

CPT/Inf (2010) 35

## **Report**

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

**from 15 to 18 March 2010**

The United Kingdom Government has requested the publication of this report and of the response of the States of Jersey. The response is set out in document CPT/Inf (2010) 36.

Strasbourg, 19 November 2010



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**Copy of the letter transmitting the CPT's report**

Mr John Kissane  
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Ministry of Justice  
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UK- London SW1H 9AJ

Strasbourg, 23 July 2010

Dear Mr Kissane,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of the United Kingdom drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Bailiwick of Jersey from 15 to 18 March 2010. The report was adopted by the CPT at its 72<sup>nd</sup> meeting, held from 5 to 9 July 2010.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix to the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the relevant authorities to provide within **three months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the authorities to provide, in the above-mentioned response, reactions and replies to the comments and requests for information.

It would be most helpful if a copy of the response could be provided in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Mauro Palma  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment



## I. INTRODUCTION

1. The Bailiwick of Jersey, composed of the island of Jersey and a number of small islets, has a surface area of some 118 km<sup>2</sup> and is situated in the English Channel, at close proximity to north-western France and to the Bailiwick of Guernsey, with which it forms the Channel Islands. It has approximately 92,000 inhabitants.

The Bailiwick of Jersey is not part of the United Kingdom. It is a Crown Dependency with its own legislative assembly, the States of Jersey, and separate legal and administrative system. All domestic issues, including those relating to the deprivation of liberty, are the responsibility of the Bailiwick authorities.

2. The United Kingdom Government is responsible for the Bailiwick's defence and international relations. When ratifying the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter "the Convention"), on 24 June 1988, the United Kingdom declared that it was ratified inter alia in respect of the Bailiwick of Jersey. The Convention entered into force in respect of Jersey on 1 February 1989.

3. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, a delegation of the CPT carried out a visit to the Bailiwick of Jersey from 15 to 18 March 2010. It was the CPT's first visit to the Bailiwick.

4. The visit to the Bailiwick of Jersey was carried out by:

- Wolfgang HEINZ (Head of Delegation), member of the CPT.

He was supported by the following members of the CPT's Secretariat:

- Hugh CHETWYND (Head of Division)
- Caterina BOLOGNESE

and assisted by two experts:

- Veronica PIMENOFF, expert for psychiatry at Helsinki Administrative Court (Finland)
- Jurgén VAN POECKE, Director of Bruges Prison (Belgium).

5. The CPT's delegation enjoyed excellent cooperation at all levels. It had unlimited access to all places it wished to visit, was able to meet with those persons with whom it wanted to speak in private and was provided with access to all the information it required. In particular, the CPT would like to thank the CPT liaison officer, Dan MARCOS, for the assistance provided both before and during the visit.

In the course of the visit, the delegation met Jackie HILTON, Assistant Minister for Home Affairs, and Judith MARTIN, Assistant Minister for Health and Social Services, as well as senior officials from relevant departments. It also met William BAILHACHE QC, Deputy Bailiff, Howard SHARP, Solicitor General, and members of the Police Complaints Authority and of the Prison Board of Visitors.

6. The delegation visited the following establishments:

- Police Headquarters at Rouge Bouillon
- Customs and Immigration holding cells at St. Helier Harbour
- La Moye Prison
- Greenfields Secure Unit for Children
- Orchard House unit for acute psychiatric conditions, St. Saviour's Hospital



## II. FACTS FOUND AND ACTION PROPOSED

### A. Law enforcement agencies

#### 1. Legal framework

7. The power of arrest in Jersey is vested in the States of Jersey Police and the Jersey Customs and Immigration Service – both of which come under the authority of the Home Affairs Minister – as well as in the Honorary Police, which operates under the supervision of the Attorney General.

Each of Jersey's 12 administrative districts, or 'Parishes', has its own Honorary Police service, composed of the *Connétable* (who is the Head of the Parish) and *Centeniers*, elected within each Parish community and serving on a voluntary basis. In practice, members of the Honorary Police do not effect arrests, but they support the States of Jersey Police in managing incidents and for special events. Through their customary power of preliminary investigation and resolution (referred to as the 'Parish Hall Enquiry'), they are able to divert a considerable number of minor cases away from the criminal justice system. The Honorary Police do not administer any detention facility of their own. However, they alone have the power to charge arrested persons with an offence and to grant bail<sup>1</sup>. They are also responsible for presenting arrested persons, as soon as possible, to the magistrates' court, together with a report detailing the reasons for the arrest<sup>2</sup>.

8. The rules governing police custody are set out in Police Code of Practice C<sup>3</sup>. Police custody, subject to periodic review by a senior police officer, can last up to 24 hours, and in the case of a serious offence, a Chief Inspector or higher ranking officer may authorise a further custody period of up to 12 hours (Section 16.5 of Code C). For the person to remain in custody beyond 36 hours, he or she must be charged without bail by the *Connétable* or *Centenier* (Section 17.1 of Code C), who attends to this matter at the Police Station.

If charged, the person will be brought before the court as soon as is reasonably practicable, not later than the next court sitting. If it is not possible to bring a person before the court on the same day, then he or she will be committed into custody at La Moye Prison. Code C also provides that when a juvenile is charged and not granted bail, the custody officer must try to make arrangements for him or her to be taken into care to be detained pending the court appearance.

Inmates extracted temporarily from prison for justice or health-care reasons are transferred into police custody, and may therefore also be held temporarily at the Police Station for that purpose<sup>4</sup>.

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<sup>1</sup> See Article 3, Police Force (Jersey) Law of 1974.

<sup>2</sup> See Article 14, Loi (1864) *Réglant la Procédure Criminelle*.

<sup>3</sup> Code C : A Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers is Scheduled to the 2004 Police Procedures and Criminal Evidence (Codes of Practice) (Jersey) Order, a Jersey adaptation of the rules which apply in England and Wales (see also CPT/Inf (91) 15, paragraphs 15 to 18).

<sup>4</sup> See Article 14, Prison (Jersey) Law 1957.

9. Persons detained in connection with customs or immigration offences can be held in a custody suite at St. Helier Harbour, operated by Customs and Immigration Police. Code C also governs such detentions<sup>5</sup>. The CPT's delegation was informed that the majority of persons held were suspected body packers, who were detained in the cells at the Harbour until the suspicion of internally concealing controlled substances had been confirmed or rejected. This process did, on occasion, take longer than the legal maximum limit of 36 hours of custody without charge, leading to a detention with no legal basis. **The CPT recommends that the Jersey authorities remedy this situation forthwith, by ensuring that all deprivations of liberty are firmly based in law and that, if no such basis exists, the persons concerned are immediately released.**

## 2. Ill-treatment

10. The CPT's delegation received no allegations of physical ill-treatment of persons in police custody. Most persons met by the delegation said that they had been treated well by the police. However, a few allegations were received of excessive use of force at the time of arrest.

The CPT recognises that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used when effecting an arrest and, once arrested persons have been brought under control, there can never be any justification for striking them. **Police officers should be reminded regularly, and in an appropriate manner, of these basic principles.**

The delegation also received a few allegations of verbal abuse of a racist nature by Customs and Immigration personnel. **It should be made clear to law enforcement officials that any form of ill-treatment – including verbal abuse – of detained persons is not acceptable and will be punished accordingly.**

11. The CPT has consistently stated that the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment.

For an investigation into possible ill-treatment to be effective, it is essential that the persons responsible for carrying it out are *independent* from those implicated in the events. The investigation should be *thorough* and ensure that all reasonable steps are taken to secure evidence concerning the incident, so that a determination may be made of whether force or other methods used were or were not justified under the circumstances, and to the identification and, if appropriate, the punishment of those concerned. The investigations must also be conducted in a *comprehensive* manner, i.e. by ensuring that significant episodes and surrounding circumstances indicative of ill-treatment are not disregarded, and in a *prompt* and reasonably *expeditious* manner.

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<sup>5</sup> The legal basis for immigration detention is governed by the Immigration (Jersey) Order 1993.

12. Investigations into complaints against the States of Jersey Police are carried out by the Professional Standards Department of the Police. Investigating officers are appointed (where necessary from a police force in England and Wales) who are senior by one rank to those investigated. No time limits are set for such investigations, and concerns have been raised as regards the promptness with which they are carried out.

In 2008, 10 out of the 39 public complaints lodged were investigated as criminal conduct (only two centering around custody), of which one led to the charge of an officer with common assault; the officer was subsequently acquitted. The only substantiated complaint of a disciplinary nature centering around custody in 2008 was resolved using the informal resolution procedure<sup>6</sup>. In 2009, nine out of the 32 public complaints lodged were investigated as criminal conduct, and only two of those centred around custody, neither of which resulted in charges being laid. Two out of the four disciplinary complaints centering around custody were found to be substantiated, and were resolved by the informal resolution procedure.

