, around 50% of staff were unable to socially distance from one another from March to June 2020. However, LOs noted that many custody staff made great efforts to free up more space within custody suites by moving furniture and reducing the number of staff in certain areas. LOs also expressed concerns that incomplete person escort records made the task of managing and risk-assessing potential COVID-19 detainees difficult.[77]

74 HMI Prisons, February 2021, *What happens to prisoners in a pandemic?* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

75 CQC, November 2020, *Monitoring the Mental Health Act in 2019/20,* **https://www.cqc.org.uk/sites/default/files/20201127_mhareport1920_report.pdf**

76 CPT, March 2020, *Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic,* **https://rm.coe.int/16809cfa4b, Principle 2**

77 Lay Observers, April 2020, *Court custody watchdog praises staff dedication during COVID-19 outbreak,* **https://layobservers.org/court-custody-watchdog-praises-staff-dedication-during-covid-19-outbreak/**

6.3 An inconsistent picture was found in court custody across the four nations. HMI Prisons inspections to court custody units in Derbyshire and Nottinghamshire found that staff paid insufficient attention to social distancing and cleaning regimes, overall describing the COVID-19 mitigation procedures as "not consistently good enough".[78] However, an inspection to court custody facilities in Norfolk, Suffolk and Essex found that COVID-19 risk assessments were comprehensive and most measures to reduce the transmission of the virus, such as the use of hand sanitiser and face masks, were reasonably well established.[79] ICVA reported a lack of PPE and hand sanitiser available to independent custody visitors to ensure they could carry out their monitoring role safely, but that these issues were resolved by summer 2020.[80] An HMIPS liaison visit to Kilmarnock Sheriff Court in July 2020 found that the unit's size made maintaining a social distance difficult. However, HMIPS reported that helpful social distancing markings had been placed on the floor as a reminder to staff.[81] Later in the pandemic, HMICFRS thematic inspection carried out over October and November 2020 found that forces were managing COVID-19 risks well and had made custody suites as safe as possible for detainees, staff and visitors.[82]

6.4 During an inspection of detention facilities for migrants in August 2020, HMI Prisons found that social distancing was not possible. Inspectors also found that the isolation of symptomatic patients was not always undertaken safely.[83] Similarly, inspectors reported that social distancing was often "impossible" on escort flights.[84] HMI Prisons' reports show that poor living conditions in prisons sometimes made it difficult to ensure that public health standards were maintained, which contributed to poor treatment of prisoners at times. Particularly serious issues were found in prisons with shortages of in-cell toilets, which resulted in long waits and prisoners being forced to urinate and defecate in buckets or bags in their cells.[85]

78 HMI Prisons, November 2020, *Report on an announced inspection visit to court custody facilities in Derbyshire and Nottinghamshire*, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/11/Derbyshire-and-Nottinghamshire-court-custody-2020.pdf**

79 *Report on an inspection visit to court custody facilities in Norfolk, Suffolk and Essex by HM Chief Inspector of Prisons (26 November – 10 December 2020)* (**justiceinspectorates.gov.uk**)

80 ICVA, October 2020, *COVID-19 – A six-month review*, **https://icva.org.uk/wp-content/uploads/2020/10/Covid-6-Month-Review-FINAL.pdf**

81 HMIPS, August 2020, *Report on a liaison visit to Court Custody Unity Kilmarnock Sheriff Court*, **https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/HMIPS%20-%20COVID%20-%2019%20Pandemic%20Emergency%20-%20Kilmarnock%20Custody%20Unit%20-%20Liaison%20Visit%20-%2013.07.20.pdf**

82 HMICFRS, 2020, Custody services in a COVID-19 environment (**justiceinspectorates.gov.uk**)

83 HMI Prisons, October 2020, *Detention facilities: Tug Haven, Kent Intake Unit, Frontier House, Yarl's Wood and Lunar House*, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/10/Dover-detention-facilities-web-2020_v2.pdf**

84 HMI Prisons, August 2020, *Detainees under escort: Inspection of escort and removals to Germany and France*, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/10/Germany-France-escort-report-web-2020.pdf**

