



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Seventh periodic report submitted by the United  
Kingdom of Great Britain and Northern Ireland  
under article 19 of the Convention,  
due in 2023\*<sup>\*, \*\*</sup>, \*\*\***

[Date received: 15 August 2023]

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\* The present document is being issued without formal editing.

\*\* The present document was submitted pursuant to the simplified reporting procedure. It contains the responses of the State party to the Committee's list of issues prior to reporting (CAT/C/GBR/QPR/7).

\*\*\* The annex to the present document may be accessed from the web page of the Committee.



## Abbreviations

|         |   |
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| CAT     | United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| CoP     | College of Policing   |
| CPS     | Crown Prosecution Service   |
| ECHR    | Council of Europe European Convention on Human Rights   |
| ECtHR   | European Court of Human Rights  |
| HMICFRS | His Majesty's Inspectorate of Constabulary and Fire & Rescue Services                                   |
| HMIP    | His Majesty's Inspectorate of Prisons   |
| HMPPS   | His Majesty's Prisons and Probation Service   |
| HRA     | Human Rights Act 1998   |
| IMB     | Independent Monitoring Board  |
| IOM     | Isle of Man   |
| IOPC    | Independent Office for Police Conduct   |
| NIE     | Northern Ireland Executive  |
| NHS     | National Health Service   |
| NPM     | National Preventive Mechanism   |
| OPCAT   | Optional Protocol to the CAT  |
| PACE    | Police and Criminal Evidence Act 1984   |
| PPO     | Prisons and Probation Ombudsman   |
| SPS     | Scottish Prison Service   |

## Replies to the list of issues prior to reporting

1. In accordance with the Optional Reporting Procedure,<sup>1</sup> this response constitutes the 7th UK periodic report under the CAT. An overview of the constitutional structure of (and other basic information on) the UK, Crown Dependencies and Overseas Territories was provided in the Common Core Document 2022. In preparing this report, the UK Government liaised with the Devolved Governments, Crown Dependencies and Overseas Territories as appropriate. The response reflects their contributions; where the response is silent in relation to specific Devolved Governments, Crown Dependencies or Overseas Territories, it means that there are no major developments to report since 2017.

### Reply to paragraph 1 of the list of issues (CAT/C/GBR/QPR/7)

2. See the response below to paragraphs 18, 20 and 21 of the UN “list of issues prior to reporting”.

### Reply to paragraph 2 of the list of issues

3. The UK Government takes allegations of torture and cruel, inhuman or degrading treatment very seriously and any allegations are investigated appropriately. The UK Government does not participate in, solicit, encourage or condone the use of torture for any purpose.

4. Torture is a criminal offence in the UK under section 134 of the Criminal Justice Act 1988, with a maximum penalty of life imprisonment. Aiding and abetting torture is a criminal offence under section 8 of the Accessories and Abettors Act 1861 and subject to the same maximum penalty. Further, Article 3 of the ECHR, as given further effect in the HRA, provides that no one shall be subjected to torture, inhuman or degrading treatment or punishment, and victims can rely upon this right in civil and criminal proceedings.

5. We have a long, proud and diverse history of freedoms in this country. Any legislative changes would not erode the prohibition of torture and other ill-treatment provided in the UK.

6. The UK Government is of the view that UK law including section 134 (4) and (5) of the Criminal Justice Act 1998 is consistent with the obligations imposed by the Convention for the reasons set out in our previous reports.<sup>2</sup>

7. The UK Government continues to take the view that the international human rights obligations under the UN treaties ratified by the UK, including CAT, are primarily territorial and do not have extraterritorial effect. However, the UK Armed Forces continue to be subject to the rule of law at all times, including the domestic criminal law of England and Wales, and where applicable, international law. The Service Police will investigate credible allegations against members of the Armed Forces, wherever in the world the incident may have occurred. In appropriate cases, these will result in a prosecution before a service court pursuant to the Armed Forces Act 2006.

