

Submission to the Committee Against Torture for consideration at the 66th session: list of issues with regard to the UK

1 Founded in 1866, the Howard League for Penal Reform is the oldest penal reform charity in the world. The Howard League has some 13,000 members, including prisoners and their families, lawyers, criminal justice professionals and academics. The Howard League has consultative status with both the Economic and Social Council and the Council of Europe. It is an independent charity and accepts no grant funding from the UK government. The Howard League works for less crime, safer communities and fewer people in prison. We achieve these objectives through conducting and commissioning research and investigations aimed at revealing underlying problems and discovering new solutions to issues of public concern. The Howard League's objectives and principles underlie and inform the charity's parliamentary work, research, legal and participation work as well as its projects. Our legal team works directly with children and young adults in custody.

2 The Howard League for Penal Reform comments on the items in the list of issues raised by the Committee prior to submission of the sixth periodic report of the UK which are relevant to our expertise and raises some issues of concern.¹

Article 10 (education and information regarding the prohibition against torture)

3 The Committee asked (para 20) of the list of issues for further information about the use of electrical charge weapons and other less than lethal devices. In 2018 the UK government decided to arm prison officers working with adult men, and eventually officers responsible for women and children, with incapacitant sprays (PAVA), despite considerable concern about its safety and efficacy. Research commissioned by the UK government into a trial conducted in four prisons showed that the pilot was unable to conclusively demonstrate that PAVA had any direct impact on levels of prison violence.² Overall violence levels continued to rise across all of the pilot (and comparator) prison sites during the period. The research found that some staff were developing an over-reliance on PAVA as a way of resolving

¹ List of issues prior to submission of the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland dated 7 June 2016, available at

<https://www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx>

² <https://docs.google.com/document/d/18ggrGgHTIJTOY1KVF3GBSFG1dAsKOqXlviwrBekcsjQ/edit>

conflict and it had even been used against a prisoner who was self-injuring. The incapacitant spray

It is not clear that it would be possible to train staff to use PAVA safely in prison settings. The report concluded that “considering previous research as well as the findings from this pilot, should PAVA be rolled out, the evaluation findings suggest that some staff will use it in situations that extend beyond policy and training boundaries, and which would not meet with standards of professional behaviour or expectations set by external regulators.”

Article 11 (systematic review of rules and practices to prevent torture)

4 The Committee asked the UK government to describe procedures in place for ensuring compliance with Article 11 (paras 22 and 23). It is the view of the Howard League for Penal Reform that enforced cell sharing that involves containing people in cells designed and designated for one person for the majority of the day amounts to the deliberate infliction of cruel, inhuman and degrading treatment and punishment. More than 20,000 men are routinely detained in these conditions in England and Wales.³ Winchester prison has places for 469 men but holds 595 which means that half are ‘doubled up’. Wandsworth prison has places for 929 but holds 1,428. Durham prison has places for 595 but holds 919 men. Swansea has places for 268 but holds 450 men. All prisons are full or overcrowded. This has led to an increase in violence, assaults, disorder and self-injury. The inspection report on Bedford prison published in September 2018 found serious problems with very high violence and inexperienced staff struggling to maintain control. Birmingham prison, run by the security company G4S, was found to be so violent and chaotic that it was taken back into public control. In November 2018 inspectors said that the prison was exceptionally violent and fundamentally unsafe, with many prisoners and staff living and working in fear. Many frightened and vulnerable prisoners ‘self-isolated’ in locked cells but could not escape the bullying and intimidation as urine and faeces were thrown through their door panels. Birmingham routinely holds over 600 men in cells designated for one, as its capacity is 796 but at the time of the inspection was holding over 1400 men. All these prisons were built in Victorian times and cells are small, cramped and have little natural light or ventilation. Toilets were installed inside the cells which means that men have to urinate and defecate in a toilet immediately next to the bunks in front of their cell mate. It is common for the prisons to be infested with rats and cockroaches. Men will often spend 20 to 22 hours a day locked up.