85 See paragraphs 1.4 and 2.2 of HMI Prisons' SSV report on Category C prisons (**https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/05/Cat-C-training-prisons-web-SSV-2020.pdf**), paragraph 1.6 of HMI Prisons' scrutiny visit report on HMP Long Lartin (**https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/03/Long-Lartin-SV-web-2021.pdf**) and paragraph 2.2. of HMI Prisons' SSV aggregate report (**https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/08/SSV-aggregate-report-web-2020.pdf**)

6.5 In their thematic report on the experiences of prisoners during the pandemic, HMI Prisons report that both staff and prisoners frequently failed to maintain a safe distance from one another. Staff were only required to wear a face covering in prisons from October 2020, and inspectors found that necessary provisions, such as hand sanitiser and the ability to shield in a single cell, were not always readily available. Further, prisoners reported to HMI Prisons that they were not provided with enough information about the best protective measures to take to feel safe, with additional difficulties for non-English speaking prisoners or prisoners with difficulties reading and writing.[86] Ensuring that guidance on COVID-19 is administered frequently and clearly to people in detention is a key requirement of guidance from the WHO and CPT.[87]

6.6 Further concerns were raised by NPM members monitoring detention under mental health legislation over the clarity and consistency of public health guidance from the government and NHS. This was often published very regularly, so keeping up to date was a challenge for NPM members. In Northern Ireland, RQIA worked with residential and care home providers and families to support the introduction of the Department of Health and Social Care's visiting guidance, including a new initiative called 'care partners', allowing identified visitors to support residents during times of significant visiting restrictions. RQIA also set up a service support team to support dissemination and implementation of public health guidance. HIW supported the Welsh Government to develop a guidance note about granting Section 17 leave, which aimed to balance advice from disease control experts with the rights of patients. By March 2021, MWCS had issued 24 versions of COVID-19 FAQ advice notes to practitioners.

7. Variations in the use of alternatives to detention

7.1 As international human rights guidance highlights, reducing detained populations is an important way of mitigating the impact of COVID-19.[88] Keeping people in close confinement in detention contributes to the risk of infection from COVID-19. NPM members reported a mixed picture on the use of alternatives to detention to reduce detained populations across the UK during the first year of COVID-19.

86 HMI Prisons, February 2021, What happens to prisoners in a pandemic? **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

87 WHO Europe, March 2020, *Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance*, **https://apps.who.int/iris/bitstream/handle/10665/336525/WHO-EURO-2020-1405-41155-55954-eng.pdf?sequence=1&isAllowed=y**, Part 3. CPT, March 2020, *Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic*, **https://rm.coe.int/16809cfa4b, Principle 8**

88 UN Working Group on Arbitrary Detention, May 2020, *Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies*, Part IV Paragraph 13, **https://www.ohchr.org/Documents/Issues/Detention/DeliberationNo11.pdf**

Prisons

7.2 NPM members' evidence suggests that while new policies were introduced to allow for the temporary release of certain prisoners, the effects were negligible in practice.[89] The IMB and HMI Prisons found that the early release schemes in prisons had a very limited impact on the prison population in England and Wales, with very low numbers involved.[90]

7.3 NPM members in Scotland praised detention authorities for reducing the number of people in prisons in response to COVID-19. HMIPS reported that "decisions taken by the Scottish Government and justice partners in conjunction with Health Protection Scotland to reduce the impact of COVID-19 in an otherwise extremely vulnerable population are to be applauded and resulted in a population reduced to around 7,000".[91] Despite this, overcrowding in Scottish prisons has continued.[92]

Immigration estate

7.4 The NPM welcomed the dramatic reduction of people in immigration detention at the beginning of the pandemic, as it became more difficult to remove migrants.[93] However, in July 2020, HMI Prisons met several people in IRCs who had been detained for prolonged periods. In the IRCs visited, inspectors identified 12 people who had been detained for over a year and more than a fifth who had been held for over six months.[94] Numbers in the overall immigration estate have since increased, although remain below pre-pandemic levels.[95]

Mental health detention

7.5 In England, NHS orders were issued to mental health units stating that certain patients should be discharged from hospitals in order to clear capacity.[96] While this is welcome, CQC reported on the complicated impact of rapid discharges on patients' rehabilitation: "In some cases, services found that this new push to discharge patients reduced barriers to accessing placements and funding and resolved long-standing delayed discharges. However, bringing

89 For example, HMPPS introduced an early release scheme for low-risk prisoners who were within two months of their release date. This scheme was paused in August 2020.