13. The Jersey Police Complaints Authority is mandated to supervise the investigation into complaints against police officers<sup>7</sup>. It is an independent body composed of between six and nine volunteer members appointed by the Minister of the Home Department for a period of three years, renewable. The Authority communicates its conclusions on the conduct of each investigation to the Attorney-General in respect of allegations of a criminal nature and to the Chief Police Officer or his/her Deputy in respect of allegations of a disciplinary nature. An annual report provides a survey of the complaints examined in the reporting year and may include suggestions for improvements to the complaints procedure.

**The CPT would like to be informed whether the Police Complaints Authority has had to issue any statements which differed from the results of the investigation carried out by the Professional Standards Department. Further, it would like to know whether the Jersey authorities intend to act on the Authority's proposal to ensure that investigations are carried out expeditiously, particularly as concerns those involving allegations of ill-treatment.**

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<sup>6</sup> This procedure allows for a complaint to be dealt with informally by an appointed police officer, but it is not suitable if the Chief Officer is of the view that the conduct complained of would justify a criminal or disciplinary charge; see Article 7 of the 1999 Police (Complaints and Discipline) (Jersey) Law, and Article 3 of the 2000 Police (Complaints and Discipline Procedure) (Jersey) Order.

<sup>7</sup> See the 1999 Police (Complaints and Discipline) (Jersey) Law, establishing the Police Complaints Authority; this Law also covers the supervision of investigations of complaints made against the Honorary Police.

### 3. Safeguards against ill-treatment

14. The CPT attaches particular importance to three fundamental safeguards for persons deprived of their liberty by the police: the right of those concerned to inform a close relative or another person of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor. These three rights represent fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of custody. In addition, it is important that all detained persons are informed of their rights in a language they understand.

15. The CPT notes that the right of persons deprived of their liberty to inform a close relative or another person of their choice of their situation as from the very outset of custody is guaranteed in law<sup>8</sup>, and the information gathered during the visit indicated that this safeguard operated in a satisfactory manner in practice.

16. As for the right of access to a lawyer, including a duty lawyer, it is adequately enshrined in law<sup>9</sup>. However, the CPT's delegation was informed by the authorities that in practice, duty lawyers were reluctant to attend the police station outside business hours. From interviews with detained persons it was clear that it was common practice for duty lawyers to provide advice by telephone. It would appear that a duty lawyer's presence was rigorously provided only when the detained person was suspected of a very serious offence such as rape or murder.

In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is greatest. The possibility for persons taken into police custody to have access to a lawyer during that period will have a dissuasive effect on those minded to ill-treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. In the Committee's view, for this right to act as an effective safeguard against ill-treatment, it should include the lawyer's presence at the police station, preferably also during questioning. **The CPT recommends that the Jersey authorities take the necessary steps in the light of the foregoing remarks.**

17. Section 9.4 of Code C states that a suitably qualified doctor must be called as soon as practicable if a detained person requests a medical examination. In practice, access to a doctor appeared to operate relatively efficiently, and detained persons could also have access to a doctor of their own choice. However, it was also clear from discussions with the police that custody police officers ultimately decided whether or not to allow access to a doctor. Further, the right of access to a doctor is not included in the information on rights provided to detained persons.

The CPT must stress that a doctor should always be called without delay when a person in police custody requests a medical examination. Police officials should not seek to filter such requests. **The CPT recommends that appropriate steps be taken to ensure that this requirement is met. Further, the Committee recommends that detained persons be expressly informed of their right of access to a doctor, in particular in the written information on rights provided to them.**

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<sup>8</sup> See Article 52, Police Procedures and Criminal Evidence (Jersey) Law 2003.

<sup>9</sup> See Article 54, Police Procedures and Criminal Evidence (Jersey) Law 2003.

18. The confidentiality of medical data gathered in the course of police custody should be observed in the same way as in the outside community. The CPT's visiting delegation noted that doctors' examination notes were filed together with detained persons' criminal files, all of which were accessible to police officers. While the Committee recognises that custodial staff should have information about the state of health of a detained person, including medication being taken and particular health risks, there is no reason why non-medical staff should have access to medical diagnoses or injury reports. **The CPT recommends that custodial staff only have access to the medical information necessary to carry out their duties.**

19. Information on rights was displayed in several languages at Rouge Bouillon Station, and any detained person was supposedly offered a copy. However, a number of persons met by the CPT's delegation stated that they had not been given a copy of the notice on their rights. **The CPT recommends that detained persons be systematically provided with a copy of the notice on their rights.**

20. In accordance with Code C, 17-year-olds are treated as adults, which meant that they may be interviewed without the presence of a guardian/parent. It is generally accepted – and enshrined in the United Nations Convention on the Rights of the Child<sup>10</sup> – that all persons under the age of 18 years should be considered as children. **The CPT recommends that the Jersey authorities take the necessary steps to ensure that all persons under 18 years of age who are detained by the police are treated as juveniles and benefit from the relevant specific safeguards for juveniles.**

#### 4. Conditions of detention

21. The physical conditions of police custody should meet certain elementary material requirements. All police cells should be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons kept in police custody for 24 hours or more should be offered outdoor exercise every day.

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<sup>10</sup> The Jersey authorities informed the delegation that ratification of this Convention was under consideration.

22. Material conditions at Rouge Bouillon Police Station were of a poor standard. The 10 cells, all for single occupancy, were equipped with a plinth, mattress, a call-bell and artificial lighting. However, access to natural light was limited and ventilation poor, and there was no ready access to drinking water. Several cells measured some 6m<sup>2</sup>, and only five cells possessed in-cell sanitation. With regard to ready access to a toilet, the delegation received several complaints of the long time it took for staff to answer the call-bell. Further, numerous complaints were made of the poor quality of food provided. The small internal yard, covered with a metal mesh ceiling, was used essentially for cigarette breaks offered to detained persons at the custody officer's discretion, and could not qualify as an outdoor exercise yard.

In the carport area between the office and the custody suite there were two transparent "CS-cage" units measuring less than 1m<sup>2</sup>, which were designed for extracting CS-gas from persons who had been sprayed<sup>11</sup>. However, on occasion, they were used as temporary holding cells; the CPT must stress that they are too small to be used for this latter purpose.

**The CPT recommends that the Jersey authorities review conditions of detention at Rouge Bouillon Police Station, in the light of the above remarks. Further, the "CS-cage" units at Rouge Bouillon Station should never be used as temporary holding cells.**

The CPT's delegation was informed that new police premises were planned. **The CPT would like to be informed of progress in the realisation of those plans; it trusts that any new detention facilities constructed will comply with the Committee's standards<sup>12</sup>.**

23. The three identical cells operated by Customs and Immigration at St. Helier Harbour were of sufficient size and in a good state of repair. They were equipped with a plinth, mattress, call-bell and CCTV. They had no in-cell sanitation (a special toilet for body packers was for supervised use) and no water point, but access was provided by officers when requested. However, the ventilation was poor and there was no access to natural light. Further, there was no outdoor exercise yard, but the delegation was informed that, at the officers' discretion, detained persons could exercise while handcuffed in the Harbour's secure area. **The CPT recommends that the above-mentioned material deficiencies be remedied, and that the cells at St. Helier Harbour never be used for extended immigration detention. Further, all persons detained longer than 24 hours should be offered one hour of outdoor exercise.**

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<sup>11</sup> The delegation did not pursue, on this occasion, the issue of the use of CS-gas.

<sup>12</sup> See also the 12<sup>th</sup> General Report on the CPT's activities (CPT/Inf (2002) 15, paragraphs 47 and 48).

**B. La Moye Prison**

**1. Preliminary remarks**

24. La Moye Prison, located in the Parish of St Brelade, was constructed in 1975. Within the last few years a series of additional houseblocks have been built for the accommodation of different prisoner groups: G block for inmates working outside the prison; H block for female prisoners; J block for vulnerable prisoners; L block for adult male inmates on an enhanced regime; K block for standard regime adult male inmates on the ground and first floors, and juveniles and young offenders on the second floor. A separate E wing within the original structure housed the segregation unit.

As the only penitentiary institution in the Bailiwick of Jersey, La Moye Prison is expected to perform the functions of an entire Prison Service. All types and categories of prisoner are accommodated, with only persons sentenced to life imprisonment being the exception; they are transferred to the United Kingdom under a service agreement, to enable life-sentenced inmates to benefit from parole, as Jersey has no parole system in place. Two such sentences were being served in the United Kingdom at the time of the visit. Four other prisoners were serving their sentences in the United Kingdom for operational reasons (e.g. requirement to be placed in a high-security prison).

With a recently expanded capacity of 243<sup>13</sup>, at the time of the visit the Prison accommodated 173 inmates, of whom 158 were male and 15 were female. There were four juveniles, all aged 17, two girls and two boys. Six inmates were in the young offender category and were aged 19 and 20, all of them male. Approximately one-third (55) of the prison population was on remand.