### Northern Ireland

8. In Northern Ireland, the Ad Hoc Committee on a Bill of Rights was established in February 2020 following the New Decade, New Approach agreement. This provided for an ad hoc Assembly committee to consider the creation of a bill of rights that is faithful to the stated intention of the Belfast (Good Friday) Agreement in that:

“... it contains rights supplementary to those contained in the European Convention on Human Rights, which are currently applicable and ‘that reflect the particular

<sup>1</sup> <http://www.ohchr.org/EN/HRBodies/CAT/Pages/ReportingProcedures.aspx>.

<sup>2</sup> See CAT/C/67/Add.2.

circumstances of Northern Ireland’; as well as reflecting the principles of mutual respect for the identity and ethos of both communities and parity of esteem.”

9. The Committee’s final report<sup>3</sup> was approved by the Assembly following a debate on 14 February 2022.

10. Consensus, including between the Northern Ireland parties, is needed before any agreement can be reached on what a Bill of Rights should include. This approach was always envisaged in the Belfast (Good Friday) Agreement.

### **Reply to paragraph 3 of the list of issues**

11. In July 2019, the Government published new guidance titled “The Principles relating to the detention and interviewing of detainees overseas and the passing and receipt of intelligence relating to detainees”.<sup>4</sup> It followed a review of the Consolidated Guidance by the independent Investigatory Powers Commissioner and came into effect on 1 January 2020. The Government accepted the Commissioner’s proposals in full. The new guidance was extended to include the National Crime Agency and S015 Metropolitan Police Service and provides clear direction for UK personnel on their interaction with detainees held by others overseas and the handling of intelligence derived from them. The Investigatory Powers Commissioner continues to oversee and report annually to the Prime Minister on the application of the new guidance.

### **Reply to paragraph 4 of the list of issues**

12. The NPM currently consists of 21 independent scrutiny bodies. Establishing the NPM through various decentralised units, in line with Article 17 of OPCAT, ensures sufficient monitoring of various places of detention throughout the UK. Each of these 21 inspection bodies has a statutory basis and is given unlimited access to the places of detention which it inspects. To ensure independence, the governance of the NPM is a matter for the organisation itself.

13. The UK Government is mindful of its obligations under Article 18(3) OPCAT to make available the necessary resources for the functioning of the NPM. The NPM receives an annual budget through HMIP, which it is free to use as it sees fit. The Government continues to monitor and discuss resources with the NPM.

14. The NPM publishes an annual report setting out its work and findings. This can be found on its website.<sup>5</sup> The Government carefully considers the recommendations made by the constituent bodies of the NPM on a case-by-case basis.

### **Armed Forces**

15. The UK Government currently invites independent inspections of its UK based detention facilities by HMIP (an NPM member) which, in the past, have been unannounced. Existing measures and mechanisms have been strengthened to ensure that unannounced visits will continue to take place.

16. There are no military detention facilities in the Crown Dependencies.

### **Scotland**

17. In 2021, the Scottish Government engaged with the Scottish Sub-Group of the NPM throughout the preparation of the Sub-Group’s report on Scotland’s progress in the

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<sup>3</sup> <http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/ad-hoc-bill-of-rights/reports/report-on-a-bill-of-rights/report-of-the-ad-hoc-committee-on-a-bill-of-rights.pdf>.

<sup>4</sup> <https://www.ipco.org.uk/publication/consultation/the-principles-relating-to-the-detention-and-interviewing-of-detainees-overseas-and-the-passing-and-receipt-of-intelligence-relating-to-detainees-july-2019/>.