90 HMI Prisons, July 2020, Short scrutiny visit aggregate report, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/08/SSV-aggregate-report-web-2020.pdf**

91 HM Chief Inspectors Scotland Annual Report 2020-21, **https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/HM%20Chief%20Inspectors%20Annual%20Report%202019-20.pdf**

92 ibid, **https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/HM Chief Inspectors Annual Report 2021-22 r.pdf** (prisonsinspectoratescotland.gov.uk), see page 4

93 UK NPM, July 2020, *UK NPM submission to the Joint Committee on Human Rights inquiry on the government's response to COVID-19: human rights implications*, **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/07/UK-NPM-Submission-JCHR-re-C19-website.pdf**

94 HMI Prisons, July 2020, *Short scrutiny visit aggregate report*, **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/08/SSV-aggregate-report-web-2020.pdf**

95 How many people are detained or returned? – GOV.UK (**www.gov.uk**)

96 NHS England and NHS Improvement, March 2020, *Managing demand and capacity within community mental health, learning disability and autism services for all ages*, **https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/03/C0841-managing-demand-and-capacity-across-mh-and-ld-v2.pdf**

patient discharges forward at a time of disrupted face-to-face psychiatric care in the community posed risks including relapse, suicidal behaviour, lack of access to medical care and social isolation."[97] NHS Digital estimates a rise in detentions under the Mental Health Act in England of 4.5% over the year.[98]

7.6 Meanwhile, there was a 10.5% increase in detentions under the Mental Health Act in Scotland from April to March 2021.[99] The NPM is concerned that vital safeguards for those facing detention in Scotland were used less frequently during the pandemic, with a reduction in the number of emergency detention orders issued in Scotland which had the consent of an independent mental health officer. MWCS found that from April to March 2021, just 42.5% of detentions had the consent of a mental health officer, down from 53% in the previous year.[100] All emergency detentions should have this safeguard unless it is deemed impracticable to do so. Transfer of women from prison in Scotland who require in-patient mental health treatment has marginally improved, but remains a serious concern.

8. Time in police custody

8.1 Some NPM members who monitor and inspect police custody settings across the UK reported increases in the amount of time detainees were required to stay in police custody suites and transportation vehicles during the first year of the COVID-19 pandemic.

8.2 Faced with court closures, police forces and HM Courts and Tribunals Service set up, or extended existing, virtual court arrangements. These allowed remand hearings to take place from within police custody. ICVA has voiced their concerns around the use and impact of virtual remand hearings since April 2020, noting that their use often results in delays in court appearances and therefore longer periods in detention.[101] HMICFRS, while noting some of the advantages found from remote hearings, reported that from consultation with 37 police forces, the closure or partial closure of courts due to the pandemic had a moderate or severe adverse effect on their custody arrangements. Forces reported needing to look after more detainees for longer while they waited for their remote virtual remand hearing.[102] In October 2020, it was reported that police forces in England and Wales would stop using virtual remand hearings amidst reports

97 CQC, November 2020, *Monitoring the Mental Health Act in 2019/20,* **https://www.cqc.org.uk/sites/default/files/20201127_mhareport1920_report.pdf**

98 *NHS Digital, Mental Health Act statistics, annual figures, England, 2020-2021.* Published 26 October 2021 **https://files.digital.nhs.uk/ED/8F6815/ment-heal-act-stat-eng-2020-21-summ-rep.pdf**

99 *MWCS, Mental Health Act monitoring report (2020-21)* **https://www.mwcscot.org.uk/sites/default/files/2021-09/MentalHealthAct_MonitoringReport_Sep2021.pdf** (mwcscot.org.uk)