25. The Prison has undergone major reform in recent years, both in terms of material conditions (construction of new facilities) and regime. At the time of the visit, there were plans to build a new visitors unit, a medical centre, and a staff dining hall. The visible signs of investment in the Prison are an indication of a clear commitment by the Jersey authorities to improve conditions of detention at La Moye. However, the CPT's delegation was informed that the prison budget would be cut by 10% over the next few years.

**The Committee trusts that any reductions in the prison budget will not impact negatively on the progress made at La Moye Prison in recent years, or on its future development.**

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<sup>13</sup> This figure does not include capacity in G block (the semi-open unit for outside workers, which was to provide 24 additional places soon after the visit).

## **2. Ill-treatment**

26. The CPT's delegation received no allegations of ill-treatment of inmates by prison officers. On the contrary, positive staff-prisoner relations were in evidence.

The delegation also noted that there was not an issue of inter-prisoner violence and that an effective anti-bullying policy was in operation.

## **3. Conditions of detention**

27. Material conditions were of a very good standard throughout most of the Prison. The recent opening of K and L houseblocks meant that the cells in the original wings which did not contain in-cell sanitation could be taken out of service. All prisoners were now held in cells which possessed in-cell sanitation. The cells in all the accommodation blocks visited were of a reasonable size (approximately 8m<sup>2</sup> for single-occupancy and 11m<sup>2</sup> for a double-occupancy cell); access to natural light and ventilation were sufficient; each cell was equipped with a bed, chair, closet, television (for a weekly fee), and an intercom call-bell. In addition, cells in the female prisoners' wing (H) included a shower, and the new cells in J and K blocks included small lockable cupboards.

In sum, the various accommodation units provided good living conditions for inmates and an improved working environment for custodial staff.

28. As regards regime, the aim should be for all prisoners to spend a large part of the day engaged in purposeful activity of a varied nature.

Prisoners at La Moye could spend a large proportion of the day out of their cells, particularly if they were on an enhanced regime and engaged regularly in work. Inmates were usually classified as standard on arrival and could progress to an enhanced regime after three months, provided they had not incurred any disciplinary sanctions and they complied with the drug testing programme. However, standard regime inmates without a job located on the ground floor of K block were locked in their cells for up to 21.5 hours per day.

All prisoners were offered two periods of outdoor exercise of half an hour each every day, weather permitting<sup>14</sup>. In the CPT's view, all inmates should be allowed a minimum of one hour of daily outdoor exercise regardless of the weather conditions and all yards should be equipped with a shelter from inclement weather.

29. The facilities for activities included workshops offering painting and decorating, carpentry, bricklaying, horticultural and electric equipment recycling; computers used for classes in several activity rooms throughout the establishment; and a new gymnasium with a large sports hall (soon to come into operation), and weights and cardiovascular training rooms. There was also a library which included audiovisual resources.

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<sup>14</sup> See Section 59, Prison (Jersey) Rules 2007.



The horticultural compound occupied around 20 prisoners throughout the year. Official data provided showed a high percentage of the prison population involved in various activities. However, attendance at the workshops as observed by the delegation during the visit was considerably lower than the numbers foreseen. Moreover, work offered to female prisoners was limited to cleaning and the recycling workshop, which could hardly be described as being of vocational value.

30. The CPT recognises that, in recent years, efforts had been made to offer inmates greater opportunities for education and the acquisition of skills, through the employment of a Learning and Skills development team, including three teachers and five vocational trainers on a full-time basis (where the previous complement had been none). However, the prison authorities were very much aware of the fact that opportunities for education were still in need of improvement and of being reinforced by adequately trained staff.

31. **In the light of the remarks in paragraphs 28 to 30 above, the CPT encourages the Jersey authorities to continue to expand the range of – and opportunities for – prisoner activities, with a view to ensuring that all prisoners spend a large part of the day engaged in purposeful activity of a varied nature. In particular, greater efforts should be made to provide female prisoners with more meaningful activities and to ensure that they enjoy access to activities on an equal basis to male prisoners.**

Further, **the Committee recommends that all inmates be allowed access to a minimum of one hour of daily outdoor exercise, and that arrangements (including appropriate clothing) be made to enable such exercise to be provided in inclement weather.**

32. An individual sentence plan was drawn up for all sentenced prisoners by two sentence-planning officers, with the active involvement of inmates; an examination of the files indicated that the approach taken was both thoughtful and constructive. That said, it would appear from the interviews held and the documentation examined that many prison officers, especially those working in the larger accommodation blocks, were not sufficiently involved or interested in the sentence planning process or in its implementation. **The CPT invites the Jersey authorities to ensure the involvement of prison officers in drawing up and implementing sentence plans.**

33. Reintegration into the community will often present a considerable challenge. In the interests not only of the inmates concerned but also of the wider community, prisoners should be provided with appropriate support and offered pre-release courses as they approach the end of their sentences. Such support is particularly necessary for the many inmates at La Moye serving lengthy sentences.

Resettlement support was provided through so-called ‘Market Place’ events held every two months, during which several external resettlement agencies would come to the prison to provide advice and counselling about accommodation, employment or welfare. A Temporary Release Scheme – including opportunities for community visits, home leave, outside work and home curfew – for sentenced prisoners on an enhanced regime was also in place, and a small number of inmates benefited from it. However, as regards vocational courses and courses relating to violent or aggressive behaviour, there was room for substantial development. There was a general lack of *programmes addressing offending behaviour*. As a result, for example, a number of sexual offenders would leave the Prison without having followed any offending behaviour courses, due to the lack of funding to send them to the United Kingdom, where specific sexual offender treatment programs were available.

**The CPT recommends that the Jersey authorities make every effort to increase opportunities for prisoners at La Moye Prison to follow programmes addressing offending behaviour.**

#### **4. Juveniles and Young Offenders**

34. The CPT is concerned about the placement of juveniles in an adult prison environment. One of the cardinal principles enshrined in the United Nations Convention on the Rights of the Child and the Beijing Rules<sup>15</sup> is that juveniles – that is, persons under the age of 18 – should only be deprived of their liberty as a last resort and for the shortest possible period of time. The CPT fully endorses this principle. Further, juveniles who are deprived of their liberty ought to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young.

As a matter of principle, if, exceptionally, juveniles are held in an institution for adults, they should be accommodated separately from adults, in a distinct unit specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young. The Committee believes that the risks inherent in juvenile prisoners sharing accommodation with adult prisoners are such that this should not occur.

The legal provisions in Jersey governing the placement of juveniles in custody are described in the section below concerning Greenfields Centre for children (see paragraph 53). At present, the only establishment in Jersey which could accommodate sentenced juveniles aged 15 to 17, and juveniles on remand who are above school-leaving age, is La Moye Prison.

**The CPT recommends that steps be taken to ensure that, as far as possible, all juveniles – i.e. persons under the age of 18 – deprived of their liberty in Jersey are held in an appropriate centre for this age group, and not in prison (see also paragraph 53).**

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<sup>15</sup> See also the United Nations Rules for the Protection of Juveniles Deprived of their Liberty of 14 December 1990 (the “Havana Rules”).

35. At the time of the visit, juvenile male inmates were held at La Moye Prison together with young offenders (aged 18 to 21) on the upper level of K Wing<sup>16</sup>, separate from adult male prisoners above the age of 21. There were two male juveniles on K Wing at the time of the visit.

Female juvenile inmates, on the other hand, were accommodated on the same wing as female adult prisoners of all ages. At the time of the visit, two female juveniles were being held in H Wing.

It should be noted that three out of the four 17-year-old juveniles met by the delegation during the visit had been held on remand at La Moye in August 2009, when they were still 16 years old; one of them was still on remand. The delegation was also informed that a 15-year-old juvenile had recently been held at La Moye Prison for a short period prior to his transfer to alternative accommodation in the United Kingdom.

36. In terms of regime, juveniles held at La Moye Prison did not benefit from substantially different arrangements compared to other inmates. They had access to the exercise yard for two half-hour periods per day; in addition, male juveniles together with young offenders had access to one hour of football per week. They were engaged in work, such as cleaning, and could follow courses in recycling, carpentry or bricklaying for up to four and a half hours per day. As with other inmates, they could follow educational courses, including tuition once per week; this is clearly insufficient for juveniles. They also benefited from the same conditions as regards visiting and other contacts with the outside world. Further, juveniles could be subject to segregation in much the same manner as adult inmates. Moreover, staff assigned to the custody of juveniles, whether in blocks H or K, were not specifically trained to deal with young persons, and told the delegation of the difficulties they experienced in this respect.

This situation is far from ideal. The CPT acknowledges the difficulty in making adequate arrangements for the detention of a small number of juveniles. Nevertheless, as indicated in paragraph 34 above, the CPT considers that it is far preferable for juveniles to be held in specially designed detention centres.