5 Children and young adults are routinely held in isolation for long periods of time in prisons in England and Wales. The Howard League for Penal Reform legal team is representing a 15 year old boy who was routinely locked alone in his cell in Feltham prison, in west London, for 23 and a half hours a day. This isolation continued for 55 days, during which he received no education.⁴ The case has been considered by the Court of Appeal: the Howard League for Penal Reform is asking the court to rule that keeping a child in conditions of solitary confinement amounts to inhuman and degrading treatment. The Howard League for Penal Reform runs a

³ <https://www.gov.uk/government/statistics/prison-population-figures-2018>

<https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-june-2018>

⁴ <https://howardleague.org/news/childs-solitary-confinement-case-goes-to-the-court-of-appeal/>

legal advice line for children and young adults in custody. In the last two years, on average we have received around 40 calls each year from children (under 18) about being isolated in prison, and even more from young adults. The Chief Inspector of Prisons has reported for the last two years that around 40 per cent of young adults held in adult institutions spend over 22 hours a day in the cells.⁵ Data on the isolation of children is not collected and published by the government.⁶

6 Assaults and self-injury in jails rose by 20 per cent in the last year. A statistical bulletin published by the Ministry of Justice shows that prisons in England and Wales recorded 49,565 incidents of self-injury in the 12 months to the end of June 2018 – at a rate of one every 10-and-a-half minutes.⁷ Over the same period, prisons recorded a total of 32,559 assault incidents. This included 9,485 assaults on staff – a 27 per cent rise compared to the figure recorded for the 12 months to the end of June 2017. The figures show that 325 people died in prison custody in the 12 months to the end of September 2018, including 87 people who lost their lives through suicide. There were five homicides.

7 The Committee asked the UK government to report on its efforts to reduce overcrowding. The number of people in prison in England and Wales has doubled in the last two decades. In 1991 there were 41,000 men, women and children in prison in England and Wales. On 14 December 2018 the prison population stood at 82,661. The prison population comprised 78,851 men and 3,810 women. The UK government is not intending to introduce any legislation to cut sentence lengths or curtail entry however due to ministerial pressure there were 2,518 fewer people in prison than this time last year.⁸ Overcrowding caused by sentence inflation and the over-use of prison for remands and short sentences is due to continue with all of its concomitant problems. The government plans to build new prisons which it hopes will ease crowding, but the large prison constructed in Wales has been overwhelmed by problems with men dying, calls for ambulances, drugs and violence.⁹ It was built contrary to UN guidelines with forced cell sharing for the majority of men and in-cell toilets.

8 Despite significant reductions in the number of children in custody, England and Wales still has the highest level of child imprisonment in Western Europe. Children may be incarcerated in three different institutions. In October 2018 there were 619 boys aged 15 to 17 in young offenders institutes (prisons), 152 in three secure training centres (two of which are run privately by G4S and MTCNovo) that hold boys and girls aged 12 to 17, and 88 children are detained in local authority run

⁵ See annual reports by Her Majesty's Inspector of Prisons, 2017 and 2018
<https://www.justiceinspectorates.gov.uk/hmiprisons/>

⁶ Evidence of Edward Agar to the Joint Committee on Human Rights, 17 October 2018,
<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/youth-detention-solitary-confinement-and-restraint/oral/91905.html>

⁷ <https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-march-2018>

⁸ <https://howardleague.org/why-the-system-is-broken/>

⁹ <https://www.liverpoolecho.co.uk/news/liverpool-news/merseyside-prisoner-died-new-years-15626650>

secure units.¹⁰ The prisons and the secure training centres (STCs) have consistently been revealed to be unsafe, indeed HM Chief Inspector of Prisons said in 2017 that not one of the prisons was safe for children. Inspections of STCs have revealed them to be unsafe and badly run¹¹. After a BBC television exposé of abuse of children in Medway STC, run by G4S, it was taken back into public control and the number of children reduced, yet it has continued to have problems and children are still not being cared for safely.

9 The Committee noted the recommendation of the National Preventative Mechanism that improved collection of data on the use of force was needed (para 23). There is still no published data on the use of restraint by staff on adult prisoners. It is not known how many prisoners are injured during restraints or how many are inflicted for punishment.