100 MWCS, December 2020, The use of the Mental Health (Care and Treatment) (Scotland) Act 2003 during COVID-19, statistical monitoring, **https://www.mwcscot.org.uk/sites/default/files/2020-12/Detentions%20during%20COVID%20report_17122020.pdf**

101 ICVA, October 2020, *COVID-19 – A six-month review,* **https://icva.org.uk/wp-content/uploads/2020/10/Covid-6-Month-Review-FINAL.pdf**

102 *Policing in the pandemic: The police response to the coronavirus pandemic during 2020* (**justiceinspectorates.gov.uk**)

that detainees were spending on average an additional five hours and 15 minutes in detention.[103] The Northern Ireland Policing Board Independent Custody Visiting Scheme also found that the use of virtual remand hearings resulted in longer detention times in police custody in Northern Ireland.

8.3 In contrast, virtual courts have continued in Scotland. In some cases, the availability of virtual custody hearings has reduced the frequency of journeys and time spent by individuals in transport vehicles. HMICS reported that virtual custody courts helped to maintain essential court business during the pandemic in a manner which has reduced the risk of transmitting COVID-19.[104] While Independent Custody Visiting Scotland wished to acknowledge that some individuals will have spent increased time being transported to custody centres, the national average travel times for individuals in custody from time of arrest to time of arrival at a custody centre saw a small reduction in the first six months of the pandemic.[105] Furthermore, in the period from March 2020 to September 2020, the average amount of time someone was held in police custody reduced by approximately 20%.[106]

9. Right to legal representation not always maintained

9.1 Legal representation for people in detention is a fundamental safeguard against ill-treatment that must continue despite COVID-19 restrictions.[107] However, COVID-19-related restrictions and the use of remote services have had an impact on detainees' right to legal advice and representation. NPM members observed that in some cases, solicitors were unable to enter custody settings due to a lack of PPE. In other cases, members questioned the appropriateness and effectiveness of virtual legal advice and advocacy, given the challenges it presented for people in detention.

Police custody

9.2 Detainees must be able to make informed choices regarding safeguards while in police custody to ensure full understanding of their options and implications of actions or processes. ICVA reported challenges in securing legal representation for those detained in police custody in England and Wales. In the early stages of the pandemic, PPE was in short supply. This contributed to a reduction in the number of solicitors entering police custody. Legal advice was subsequently delivered virtually, and independent custody visitors monitoring suites raised

103 Law Gazette, October 2020, *Police forces pull support for virtual remand hearings,* **https://www.lawgazette.co.uk/news/police-forces-pull-support-for-virtual-remand-hearings/5106062.article**

104 *Joint inspection of emergency criminal justice provisions September 2020* (**www.gov.scot**)

105 Scottish Police Authority, November 2020, Meeting: SPA Policing Performance Committee, **https://www.spa.police.uk/spa-media/nzilydmz/item-9-police-scotland-custody-update-report.pdf**

106 ibid, **https://www.spa.police.uk/spa-media/nzilydmz/item-9-police-scotland-custody-update-report.pdf**

107 UN SPT, March 2020, *Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on 25 March 2020),* Part II Paragraph 16, **https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf**

concerns regarding the effectiveness of this virtual legal advice. For instance, visitors reported concerns that detainees found it difficult to engage with virtual legal advice, which might prompt them to not access legal advice at all due to the remote nature of the offering.[108] In addition, schemes have reported significant concerns to ICVA over some detainees not being given the opportunity to provide informed consent to receiving remote legal advice, and remote advice being presented to detainees as a fait accompli. This included specific concerns about children.[109]

9.3 HMICFRS reported that police forces followed the temporary interview protocol for legal advice and representation for detainees to be provided remotely using audio and video technology. Their inspection showed varied implementation of the temporary interview protocol. From custody records, it was not always clear how, when and if detainees were informed of the changes to options for legal advice, or how consent was obtained.[110]

Court custody

9.4 LOs monitoring court custody in England and Wales reported an improvement in access to legal representatives in the first three months of the pandemic in some areas. Some courts implemented glass screens to facilitate meetings with lawyers for detainees. However, access varied across court custody in England and Wales. For example, LOs found that access to legal representatives was not satisfactory in several courts in the Midlands. Nevertheless, the situation has now improved with new protocols for managing professional visits to custody suites, especially legal visits.