37. For as long as juveniles continue to be held at La Moye Prison, **the CPT recommends that particular attention be paid to their education (including physical education) and to offering them a wide range of opportunities to develop their life skills whilst accommodated in the establishment.**

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<sup>16</sup> That level has been designated as a Youth Offender Institution. See also paragraph 53.

Further, particular care should be taken to ensure that juveniles are accommodated separately from other prisoners. If the effect of such a separation would be to isolate a juvenile prisoner, he/she should be offered opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff – the juvenile should not be left locked up alone in a cell for extended periods of time. A juvenile of one sex should be able to associate with a juvenile of another sex, subject to a proper risk assessment. The situation of female juveniles at La Moya Prison, who are held together with female inmates of all ages, is not appropriate. On the other hand, the CPT acknowledges that holding juveniles and young adults together, as is the current situation for male juveniles at La Moya Prison, can be beneficial to the young persons involved, but it requires careful management to prevent the emergence of negative behaviour such as domination and exploitation, including violence.

Moreover, it is essential that staff working with juveniles be provided with the necessary training and that the team be of mixed gender. More generally, the policy of treating 17-year-olds as adults should also be reviewed in the light of the provision of the United Nations Convention on the Rights of the Child (see paragraph 20 above).

**The CPT recommends that the Jersey authorities take the necessary steps in the light of the above remarks.**

38. The delegation learned that one of the two male juvenile inmates had been accommodated in a cell in the vulnerable prisoners unit upon admission in late August 2009 until the opening of K Block in December 2009. During this time he had been offered a very minimal regime of cleaning and, at best, one hour of outdoor exercise every day.

Holding a juvenile in such conditions is totally unacceptable. It is generally acknowledged that all forms of solitary confinement without appropriate mental and physical stimulation are likely, in the long term, to have damaging effects, resulting in deterioration of mental faculties and social abilities. Juveniles are particularly vulnerable to such risks. The CPT recognises that it may be necessary to segregate juvenile prisoners for security or safety reasons (for instance, to protect highly vulnerable juveniles or deal with juveniles who pose a threat to others). However, measures of this kind should only be ordered in very exceptional circumstances and for as short a time as possible; **if a juvenile has to be segregated he should nevertheless be offered purposeful, out-of-cell activities and every effort should be made to enable the juvenile to benefit from some degree of association with other persons.**

## 5. Health-care services

### a. somatic care

39. The provision of somatic health care at La Moye Prison was of a good standard, equivalent to the standard in the wider Jersey community. In particular, the CPT's delegation did not come across cases of poor somatic care, or of inmates experiencing undue delay in access to such care. On the contrary, inmates interviewed by the CPT's delegation spoke favourably of the service provided.

40. The health-care service, managed by a nurse, was staffed by three part-time general practitioners – who together ensured a doctor was in attendance for two and a half hours, six days a week – and five additional nurses; a nurse was available on call during the night and a doctor could also be called in on Sundays.

The service was supported by a wide range of specialists. At the time of the visit, a dentist (attending on a weekly basis), a microbiologist (for infectious diseases), an optician, a pharmacist, a chiropodist (e.g. for diabetic patients), and three drug and alcohol use counsellors were working in the establishment.

The above-mentioned staffing resources were proving sufficient at the time of the visit. However, **the presence of the general practitioners should be increased if the number of inmates at La Moye Prison becomes closer to the establishment's capacity.**

41. The health-care facilities did not offer sufficient space to host medical consultations and to store medical equipment in an orderly fashion. Only female patients were seen at the medical centre, while consultations for male inmates were held in the accommodation blocks.

The delegation was informed of tentative plans to construct a new medical centre which would offer appropriate conditions, but it was unclear whether these plans would be effectively implemented. **The CPT would like to receive updated information on the construction of the new medical centre at La Moye Prison.**

42. Comprehensive screening of new arrivals was carried out by a nurse within four hours of an inmate's admission to prison, and by a doctor within 72 hours. Appropriate preventive medical interventions (including for transmissible diseases) were available, as were any external examinations or other services (e.g. detoxification) required. Moreover, on arrival at the Prison, inmates received a comprehensive leaflet describing the health services and how to gain access to them.

43. Medical confidentiality was observed within the prison during consultations and only health care staff had access to inmates' medical files. However, confidentiality was not observed during health-care consultations outside of the prison, as escorting officers, as a rule, remained inside the hospital or clinic consultation room.

In the CPT's view, there can be no justification for non-medical staff being systematically present during such examinations; their presence is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. **The CPT recommends that steps be taken to ensure that the medical confidentiality of external consultations is adequately respected.**

b. psychiatric care

44. Access to psychiatric care was provided by the States of Jersey Community Mental Health Services, with a consultant psychiatrist and a forensic community psychiatric nurse attending the prison on a weekly basis. Adequate provision appeared to be made for the mental health needs of inmates suffering from mild psychiatric disorders.

However, the prison was unable to provide adequate care to prisoners with severe mental illness. Nevertheless, due to the lack of suitably secure forensic psychiatric facilities in Jersey<sup>17</sup>, the establishment could be expected to provide such care pending a patient's transfer to a facility in the United Kingdom. In the most recent case, an inmate had been held in isolation in a cell on the ground floor of H wing for almost one year. Such a situation, which had also been burdensome in terms of staffing arrangements, is not acceptable.

In the CPT's view, persons with severe mental health problems should not be held in prison, but in a hospital facility which is adequately equipped and possesses appropriately trained staff.

The CPT acknowledges the challenge facing the authorities of having to establish an institution which would be capable of providing the different types of specialist care required, for the rather small numbers of patients involved. However, current arrangements for transfer to the United Kingdom – characterised by lengthy delays – are clearly inadequate. Further, once patients are transferred, it is usually quite difficult for them to receive visits from family and friends.

**The CPT recommends that the Jersey authorities take the necessary steps to ensure that all prisoners suffering from a severe mental health disorder are cared for, without delay, in an adequately equipped hospital environment.**

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<sup>17</sup>

See also paragraph 64.

## 6. Other issues

45. Custodial staff at the Prison numbered 105 (including all ranks) and several of the houseblocks included mixed gender staff. Only two staff vacancies were open and attendance rates were very good. These are positive indicators of a well-functioning prison.

The delegation also observed relatively relaxed staff-inmate relations – not unusual in a small society such as Jersey, where many prisoners based in Jersey will be known to staff members, sometimes personally. The challenge for staff is to maintain a constructive and positive approach towards inmates while at the same time ensuring that they treat prisoners equally and are not seen to be favouring one group over another. The Prison's management has tried to address these concerns by introducing improved systems of oversight and supervision, including CCTV in all wings, open galleries in the new wings and a more strict enforcement of lockup times. **It is important that the new measures do not lead to such a degree of formalism as to undermine the existing positive relations among staff and prisoners.**

46. The CPT attaches considerable importance to the maintenance of good contact with the outside world for all persons deprived of their liberty. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature.

Sentenced prisoners are entitled to receive and to write one letter per week<sup>18</sup>, whereas no restriction is placed on remand prisoners. In practice, however, the restriction on sentenced inmates was not applied. Telephone calls from booths situated in each accommodation block were not subject to limitation in number or duration. Inmates could place calls to a list of approved numbers. However, many prisoners complained to the delegation of the high cost for placing calls to a mobile phone number from the prison booths.

By law, persons on remand were entitled to receive three visits per week of 30 minutes' duration and sentenced inmates were entitled to one half-hour visit every week<sup>19</sup>. In accordance with the incentives scheme, visit entitlement for a sentenced prisoner increased to two 45-minute visits per week if the inmate reached the enhanced level. Visits took place in open conditions, with visual supervision by staff.

In the CPT's view, all inmates, irrespective of the regime, should benefit from a visiting entitlement of at least one hour per week. Further, any reduction in contact with the outside world should not be the subject of the incentives and privileges scheme. **The CPT recommends that the Jersey authorities take the necessary steps in the light of the above remarks.**

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<sup>18</sup> See Rule 40, Prison (Jersey) Rules 2007.

<sup>19</sup> See Rule 46, Prison (Jersey) Rules 2007.

47. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. The CPT attaches particular importance to regular visits to all prison establishments by an independent body (for example, a visiting committee with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit the premises. During such visits, the persons concerned should make themselves "visible" to both the prison authorities and staff and the prisoners. They should not limit their activities to seeing prisoners who have expressly requested to meet them, but should take the initiative by visiting the establishments' detention areas and entering into contact with inmates.

As regards complaints procedures, prisoners should have avenues open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate complaints authority. In addition to addressing the individual case involved, the CPT considers that a careful analysis of complaints can be a useful tool in identifying issues to be addressed at a general level.