<sup>5</sup> <https://www.nationalpreventivemechanism.org.uk/publications-resources/>.

prevention of ill-treatment in places of detention,<sup>6</sup> which included the Sub-Group's assessment of the progress made in Scotland to rectify issues identified by the Council of Europe Committee for the Prevention of Torture in their 2018 and 2019 visits to Scotland, including in relation to the prison population level, segregation and the use of force.<sup>7</sup>

### **Isle of Man**

18. The IOM has established an NPM consisting of three bodies; the Independent Monitoring Board (IMB) for the IOM Prison, Custody Suites and Holding Cells; the IMB for Cronk Sollysh (young persons' secure unit) and the Mental Health Commission (for persons detained under the Mental Health Act 1998). The NPM is operationally independent from the IOM Government as set out in a Memorandum of Understanding between the IOM Government and the NPM. In recent years, the NPM bodies have raised several issues that have been resolved by the appropriate departments within the IOM Government including the introduction of the new role of Custody Support Officer in the IOM Prison.

## **Reply to paragraph 5 of the list of issues**

### **England and Wales**

19. The UK Government passed the Domestic Abuse Act 2022 and published a cross-Government Tackling Violence Against Women and Girls (VAWG) Strategy and a Tackling Domestic Abuse Plan. These set out actions for prioritising prevention, supporting survivors, strengthening the pursuit of perpetrators and creating stronger systems, with an ultimate long-term objective of reducing the prevalence of these crimes across England and Wales.

20. A key objective is to increase prosecution and conviction rates for crimes which disproportionately impact on women and girls. This requires improving victims' and survivors' experience of the criminal justice system so they can engage with their case as it moves through the process. Actions taken include ensuring that domestic abusers will no longer be allowed to directly cross-examine their victims in the family and civil courts, and giving victims and survivors better access to special measures in the courtroom to help prevent intimidation – such as protective screens and giving evidence via video link.

21. The Government accepted all the recommendations made by HMICFRS following their inspection into police handling of VAWG and significant action has already been taken.

22. The Victims' Code sets out a minimum level of service that criminal justice bodies must provide to victims of crime. Under the Code, victims are entitled to have their crime investigated without unjustified delay and to be provided with information about the investigation and prosecution. They are also entitled to be told by the police how to apply for compensation, including court-ordered compensation and compensation through the Criminal Injuries Compensation Scheme.

23. In March 2023 the Government introduced the Victims and Prisoners Bill which aims to improve the experience of victims in the criminal justice system, including by enshrining the Victims' Code in law.

24. In June 2021, the End-to-End Rape Review Findings and Action Plan was published outlining a robust programme of work, with a commitment to more than double the number of adult rape cases reaching court by the end of the current Parliament.

25. To drive changes in the policing response to rape, the Government is:

- Funding Operation Soteria (£6.65m, 2021-2023) which will form the basis for a sustainable and systemic transformation in the way that the police and CPS respond to rape cases via a new national operating model for the investigation and prosecution of rape to be made available in June 2023;

<sup>6</sup> <https://www.nationalpreventivemechanism.org.uk/publications-resources/>.

<sup>7</sup> <https://www.coe.int/en/web/cpt/united-kingdom>.

- Supporting police forces to ensure victims' electronic devices are only requested where necessary and proportionate and part of a reasonable line of inquiry, and that no adult victim should be left without a phone for more than 24 hours during a rape investigation;
- Introducing legislation as part of the Victims and Prisoners Bill to ensure that police requests for victims' personal records ('third party material') are necessary and proportionate;
- Gathering empirical evidence on the necessity, proportionality and timeliness of third-party material requests and the extraction of information from digital devices.

26. Statistics for England and Wales are in the annex.

### **UK: Migrant Victims**

27. The Destitute Domestic Violence Concession enables migrant victims of domestic abuse who have entered the UK on certain partner or spousal visas to access public funds for three months, which can be used to fund safe accommodation.

28. Migrant victims can apply for settlement (Indefinite Leave to Remain) under the Domestic Violence Indefinite Leave to Remain Rules. The intention is to safeguard victims of domestic abuse by offering them an immigration status and financial support, independent of the abusive partner.