Mental health detention

9.5 There were concerns around access to legal representation and advocacy services in mental health detention. In some cases, remote legal and advocacy services were found to be unsuitable for some patients' needs. MWCS reported that access to solicitors for people detained under mental health legislation in Scotland was affected due to restrictions. The situation has now improved with a protocol for managing professional visits. Advocacy services continued throughout the pandemic in Scotland but the service was administered virtually, which made it more difficult for some patients to establish good relationships with advocates.

9.6 Advocacy services in mental health detention in England also became remote. CQC reports that patients detained in England were not engaging as well with advocacy services over the phone, and that not all services were routinely referring patients to advocates, even where patients lacked capacity. CQC also found instances of delays in notifying advocates of patients' Section 2 detention. The delay meant that the patients missed the opportunity to apply to appear in front

108 ICVA, October 2020, *COVID-19 – A six-month review*, **https://icva.org.uk/wp-content/uploads/2020/10/Covid-6-Month-Review-FINAL.pdf**

109 ibid, **https://icva.org.uk/wp-content/uploads/2020/10/Covid-6-Month-Review-FINAL.pdf**

110 Policing in the pandemic: The police response to the coronavirus pandemic during 2020 (**justiceinspectorates.gov.uk**)

of a mental health tribunal. In response to these issues, CQC recommends changes be made to the law so that advocacy services become an 'opt-out' rather than 'opt-in' service, to enable wider and easier access for patients.[111]

Prisons

9.7 HMI Prisons' thematic report on prisoners' experiences during COVID-19 documented some of the obstacles facing prisoners in accessing legal advice. According to HMI Prisons: "Prisoners sometimes struggled to stay in touch with and brief their solicitors. They had been unable to receive a visit from a legal representative for much of the pandemic and usually contacted them by phone. This was often at their own expense and was much more challenging in prisons without in-cell phones, where the duration of calls was usually capped and some prisoners ran out of time to discuss everything with their solicitor. Other prisoners had struggled to get their solicitor's phone number added to their list of authorised call recipients."[112] HMIPS did not find any issues with access to legal representatives in court custody or prisons in Scotland.

9.8 On a related point, IMBs reported that Home Office immigration officers left prisons at the start of the pandemic and did not return during the whole of this year's reporting period. Boards at prisons holding a significant number of foreign national prisoners believed that this was one of the triggers for negative behaviours, including self-harm.[113]

10. Challenges in progression, rehabilitation and care pathways

10.1 NPM members found that COVID-19 had a considerable impact on the progression, rehabilitation and care pathways of people in detention. A rehabilitative culture in places of detention is central to enabling people to progress through the system, and typically encompasses a wide range of activities or programmes.

10.2 Delays to important rehabilitative activities occurred in prisons. IMBs reported that education provision was virtually non-existent for the first four months of the pandemic, as staff did not attend the prison and relied on in-cell packs of variable quality. By the beginning of 2021, some limited direct engagement was reported and by the second quarter of 2021, some IMBs began to report limited face-to-face classroom teaching. However, prisoners reported feeling unable to make progress in their rehabilitation, especially men who were waiting for transfer to open prison conditions.[114] Furthermore, the key worker scheme for adult male prisoners in England and Wales was suspended at the beginning of the pandemic, but was

111 CQC, November 2020, *Monitoring the Mental Health Act in 2019/20,* **https://www.cqc.org.uk/sites/default/files/20201127_mhareport1920_report.pdf**

112 HMI Prisons, February 2021, *What happens to prisoners in a pandemic?* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

113 IMB, *National Annual Report (2020-21)* **https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/09/2021-09-23-IMB-National-202021-Annual-Report-FINAL.pdf**, see pages 24-25

114 HMI Prisons, July 2020, *Short scrutiny visit aggregate report,* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/08/SSV-aggregate-report-web-2020.pdf**

later reintroduced into some prisons for a minority of prisoners considered in most need and primarily for welfare concerns.[115] This meant that many men had little or no contact with their key worker and told inspectors that they felt forgotten.[116] In Scottish prisons, the backlog in progression activities from assessment onwards remains a significant concern for HMIPS and has triggered a thematic review in 2021.