48. La Moye Prison was the subject of two visits by the Prisons Inspectorate for England and Wales, in 2001 and 2005, which were referred to by the Prison authorities as having prompted extensive reforms in terms of material conditions and regime. There is also a Board of Visitors composed of *Jurats* (lay-judges) which visits the prison on a monthly basis and reports to the Home Affairs Minister. It may receive prisoners' complaints<sup>20</sup>, and it also hears appeals in disciplinary proceedings (see paragraph 50). **The CPT would like to be informed whether the Jersey authorities intend to continue to invite an independent body from the United Kingdom to carry out periodic inspections.**

49. The CPT's delegation was informed by the Prison management and the Board of Visitors that few prisoners used the complaints system. Indeed many inmates stated to the delegation that they did not regard the system as effective. Shortly prior to the delegation's visit, locked complaints boxes had been introduced on each level of the accommodation wings, which would be emptied by an administrative staff member who would transmit any complaints to the Board. By letter of 7 June 2010, the Jersey authorities informed the Committee that the complaints system was about to be reviewed, in particular establishing separate forms for health-care complaints, and for complaints to the Board of Visitors.

In the CPT's view, it is questionable for the Board of Visitors to have the dual function of receiving prisoners' complaints as well as hearing prisoners' appeals against disciplinary sanctions. Further, the fact that its members are responsible for adjudicating criminal cases means that they are perceived as being responsible for sending persons to prison. It is hardly surprising, given this combination of functions, that prisoners appeared to lack confidence in the complaints system. **The CPT recommends that the Jersey authorities take the necessary steps to ensure that a body external to the Prison – and unrelated to criminal and disciplinary proceedings concerning prisoners – may receive inmates' complaints.**

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<sup>20</sup> See Article 6, Prison (Jersey) Law 1957.



50. Disciplinary procedures concerning prisoners should be surrounded by appropriate safeguards. The relevant legal provisions<sup>21</sup> applicable to prisoners at La Moye included a wide range of rights: for the person adjudicated to be informed in writing of the charges and to be given sufficient time to prepare his/her defence; to be heard in person by the decision-making authority; to call witnesses on his/her own behalf and to cross-examine other witnesses; to be heard in mitigation of punishment if found guilty; to receive a copy of the disciplinary decision, including the reasons for the decision and the avenues for lodging an appeal; and to appeal to the Board of Visitors against any sanctions imposed.

However, the CPT's delegation observed that, in practice, disciplinary files did not include a written record of the prisoner's statement or even a signature by the prisoner. The delegation also received several complaints from prisoners about lack of fairness of the disciplinary procedures. In particular, it would appear that extensive use was made of removal of association pending charge, which was possible at the discretion of a prison officer for up to 72 hours. The CPT is of the opinion that, in most cases, provisional disciplinary isolation, prior to a formal charge being brought, should not need to last longer than a few hours (which should also be sufficient time for a prisoner to "cool down" after a violent incident).

**The CPT recommends that disciplinary practices at La Moye Prison be reviewed in the light of the foregoing remarks.**

51. The Care and Control Unit (CCU) consisted of one section of three cells in use for segregation purposes at the time of the visit. A further seven cells adjoining this section, formerly used to accommodate vulnerable prisoners was to be refurbished and used for segregation purposes. The cells in use at the time of the visit were in relatively poor condition. Inmates confined to a segregation cell were required to use a bucket to comply with the needs of nature and to slop out. For safety reasons the cells were furnished with a flimsy table and chair made of compressed cardboard.

The small yard offered no shelter from inclement weather, nor a means of rest. Further, the CPT's delegation learned that the regulation hour-long access to outdoor exercise was reduced to 20 or 30 minutes whenever several persons were placed in segregation at the same time.

Cells on the ground floor of H wing were used for the segregation of female prisoners. Although of much better fabric than the cells in the CCU, it would appear that when the cells in H wing were used for segregation purposes, inmates were also obliged to "slop out", as the in-cell sanitary facilities were locked. Further, the delegation heard several complaints, from both women and men, of segregation cells lacking adequate heating.

**The CPT recommends that the Jersey authorities take the necessary steps to ensure that segregation cells are adequately heated and that persons placed in them are offered a minimum of one hour of outdoor exercise every day and are allowed ready access to proper sanitary facilities. In particular, the practice of requiring segregated prisoners to "slop out" should cease immediately. Further, the Committee invites the authorities to replace the compressed cardboard furniture in the Care and Control Unit with more solid equipment.**

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<sup>21</sup> See Rules 80-96, Prison (Jersey) Rules 2007.

## C. Greenfields Centre for children

### 1. Preliminary remarks

52. Greenfields Centre is a single-storey modern secure unit for children aged between 10 and 16 years, who are either on remand or on a welfare order. It was opened in September 2006 and replaced the previous children's home, La Chene, which had had a troubled history. The Centre consists of an accommodation area, classrooms and a fully equipped sports hall and exercise block. The capacity of the unit is eight and at the time of the visit it was accommodating three male juveniles on remand and one female juvenile on a secure accommodation order for welfare reasons.

53. The Criminal Justice (young offenders) Law of 1994 sets the age of criminal responsibility at 10 but stipulates that no person under the age of 15 may be sentenced by a court to a youth detention order. A court may only pass a sentence of custody if it is satisfied that the young person has persistently failed to respond to non-custodial penalties, or that the custodial sentence is necessary to protect the public or the offence is so serious that a non-custodial sentence cannot be justified (see Article 4.2). By virtue of Article 16 of the Law, juveniles can only be held in Greenfields up until the school leaving age (i.e. 30 June of the year in which a juvenile turns 16). Above this age and until they reach 21 years old they should be remanded to a young offender institution. Further, Greenfields cannot hold any sentenced young person, as the law stipulates that such persons should be held in a young offender institution. La Moye Prison is at present the only establishment in Jersey which is designated as such an institution.

The Children (Jersey) Law 2002 provides that a child (a person who has not reached the age of 18) may be held in secure accommodation for welfare rather than criminal reasons, if the child persistently absconds or through absconding is likely to suffer significant harm, or is likely to injure him/herself or another person in any other accommodation.

The delegation was informed that on one recent occasion a vulnerable 16-year-old had been ordered by the court to serve his sentence in the Centre, even though it was not designated as a young offender institution. The management of the Centre believed this to have been the right decision taken in the best interests of the child. Other professionals working with juveniles in conflict with the law were of the opinion that juveniles should only ever be sentenced to Greenfields. The CPT, for its part, considers that juveniles ought to be held in a centre specially designed for their needs. Therefore, courts in Jersey ought to be able to sentence 15 and 16, and even 17-year-olds to Greenfields Centre. **The CPT recommends that the Jersey authorities take the necessary steps to enable juveniles to serve their sentences at Greenfields Centre.**

54. The delegation was concerned to learn that there were no statutory rules governing the functioning of Greenfields Centre; the rules in place were exclusively operational ones developed at the local level. This makes the good functioning of the establishment overly dependent on a well-intentioned manager. **The CPT recommends that the Centre be placed on a statutory footing, anchoring the 'best practice' policy approaches currently applied.**

55. At the outset, the CPT wishes to state that its delegation observed a caring and therapeutic approach towards the children detained at Greenfields and no allegations of ill-treatment were received.

## 2. Living conditions and regime

56. As regards living conditions, the Centre consists of eight single-occupancy rooms, split between two corridors, between which is the common area, laundry and kitchen; each room is equipped with a bed, shelving unit, storage wardrobe, bean bag, table and chair, with adjoining toilet and shower facilities; access to natural light is good and ventilation sufficient; every cell has a call button. The rooms are rather impersonal; however, the delegation noted that children could, depending upon behaviour, request a television and radio or CD player within three days of admission and could obtain further privileges seven days later, such as acquiring more of their own clothes and electronic games.

Two of the rooms were equipped with CCTV and children assessed as being at risk may be placed in them for as long as is judged necessary; if the unit is full, these rooms will be used for ordinary accommodation. In the CPT's view, video surveillance cannot be a substitute for direct contact with staff. Further, **the Committee would like to receive confirmation that the cameras are always switched off whenever the rooms are used for ordinary accommodation purposes.**

The common area is equipped with several sofas and chairs, books, games and a large television; within this area there is also a large dining table where meals are taken together with staff members on duty, and around which there is a daily late afternoon meeting of residents and staff. For recreational purposes the children have access to: an Arcade area, equipped with video games, pool table and television; an outdoor courtyard which includes an area for football and other games; a fully equipped indoor gym and sports hall; and a music room.

To sum up, the modern facilities at the Centre offered good living conditions.

57. The regime of the Centre is based around group activities. There was an expectation that all children would go to school and apparently no child had disengaged from education to date. The children are taught the alternative curriculum by teachers contracted from the Department of Education, who also teach this curriculum in the community to children in their last year of compulsory schooling who have had problems at their regular secondary school. Classes were held between 9 a.m and 3 p.m. (with a short break at 11 a.m. and lunch at 12.15 p.m.), followed by one hour of homework and one hour of activities (sports hall, games). Following the evening meal, activities/visits took place until 7.45 p.m. when a snack was provided. At weekends there was no schooling and the day revolved around chores, visits, sports hall, gym and the arcade, and helping in the kitchen.