10 Routine strip searching of women and child prisoners has been abolished but adult men continue to be routinely stripped for searching. Strip-searching continues to be over-used in certain prisons and the monitoring of its use is sometimes poor. For example, the Chief Inspector of Prisons found that strip-searching at Peterborough prison was used “extensively” and there were “numerous examples of where this had been unnecessary”.¹² The Howard League has provided evidence to the High Court about insufficient oversight, governance and monitoring of the use of strip-searching in private prisons.¹³

11 A total of 295 people died in prison in 2017 including eight women. This included 70 people who took their own lives and 184 who died from natural causes. On average a prisoner died by suicide every five days in 2017. There has been a worrying increase in the number of people dying for unexplained reasons, known as ‘awaiting further information’ which at the end of the year amounted to 38 deaths.

12 Violence in prisons has escalated. A total of 32,559 assault incidents were recorded in the 12 months to June 2018. This included 9,485 assaults on staff – a 27 per cent rise compared to the figure recorded for the 12 months to the end of June 2017¹⁴. From 2014 onwards a programme of staff cuts resulted in a reduction of over 30 per cent of frontline officers and managers. At the same time, more than ten prisons were closed resulting in prisoners being crammed into fewer establishments with fewer staff. In recognition of the resulting chaos, the UK government has been desperately recruiting new staff but this has itself brought challenges as they are provided with little training or support. The increase in violence can be linked to overcrowding, lack of expert staff and long periods of confinement in cell. Large prisons with young men with no hope, nothing to do all day and nothing to look forward to, get into trouble.

¹⁰ <https://www.gov.uk/government/statistics/youth-custody-data>

¹¹ <https://files.api.ofsted.gov.uk/v1/file/50000136>

¹² <https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2018/01/HMP-YOI-Peterborough-Women-Web-2017.pdf>

¹³ <https://howardleague.org/wp-content/uploads/2018/08/WS-Frances-Crook-FINAL2-2018-06-13-website.pdf>

¹⁴ <https://howardleague.org/news/further-rise-in-assaults-self-injury-and-lives-lost-in-prisons-in-england-and-wales/>

Article 16 (prevention of cruel, inhuman or degrading treatment or punishment which do not amount to torture)

13 The Committee asked for information about the infliction of restraint on children in young offender institutes (para 40). The use of restraint on children in detention is widespread even though it should be used as a last resort. In the year ending March 2017 restraint was used on children more than 4,500 times, a rate of 32 per 100 children¹⁵.

14 Following the tragic death of two children in restraint related incidents, attempts have been made to roll out a method of restraint for use on children that aims to de-escalate and reduce the instances of restraint. The method, known as Minimising and Managing Physical Restraint (MMPR), has taken much longer than expected to be rolled out. In 2017, the Howard League issued a judicial review on behalf of a child, ZY, who was subjected to adult restraint techniques.¹⁶ MMPR includes the deliberate infliction of pain on the child by staff. Legal action has led to an independent review of the use of deliberate pain in restraint, which is on-going.¹⁷

15 In the past two years the Howard League legal team has received significantly more requests for assistance in respect of isolation than use of force. The reasons for this are not clear. However, it may relate to the nature of the issue in that on-going isolation continues to be a live problem for a period of time whereas by its very nature most instances of restraint are over in a short period of time. In the experience of the Howard League, children in prison tend to live in the moment and will be less engaged in complaining or raising concerns about a matter once it is over. In the two years up to September 2018 the Howard League received requests for help in respect of children concerned about isolation at least 98 times and restraint 13 times through the access to justice service. This suggests that the mechanisms to support children to report and complain about the use of restraint are inadequate.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/676072/youth_justice_statistics_2016-17.pdf

¹⁶ <https://howardleague.org/news/howard-league-legal-challenge-brings-an-end-to-the-routine-use-of-adult-restraint-techniques-on-children-at-feltham-prison/>

¹⁷ <https://www.parliament.uk/documents/commons-committees/Justice/correspondence/Letter%20dated%2018%20Nov%202018%20from%20Edward%20Argar%20on%20use%20of%20pain%20inducing%20techniques%20in%20the%20youth%20secure%20estate.pdf>