10.3 NPM members found that COVID-19 had a considerable impact on care pathways for patients in psychiatric hospitals.[117] MWCS and CQC identified delays in transfers between low-, medium- and high-secure settings, which had a knock-on effect on patients who were due to be discharged to the community. CQC was made aware of at least one patient kept in long-term segregation because their community placement was on hold. As outlined in the section on children, problems were also reported in the discharging of children. MWCS also reported serious concerns regarding the unlawful transfer of patients from hospital settings to care homes. MWCS reviewed 457 cases of people moved from hospitals to care home settings, to check that those were done in accordance with the law during the early stages of the pandemic. MWCS found unlawful moves of 20 people and a lack of knowledge of deprivation of liberty and incapacity law. These were not all pandemic-specific.[118]

10.4 From the end of 2020 to 2021, NPM members found some improvement in patients' movement through care pathways, although these were sporadic and further delays within the system are expected. Members' evidence indicates significant problems regarding the care pathway system for people detained under mental health legislation across the UK before the COVID-19 pandemic. RQIA reported issues regarding unsuitable placements for patients in Northern Ireland due to its lack of a high-secure psychiatric establishment. MWCS has been monitoring judicial reviews regarding patients being kept in excessive levels of security despite Mental Health Tribunal for Scotland rulings. While some of these issues pre-date COVID-19, the pandemic has exposed the fragility of many parts of the mental health system and exacerbated existing challenges.

115 HMI Prisons provide the following explanation of the key worker scheme: "The key worker scheme operates across the closed male estate and is one element of the Offender Management in Custody (OMiC) model. All prison officers have a caseload of around six prisoners. The aim is to enable staff to develop constructive, motivational relationships with prisoners, which can support and encourage them to work towards positive rehabilitative goals."

116 HMI Prisons, February 2021, *What happens to prisoners in a pandemic?* **https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2021/02/What-happens-to-prisoners-in-a-pandemic.pdf**

117 CQC, November 2020, *Monitoring the Mental Health Act in 2019/20*, **https://www.cqc.org.uk/sites/default/files/20201127_mhareport1920_report.pdf**

118 Moves from hospitals to care homes during the pandemic – new report finds wider concerns over adherence to the law | Mental Welfare Commission for Scotland (**mwcscot.org.uk**)

Section four

Key NPM Secretariat highlights from 2020/21

The UK NPM has a small Secretariat. The Secretariat's work this reporting year includes the following highlights.

1. Follow-up to the Subcommittee on Prevention of Torture (SPT)'s UK visit

From 9 to 18 September 2019, the United Nations treaty body, the SPT, carried out its first ever UK visit of prisons, police stations, court custody units, immigration removal centres and inpatient mental health units in England and Scotland to examine the situation for detainees. Following this visit, the SPT published a report to the NPM which contained instructive observations, insights and recommendations about how the NPM can improve its work to prevent torture and ill-treatment in detention.[119] The UK NPM published **its response to the SPT's report** to the UK NPM on 10 December 2020 – Human Rights Day – addressing important SPT recommendations, including calls to strengthen the UK NPM's status and resourcing, visibility and preventive monitoring as a collective body.[120] The report was distributed to a large group of stakeholders, including MPs, international governmental organisations, NPMs and non-governmental organisations, and published as a **blog post**.[121]

In addition, the SPT published a report addressed to the UK government which outlined their findings following their visits to detention settings.[122] Collectively, the 21 NPM members also responded, noting areas of shared concern using evidence from inspections and monitoring, such as the chronic rates of mental ill health in prisons and prevalence of a 'request culture' in police custody suites.[123] ICVA also published a blog post about their experience of the visit.[124]