There are three levels of privileges (1 to 3) which the children can attain through good behaviour, engaging in the regime and helping with chores. At the time of the visit, all the young persons were on level 3 privileges which meant they could associate together until 9 p.m., at which time they had to go to their bedrooms, with lights out at 11 p.m. Each male juvenile had a remand custody plan which was drawn up by the Youth Action Team and the manager of the Centre; there was also a self assessment pack which was filled in upon admission to the Centre and included an individual crisis management plan, a risk assessment sheet and information provided by the juvenile about him/herself. The plans were reviewed on a regular basis, with input from the juvenile.

58. At the time of the visit, the girl on a secure accommodation order was spending most of the day attending school outside of the Centre and only returning in the evenings; the three boys on remand were attending school in the Centre. That said, Greenfields offered little in the way of vocational training, and considering the background of the young persons held in the Centre, greater efforts should be made to develop relevant vocational courses. This would be even more necessary should Greenfields accept sentenced juveniles on a regular basis.

**The CPT recommends that steps be taken to develop vocational activities at Greenfields Centre.**

### **3. Other issues**

59. The staffing complement was made up of 15 carer posts and the Centre manager, with a minimum of three carers on duty during the day and two at night. All staff had received training in the use of Therapeutic Crisis Intervention (TCI)<sup>22</sup> for dealing with challenging children, which has an emphasis on de-escalating techniques and relationship building. However, at the time of the visit there were five posts vacant, which meant that persons who worked in non-secure children's homes had to be drafted in to make up the shortfall in numbers for particular shifts. This was not a satisfactory arrangement for continuity of care for potentially challenging children, especially as the vacancies concerned the more senior care staff posts.

As to health care, a general practitioner examines every juvenile within 24 hours of his/her admission and is on-call whenever needed; juveniles are escorted to a dentist's practice whenever there is a need.

**The CPT recommends that the vacant carer posts be filled as soon as possible. Further, it would like to receive details of the minimum qualifications required for care staff and information on the continuous/refresher training available to staff.**

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<sup>22</sup>

TCI was designed by Cornell University in 1979 to provide a crisis prevention and intervention model for residential child care facilities.

60. Control and discipline at the Centre had been the subject of some controversy during the first two years of the Centre's operation, particularly in relation to the application of strip searches and the so-called "Grand Prix" system of isolation. These practices were apparently abandoned in 2008 following a change of management at the Centre. Strip-searching no longer occurred; upon admission the juveniles would be requested to put on a gown over their underwear and undergo a rub-down search and a control with a security wand (detector). Rooms could be searched on a random basis but always in the presence of the juvenile who occupied it.

As to the use of means of restraint on children, none had been applied for six months. There was, however, no central register recording every use of means of restraint.

There was no room for the purposes of isolation. If a conflict arose or a child became agitated or refused to take part in planned activities, the individual in question would be asked to go to his or her room for a period of time-out (the door to the room would not be locked) and the juvenile might be denied access to the gym or sports hall for that day. At the time of the visit, one juvenile had received two reports for his poor behaviour in class and had not been given access to the gym and had had to spend the following day doing school work in his room. The reasons for him being given a report and denied access to the gym were clearly explained. However, if he refused to do his work in the room he was not sanctioned further for failing to complete a compulsory assignment, and this type of scenario was leading to a potentially serious disagreement between the care staff and teachers on how to treat challenging children.

**The CPT recommends that a central register be kept for all uses of means of restraint. It would also like to receive a copy of the policy on restraint in operation at Greenfields, including information on staff training, debriefing and external reporting. Further, steps should be taken to ensure that care staff and teachers have a common understanding of the sanctions system, including through regular review meetings concerning individual children.**

61. Effective complaints and inspection procedures are basic safeguards against ill-treatment in juvenile establishments. The CPT considers that juveniles should have avenues of complaint open to them, both within and outside the establishment, and be entitled to confidential access to an appropriate authority.

Complaints at Greenfields were mainly dealt with through an informal and in-house approach, led by the Centre's manager. To this extent, all juveniles at the Centre were encouraged to make suggestions on any matter connected to their stay and to talk with a member of staff to resolve a particular issue. A complaints form for young people was available for written complaints, and all complaints were recorded in a register. The Centre's policy was to acknowledge written complaints within three days and to investigate and provide a written response within 10 days.

Complaints outside of the Centre could be addressed to the Children's Service or Children's Executive. The Board of Visitors, an independent body which has an oversight duty, may also receive complaints from the children accommodated in the Centre. However, in practice it appeared that complaints were not addressed directly to the Board but only brought to their attention by the manager of the Centre at their bi-monthly meetings. Juvenile residents at Greenfields ought to have the opportunity to address complaints to an outside body, such as the Board of Visitors, in a confidential manner.

At the time of the visit the Board of Visitors was not functioning, as the mandate of the previous Board had ended<sup>23</sup>. **The CPT recommends that arrangements be put in place to enable juvenile residents to address complaints on a confidential basis to the Board of Visitors. Further, the CPT would like to be informed of any revised terms of reference for the new Board and to receive a copy of the last two annual reports submitted by the previous Board.**

62. As to contacts with the outside world, all young people were allowed a 10-minute daily phone call to their family and could receive a 30 minute visit every evening from family members. The visits took place in the entrance lounge, in view of a staff member seated in the control room. However, it was usual practice for a carer to position him/herself within hearing of the young person and his/her visitors. Young persons met by the delegation complained about this intrusion. The CPT considers that it would be sufficient for care staff to be able to observe a visit without having to listen in to the conversations; the reasons for any exceptions to this practice should be clearly recorded. Likewise, the Committee questions whether it is really necessary for every letter written by a juvenile resident to be read by a member of staff before being posted. **The CPT would appreciate the comments of the authorities on these matters.**

63. All parents and children were provided with an information brochure which explained the functioning of the Centre, including the regime, behaviour expected of young persons, the complaints procedure and contacts with the outside world.

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<sup>23</sup>

A new, nine member, Board of Visitors has since been appointed and their remit has been widened to include all residential homes. The Board will report to the Minister for Health & Social Services.

## **D. Orchard House acute mental health unit at St. Saviour's Hospital**

### **1. Preliminary remarks**

64. Orchard House, located in a separate building on the grounds of St Saviour's Hospital, is the only mental health care institution in Jersey where patients subject to an involuntary placement order may be accommodated. Orchard House was opened in May 2007 after the building was renovated; it has a capacity of 17 beds and, at the time of the visit, was accommodating 16 patients.

As the only facility of its type on the island, it had to admit patients with a wide variety of disorders, including treatment for psychiatric illness, learning disability and substance dependence. It could also hold forensic psychiatric patients. The only category of patient not admitted were those prisoners considered too dangerous and/or an escape risk. In general, the unit accommodated adult male and female patients between the ages of 18 and 65; however, it could also accommodate children as young as 12 years old. **The CPT would like to receive confirmation that all juvenile patients are kept separate from adult patients.**

65. At the time of the visit, four of the patients were being held on an involuntary basis under Article 7 of the Mental Health (Jersey) Law 1969 and the remainder were voluntary patients admitted under Article 4 of the Law. In 2009, there had been 163 admissions and 169 discharges from Orchard House, with 65 patients spending less than a week in the unit and most of the others less than 30 days; one patient spent 315 days and two others a little more than 250 days. There were also six patients being treated in England, who as a rule tended to be long-term hospitalisations. In sum, despite the patient category mixture, the unit was mostly used for short-term placements.

66. The CPT should state at the outset that its delegation received no allegations of ill-treatment of patients by staff. On the contrary, the delegation observed staff providing care and treatment to patients in a dedicated and professional manner, in a challenging environment.

### **2. Living conditions and treatment**

67. As regards living conditions, Orchard House consisted of separate corridors for male and female patients, and a discrete Intensive Care Unit (ICU). Female patients were placed in one of six single-occupancy bedrooms, all of which were bright and airy and suitably furnished (bed, chest of drawers, cupboard, telephone); each patient had a key to their room but the anti-barricade design of the doors enabled staff to enter if ever the need arose. There was also a shower and three toilets shared by these patients, and a bathroom where patients could be assisted to wash. The male corridor of five single-occupancy bedrooms provided similarly good conditions. There were also two bedrooms near the entrance to the building which had been converted from meeting rooms.

In the outer section of the ICU were two bedrooms used for normal accommodation purposes. The more secure part of the ICU consisted of a bedroom, an association area, a smoking room, kitchen, shower and a toilet; there was also a seclusion room.

Patients had access to a lounge area with a television and to a large common room with a terrace, which had facilities for making tea/coffee and a microwave oven and was where patients could meet their visitors in the afternoon. Access to the outdoor garden was permitted throughout the day for patients, under staff supervision where required, and there was also a large enclosed garden accessible from the ICU. A hospital dining room (available also to staff) provided a spacious and appropriate environment for taking meals, and offered a variety of menu options.

In sum, Orchard House offered good living conditions.

68. As for treatment, each patient was assigned a primary nurse and an individual care plan was drawn up and reviewed on a weekly basis, which served to facilitate communication among nursing staff. A broad range of treatment was offered, including monitored pharmacotherapy, one-to-one supportive discussions, occupational therapy (art, music), group sessions and a range of activities (walks, swimming, sailing, gardening, cookery).

The activities took place in a disused ward attached to the main hospital, easily accessible from Orchard House. It contained a pool table, table tennis, arts and crafts materials, a table football, a well-equipped gym and a number of rooms for, inter alia, group work, relaxation and music. Further informal activities such as general knowledge quizzes or walks were organised on a weekly basis.

69. The CPT's delegation noted that Electro-convulsive Therapy ("ECT") was available, though it was infrequently administered (in 2009 for one patient). When ECT was applied, it was done so in a modified form (i.e. with anaesthetic and muscle relaxants) and carried out at the General Hospital, out of sight of other patients. Further, the delegation was informed that the consent of the patient was always sought before ECT was administered. However, no central ECT register was kept of its use.

The administration of ECT is a recognised form of treatment for psychiatric patients suffering from some particular disorders. However, it must be accompanied by appropriate safeguards. In particular, recourse to ECT should be recorded in detail in a specific register. It is only in this way that any undesirable practices can be clearly identified by hospital management and discussed with staff.

**The CPT recommends that a central register be introduced for the administration of ECT at Orchard House.**



### 3. Staffing

70. In general, staffing levels at Orchard House were adequate. A consultant psychiatrist assisted by a junior doctor (on a four-month rotation basis) attended 5 days per week. A general practitioner was on call and somatic care could also be provided by the General Hospital, as required. A psychologist visited twice a week and a social worker was present Monday to Friday. The nursing complement was headed by a Charge Nurse and consisted of eleven fully qualified nurses and ten health care assistants. On the two day shifts (7.30 a.m. to 3.30 p.m. and 12.30 p.m. to 8.30 p.m.) there would be a minimum of two qualified mental health nurses and two health care assistants, while the night shift (8 p.m. to 8 a.m.) was staffed by two qualified nurses and one health care assistant. There was one vacancy for a qualified mental health nurse; the CPT's delegation was informed that recruitment was complicated by the shortage of qualified staff on the island, combined with the high cost of living and immigration restrictions.

### 4. Means of restraint

71. At Orchard House, there was no use of mechanical means of restraint. If nurses were unable to calm an agitated patient through de-escalation techniques, resort to manual restraint or seclusion was possible. Further, medication for rapid tranquillisation was used. In all cases the resort to means of restraint and seclusion was reported to a doctor. In the case of seclusion, the measure would never last more than 24 hours and the patient would be under constant one-on-one supervision by a nurse. At the end of the period of seclusion, a debriefing would take place. Although it appeared from files examined and discussions with staff and patients that resort to manual restraint and seclusion was infrequent, no special register existed for recording these incidents. In the CPT's experience, detailed and accurate recording of instances of restraint can provide hospital management with an oversight of the extent of their occurrence and enable measures to be taken, where appropriate, to reduce their incidence.

**The CPT recommends that a specific register be established to record all instances of recourse to means of restraint (including rapid tranquillisation) and seclusion.** This would be in addition to the records contained within the patient's personal medical file. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; and an account of any injuries sustained by patients or staff. Patients should be entitled to attach comments to the register, and should be informed of this; at their request, they should receive a copy of the full entry.

**Further, the CPT would like to receive a copy of Orchard House's policy on restraint, including on issues associated with restraint such as staff training, complaints policy, reporting mechanisms and debriefing.**

## 5. Safeguards in the context of involuntary placement

72. On account of their vulnerability, the mentally ill warrant much attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment should always be surrounded by appropriate safeguards.

### a. the initial placement decision

73. The procedure by which involuntary placement is decided should offer guarantees of independence and impartiality as well as of objective medical expertise. Leaving aside emergency cases, the formal decision to place a person in a psychiatric hospital should always be based on the opinion of at least one doctor with psychiatric qualifications, and preferably two, and the actual placement decision should be taken by a different body from the one that recommended it.

The Mental Health (Jersey) Law 1969 provides for the involuntary placement of a patient: upon the recommendation of two registered medical practitioners a patient may be admitted for observation for a period not exceeding 28 days (Article 6) or for treatment of up to one year (Article 7). The Law also provides for the emergency placement of a patient for 72 hours, based upon the opinion of a registered medical practitioner, which in most cases involved a referral from the police or the General Hospital (Article 10<sup>24</sup>). In 2009, the corresponding figures for admission under the three above-mentioned provisions were nine, 27 and six, respectively. **The CPT recommends that long-term involuntary treatment orders always be based on the opinion of at least one doctor with psychiatric qualifications, and preferably two; the need for such placements should be reviewed at regular intervals.**

A person who is involuntarily placed in a psychiatric establishment by a non-judicial authority must have the right to bring proceedings by which the lawfulness of his or her detention shall be decided speedily by a court. Patients admitted to Orchard House could apply to the Mental Health Tribunal to have their placement reviewed. An advocacy service located within the hospital assisted many patients in asserting their right of appeal.

### b. safeguards during placement

74. At Orchard House, the involuntary admission of a patient was considered to provide the authorisation to administer compulsory treatment. An internal practice had developed whereby only one injection would be administered involuntarily during the observation period; if further compulsory treatment was considered necessary, the observation period would be interrupted and a decision on involuntary placement would be made which would permit the administration of compulsory treatment.

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<sup>24</sup>

Article 10 A allows a nurse to detain a patient already in a hospital for up to 3 hours.

The CPT has fundamental objections to such an approach. The Committee considers that patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his or her consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should be provided systematically with relevant information about their condition and the treatment which it is proposed to prescribe for them. Relevant information (results, etc.) should also be provided following treatment.

**The CPT recommends that the Jersey authorities take the necessary steps to recognise the principle of free and informed consent to treatment, in the light of the above remarks.**

75. The Department for Health and Social Services in Jersey has a clearly set out policy for dealing with complaints from all patients, including those accommodated in Orchard House. Patients are encouraged to raise any concerns they have with the nurse manager but may also make a formal complaint to the Hospital's Patient and Client Liaison Officer (verbally or in writing). All complaints are acknowledged in writing within two days and a formal written response is sent out within 25 working days from the Chief Officer. Patients may appeal the response to the Chief Officer who, along with the Minister or Assistant Minister of Health and Social Service, will decide on the appeal within 40 working days. If the patient remains unsatisfied, the complaint may be referred for Independent Review, which for Orchard House patients would be carried out by the Guernsey Health and Social Services Department.

**The CPT would like to be informed of the number of complaints concerning Orchard House for 2008 and 2009, and the action taken upon them. The CPT also wishes to know if patients at Orchard House are able to communicate on a confidential basis with an authority outside the establishment.**

76. The maintenance of contact with the outside world is essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint. Patients should be able to send and receive correspondence, to have access to the telephone, and to receive visits from their family and friends. Confidential access to a lawyer should also be guaranteed.

All these requirements seemed to be met. In particular, the CPT's delegation noted that patients had the right to receive visitors every afternoon for one to two hours, and that they were provided with a telephone in their room for making local calls, to which they had access for large parts of the day.

The CPT's delegation also observed that all patients were provided with a welcome pack containing information on patients' rights, treatment issues, opportunities for activities and the house rules. Further, patients were asked to fill out discharge questionnaires on the various care and services provided by Orchard House during their stay.

77. The CPT also attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.

The delegation was informed that Orchard House underwent a peer review by the Royal College of Psychiatry in order to receive an Accreditation for Acute In-patient Mental Health Services (AIMS) in December 2007. AIMS accredits acute and assessment wards for working age adults and wards for older people for a period of four years. In June 2010, Orchard House was re-accredited for a further four years. An Acute In-patient Mental Health Service Review was also carried out by the Health Care Commission of England (now subsumed within the Care Quality Commission) in 2008.

**The CPT recommends that a regular system of independent inspections be put in place to complement the accreditation process.**

## **APPENDIX**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Law enforcement agencies**

##### **Legal framework**

###### **recommendations**

- the Jersey authorities to remedy forthwith the situation described in paragraph 9, by ensuring that all deprivations of liberty are firmly based in law and that, if no such basis exists, the persons concerned are immediately released (paragraph 9).