2. NPM legislation

The UK NPM has held a longstanding goal to be placed on a statutory footing in order to strengthen and protect its work. In August 2020, the Ministry of Justice consulted on 'Strengthening the independent scrutiny bodies through legislation'. This asked for views on giving the NPM a possible statutory basis. The Secretariat worked extensively with all 21 members to publish a **comprehensive response to this consultation** outlining the need for NPM legislation, drawing on arguments made by UK parliamentary and international human

119 *Visit to United Kingdom of Great Britain and Northern Ireland undertaken from 9 to 18 September 2019: recommendations and observations addressed to the National Preventive Mechanism*, **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/12/SPT-Report-to-UK-NPM-CAT.OP_.GBP_.RONPM_.R1.pdf**

120 *Response of the National Preventive Mechanism of the United Kingdom of Great Britain and Northern Ireland to the report of the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in its report on its visit to the UK*, **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/12/UK-NPM-Response-to-SPT-Report_08122020_Final.pdf**

121 *United Nations reports on the UK National Preventive Mechanism*, Association for the Prevention of Torture **https://www.apt.ch/en/blog/united-nations-reports-uk-national-preventive-mechanism**

122 Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Visit to the United Kingdom of Great Britain and Northern Ireland undertaken from 9 to 18 September 2019: recommendations and observations addressed to the state party*, **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2021/06/CAT.OP_.GBP_.ROSP_.R1.FINAL-VERSION_SPT-report-to-UK-govt-3.pdf**

123 *United Nations Subcommittee on Prevention of Torture's report to the UK Government: UK National Preventive Mechanism (NPM) response*, June 2021, **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2021/06/NPM-response-to-SPT-report_FINAL.pdf**

124 *ICVA volunteers across the UK given opportunity to influence United Nations anti-torture committee report* – ICVA **https://icva.org.uk/icva-volunteers-across-the-uk-given-opportunity-to-influence-united-nations-anti-torture-committee-report/**

rights committees.[125] However, the NPM Secretariat has since been informed that the Ministry of Justice has decided not to take forward legislation for the NPM at this time, in the context of other legislative priorities. The UK NPM will now be considering its next steps on this issue.

3. NPM visibility

John Wadham, NPM Chair, and Wendy Sinclair-Gieben, HM Chief Inspector of Prisons in Scotland, each recorded a short video to feature in the Association for Prevention of Torture's 'Voices from the field' series, where NPMs from around the world briefly discussed their approach to monitoring during COVID-19.

https://vimeo.com/435015192

https://vimeo.com/435009518

4. Sharing practice internationally

In both 2020 and 2021, the NPM Secretariat presented at two online international conferences led by the South African Human Rights Commission. The first was to share the UK's experience in the use of lay visiting as an important component of civil society in the UK NPM, and the second was on the UK's experience of methods used to minimise the spread of COVID-19 in places of deprivation of liberty.

In December 2020, the NPM presented at the international colloquium on 'Monitoring places of deprivation of liberty in the context of COVID-19', organised by the Tunisian NPM. The presentation was about NPM members' monitoring of the treatment and conditions for vulnerable prisoners.

5. Committee for the Prevention of Torture (CPT) reports

England

The CPT published its report on their targeted follow-up visit to England in May 2019 after visits to three prisons, two YOIs and an STC in April 2020, and the UK Government responded.[126] [127] The CPT report highlights concerns regarding detention regimes, use of force, segregation, means of restraint and health care. The report raises alarming findings about levels of violence in prisons, and inefficiencies in the complaints systems set up to investigate allegations of ill-treatment. The NPM was sent the CPT report and the government's response in May 2020. The NPM Secretariat and relevant members worked together to produce a short statement in response to the report.[128]

125 *NPM response to Ministry of Justice consultation: Strengthening the Independent Scrutiny Bodies through legislation,* September 2020, **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/09/UK-NPM_Response-to-MOJ-consultation_092020.pdf_WEB.pdf**

126 *Report to the United Kingdom Government on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 23 May 2019*, April 2020, **https://rm.coe.int/16809e4404**

127 *ibid,* **https://rm.coe.int/16809e4406**

128 *Statement from the UK NPM in response to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report to the United Kingdom on their 2019 visit to England, April 2020,* **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/04/NPM-Short-response-note-CPT-report-England-2019.pdf**

Scotland

In October 2020, the CPT published its report on a follow-up visit to Scotland in 2019. The visit report shows some improvements on the concerning findings from 2018 in regard to the treatment of women with severe mental disorders in prisons. However, the CPT highlights ongoing concerns, such as the high number of prisoners in the male and female prison estate in Scotland.[129] The NPM's Scottish subgroup produced a statement welcoming the CPT's report and highlighting areas that were of concern, as well as member efforts to follow up on the treatment of women at Cornton Vale prison and check on progress.[130] HMIPS took the CPT's concerns over long-term segregation seriously, and this has triggered a thematic review of segregation in 2021.

6. Scottish NPM subgroup

The NPM's Scottish subgroup, currently chaired by the Scottish Human Rights Commission, has focused efforts on strengthening its strategic and operational footing via the development of a workplan and recruitment for a new Scottish Co-ordinator. Throughout COVID-19, the group has focused on sharing expertise and identifying opportunities for joint working, as well as providing collective correspondence to Scottish ministers. The group has repeatedly raised concerns with the Cabinet Secretary for Justice, the Scottish Parliament Justice Committee and the Scottish Prison Service about upholding the rights of people in detention during COVID-19. These concerns related to the prison population levels and changes to the prison regime as a result of the Prisons and Young Offenders Institute (Scotland) Amendment Rules 2020. The subgroup also published its first thematic piece of work examining progress made by the Scottish Government in implementing key recommendations made by the CPT from their 2018 and 2019 visits to Scotland.[131]

129 *Report to the United Kingdom Government on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 18 October 2019* **https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-report-on-the-united-kingdom-focusing-on-scottish-prisons**

130 Statement from the UK NPM in response to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report to the United Kingdom on their 2019 visit to Scotland, **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/10/NPM-Statement-on-CPT-Report-2019-_-October-2020-_-WEBSITE.pdf**

131 *Scotland's progress in the prevention of ill-treatment in places of detention: An assessment of the implementation of recommendations made by the European Committee for the Prevention of Torture*, August 2021, **https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2021/08/NPM_report_FINAL.pdf**

List of National Preventive Mechanism members

Care Inspectorate (CI)

Care Quality Commission (CQC)

Care Inspectorate Wales (CIW)

The Children's Commissioner for England (CCE)

Criminal Justice Inspection Northern Ireland (CJINI)

Healthcare Inspectorate Wales (HIW)

Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)

Her Majesty's Inspectorate of Constabulary in Scotland (HMICS)

Her Majesty's Inspectorate of Prisons (HMI Prisons)

Her Majesty's Inspectorate of Prisons for Scotland (HMIPS)

Independent Custody Visiting Association (ICVA)

Independent Custody Visiting Scotland (ICVS)

Independent Monitoring Board (IMB)

Independent Monitoring Board for Northern Ireland (IMB NI)

Independent Reviewer of Terrorism Legislation (IRTL)

Lay Observers (LOs)

Mental Welfare Commission for Scotland (MWCS)

Northern Ireland Policing Board Independent Custody Visiting Scheme (NIPBICVS)

Office for Standards in Education, Children's Services and Skills (Ofsted)

The Regulation and Quality Improvement Authority (RQIA)

Scottish Human Rights Commission (SHRC)

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Page 6, *Sunrise*, NPS Norfolk and Suffolk, Mixed Media, The Monument Trust Scholar 2019.

Page 10, *Warehouse*, Arbury Court, Going Forward Under 25s Special Award for Drawing

Page 14, *Walking the Yard*, HM Prison Whatton, Alison & Henry Grunwald OBE QC Silver Award for Drawing.

Page 21, *Through the Keyhole*, HM Prison Kilmarnock, Arts Society Ayrshire Highly Commended Award for Mixed Media.

Page 22, *View from the Bottom Bunk (A Bag of Sweets)*, HM Prison & Young Offender Institution Forest Bank, Sodexo Justice Services Silver Award for Drawing

Page 46, *A Flock of Colourful Birds*, HM Prison Erlestoke, Jill Edge Bronze Award for Painting

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