##### **Ill-treatment**

###### **comments**

- police officers should be reminded that no more force than is strictly necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can never be any justification for striking them (paragraph 10);
- it should be made clear to law enforcement officials that any form of ill-treatment – including verbal abuse – of detained persons is not acceptable and will be punished accordingly (paragraph 10).

###### **requests for information**

- whether the Police Complaints Authority has had to issue any statements which differed from the results of the investigation carried out by the Professional Standards Department (paragraph 13);
- whether the Jersey authorities intend to act on the Police Complaints Authority's proposal to ensure that investigations are carried out expeditiously, particularly as concerns those involving allegations of ill-treatment (paragraph 13).

##### **Safeguards against ill-treatment**

###### **recommendations**

- the Jersey authorities to take the necessary steps, in the light of the remarks made in paragraph 16, to ensure the presence of a lawyer at the police station in the period immediately following deprivation of liberty, preferably also during questioning (paragraph 16);

- appropriate steps to be taken to ensure that a doctor is called without delay whenever a person in police custody requests a medical examination (paragraph 17);
- detained persons to be expressly informed of their right of access to a doctor, in particular in the written information on rights provided to them (paragraph 17);
- custodial staff to have access only to the medical information necessary to carry out their duties (paragraph 18);
- detained persons to be systematically provided with a copy of the notice on their rights (paragraph 19);
- the Jersey authorities to take the necessary steps to ensure that all persons under 18 years of age who are detained by the police are treated as juveniles and benefit from the relevant specific safeguards for juveniles (paragraph 20).

### **Conditions of detention**

#### recommendations

- the Jersey authorities to review conditions of detention at Rouge Bouillon Police Station, in the light of the remarks in paragraph 22 (paragraph 22);
- the “CS-cage” units at Rouge Bouillon Station never to be used as temporary holding cells (paragraph 22);
- the material deficiencies, described in paragraph 23, in the Customs and Immigration holding cells at St. Helier Harbour to be remedied, and the cells never to be used for extended immigration detention (paragraph 23);
- all persons detained longer than 24 hours to be offered one hour of outdoor exercise (paragraph 23).

#### comments

- the CPT trusts that any new police detention facilities constructed will comply with the Committee’s standards (paragraph 22).

#### requests for information

- progress in the realisation of the planned new police premises (paragraph 22).

## **La Moye Prison**

### **Preliminary remarks**

#### **comments**

- the CPT trusts that any reductions in the prison budget will not impact negatively on the progress made at La Moye Prison in recent years, nor on its future development (paragraph 25).

### **Conditions of detention**

#### **recommendations**

- all inmates to be allowed access to a minimum of one hour of daily outdoor exercise, and arrangements (including appropriate clothing) to be made to enable exercise to be provided in inclement weather (paragraph 31);
- the Jersey authorities to make every effort to increase opportunities for prisoners at La Moye Prison to follow programmes addressing offending behaviour (paragraph 33).

#### **comments**

- in the light of the remarks in paragraphs 28 to 30, the CPT encourages the Jersey authorities to continue to expand the range of – and opportunities for – prisoner activities, with a view to ensuring that all prisoners spend a large part of the day engaged in purposeful activity of a varied nature. In particular, greater efforts should be made to provide female prisoners with more meaningful activities and to ensure that they enjoy access to activities on an equal basis to male prisoners (paragraph 31);
- the Jersey authorities are invited to ensure the involvement of prison officers in drawing up and implementing sentence plans (paragraph 32).

### **Juveniles and Young Offenders**

#### **recommendations**

- steps to be taken to ensure that, as far as possible, all juveniles – i.e. persons under the age of 18 – deprived of their liberty in Jersey are held in an appropriate centre for this age group, and not in prison (paragraph 34);
- for as long as juveniles continue to be held at La Moye Prison, particular attention to be paid to their education (including physical education) and to offering them a wide range of opportunities to develop their life skills whilst accommodated in the establishment (paragraph 37);

- the Jersey authorities to take the necessary steps in the light of the remarks made in paragraph 37 concerning the separation of juveniles, the training and mix of staff, and the need to treat 17-year-olds as juveniles (paragraph 37).

#### comments

- if a juvenile has to be segregated, he should nevertheless be offered purposeful, out-of-cell activities and every effort should be made to enable the juvenile to benefit from some degree of association with other persons (paragraph 38).

### **Health-care services**

#### recommendations

- steps to be taken to ensure that the medical confidentiality of external consultations is adequately respected (paragraph 43);
- the Jersey authorities to take the necessary steps to ensure that all prisoners suffering from a severe mental health disorder are cared for, without delay, in an adequately equipped hospital environment (paragraph 44).

#### comments

- the presence of the general practitioners should be increased if the number of inmates at La Moye Prison becomes closer to the establishment's capacity (paragraph 40).

#### requests for information

- on the construction of the new medical centre at La Moye Prison (paragraph 41).

### **Other issues**

#### recommendations

- the Jersey authorities to take the necessary steps in respect of contact with the outside world, in the light of the remarks in paragraph 46 (paragraph 46);
- the Jersey authorities to take the necessary steps to ensure that a body external to the Prison – and unrelated to criminal and disciplinary proceedings concerning prisoners – may receive inmates' complaints (paragraph 49);
- disciplinary practices at La Moye Prison to be reviewed, in the light of the remarks in paragraph 50 (paragraph 50);



- the Jersey authorities to take the necessary steps to ensure that segregation cells are adequately heated and that persons placed in them are offered a minimum of one hour of outdoor exercise every day and are allowed ready access to proper sanitary facilities. In particular, the practice of requiring segregated prisoners to “slop out” should cease immediately (paragraph 51).

#### comments

- it is important that the new measures referred to in paragraph 45 do not lead to such a degree of formalism as to undermine the existing positive relations among staff and prisoners (paragraph 45);
- the CPT invites the Jersey authorities to replace the compressed cardboard furniture in the Care and Control Unit with more solid equipment (paragraph 51).

#### requests for information

- whether the Jersey authorities intend to continue to invite an independent body from the United Kingdom to carry out periodic inspections of La Moye Prison (paragraph 48).

### **Greenfields Centre for children**

#### **Preliminary remarks**

#### recommendations

- the Jersey authorities to take the necessary steps to enable juveniles to serve their sentences at Greenfields Centre (paragraph 53);
- the Centre to be placed on a statutory footing, anchoring the ‘best practice’ policy approaches currently applied (paragraph 54).

#### **Living conditions and regime**

#### recommendations

- steps to be taken to develop vocational activities at Greenfields Centre (paragraph 58).

#### requests for information

- confirmation that the cameras are always switched off whenever the two rooms equipped with CCTV are used for ordinary accommodation purposes (paragraph 56).

## **Other issues**

### recommendations

- the vacant carer posts to be filled as soon as possible (paragraph 59);
- a central register to be kept for all uses of means of restraint (paragraph 60);
- steps to be taken to ensure that care staff and teachers have a common understanding of the sanctions system, including through regular review meetings concerning individual children (paragraph 60);
- arrangements to be put in place to enable juvenile residents to address complaints on a confidential basis to the Board of Visitors (paragraph 61).

### requests for information

- the minimum qualifications required for care staff and information on the continuous/refresher training available to staff (paragraph 59);
- a copy of the policy on restraint in operation at Greenfields, including information on staff training, debriefing and external reporting (paragraph 60);
- any revised terms of reference for the new Board of Visitors and a copy of the last two annual reports submitted by the previous Board (paragraph 61);
- the comments of the authorities on the matters concerning contact with the outside world raised in paragraph 62 (paragraph 62).

## **Orchard House acute mental health unit at St. Saviour's Hospital**

### **Preliminary remarks**

#### requests for information

- confirmation that all juvenile patients are kept separate from adult patients (paragraph 64).

### **Living conditions and treatment**

#### recommendations

- a central register to be introduced for the administration of Electro-Convulsive Therapy (ECT) at Orchard House (paragraph 69).

## **Means of restraint**

### recommendations

- a specific register to be established to record all instances of recourse to means of restraint (including rapid tranquillisation) and seclusion (paragraph 71).

### requests for information

- a copy of Orchard House's policy on restraint, including on issues associated with restraint such as staff training, complaints policy, reporting mechanisms and debriefing (paragraph 71).

## **Safeguards in the context of involuntary placement**

### recommendations

- long-term involuntary treatment orders always to be based on the opinion of at least one doctor with psychiatric qualifications, and preferably two; the need for such placements should be reviewed at regular intervals (paragraph 73);
- the Jersey authorities to take the necessary steps to recognise the principle of free and informed consent to treatment, in the light of the remarks in paragraph 74 (paragraph 74);
- a regular system of independent inspections to be put in place to complement the accreditation process (paragraph 77).

### requests for information

- the number of complaints from patients concerning Orchard House for 2008 and 2009, and the action taken upon them (paragraph 75);
- whether patients at Orchard House are able to communicate on a confidential basis with an authority outside the establishment (paragraph 75).