29. As committed to in the Domestic Abuse Plan, we provided £1.4 million in 2022-23 to continue to fund the Support for Migrant Victims Scheme whilst we take on board lessons learned from the pilot. We have extended the scheme further until March 2025.

### **Funding and Support**

30. To increase provision of funding for refugees, the UK Government introduced a new legal duty within the Domestic Abuse Act on local authorities (LAs) to provide support for victims of domestic abuse and their children within safe accommodation including refugees, backed by £125 million of funding to ensure that these vital services are available to anyone who needs them, wherever they live. This is supported by a new £6 million Domestic Abuse Capacity Building Fund to help LAs prepare for the upcoming duty.

31. The Tackling Domestic Abuse Plan invests £140 million to support victims, including over £47 million in ringfenced funding for victims' services and £27 million funding for 700 Independent Sexual Violence Advisers and Independent Domestic Violence Advisers. We have also committed an additional £1.5 million funding this year for service provision and to further increase funding for valuable specialist services for victims of violence against women and girls.

### **Scotland**

32. The Domestic Abuse (Scotland) Act 2018<sup>8</sup> created a specific offence of domestic abuse that covers not just physical abuse, but also other forms of psychological abuse as well as coercive and controlling behaviour. This new offence brings clarity for victims so they can see explicitly that what their partner or ex-partner has done to them is wrong and can be dealt with under the law. The Act also reflects the fact that children are harmed by domestic abuse, by providing for a statutory aggravation in relation to children. The Act commenced in April 2019, accompanied by a public campaign to raise awareness.

33. Equally Safe<sup>9</sup> is Scotland's strategy for preventing and eradicating violence against women and girls. This includes domestic abuse, rape, sexual assault, commercial sexual exploitation, and so-called 'honour-based' violence like female genital mutilation and forced marriage. In June 2022, the Scottish Government and Convention of Scottish Local Authorities published a new Equally Safe Delivery Plan<sup>10</sup> which will run until autumn 2023,

<sup>8</sup> <https://www.legislation.gov.uk/asp/2018/5/contents/enacted>.

<sup>9</sup> <https://www.gov.scot/publications/equally-safe/>.

<sup>10</sup> <https://www.gov.scot/publications/equally-safe-short-life-delivery-plan-summer-2022-autumn-2023>.

and a refresh to the Equally Safe strategy will be developed throughout 2023 and informed by the voices of those with lived experience.

34. Statistics can be found in the Justice Analytical Services: safer communities and justice statistics monthly reports.<sup>11</sup>

### **Wales**

35. In May 2022, the Welsh Government published its National Strategy<sup>12</sup> which will be delivered through a collaborative ‘blueprint approach’ alongside a group of key partner organisations including policing in Wales and specialist sector.

36. The Welsh Government funds specialist services across Wales to provide invaluable and lifesaving support to all victims of Violence Against Women, Domestic Abuse and Sexual Violence (VAWDASV). This includes early intervention, preventative and educational support, perpetrator intervention programmes, Independent Domestic Violence Advocates for high-risk victims and therapeutic recovery interventions for the ongoing support of those impacted by VAWDASV.

37. The Welsh Government has previously committed to protecting the rights of migrants and those impacted by VAWDASV and has multiple frameworks and pieces of legislation in place to do so. It is committed to making Wales a Nation of Sanctuary: the Nation of Sanctuary plan contains clear cross-government commitments to reducing the inequalities faced by sanctuary seekers; this includes supporting survivors of VAWDASV.

### **Gibraltar**

38. The Gibraltar Parliament recently approved the Domestic Abuse Act 2023, which has various functions, three of which are:

- (a) the creation of new offences such as criminalising controlling or coercive behaviour in an intimate or family relationship where the behaviour has a serious effect on the victim, the offence of threatening to disclose intimate images;
- (b) providing a definition for domestic abuse;
- (c) the creation of new powers to deal with domestic abuse, through senior police officers and the Courts.<sup>13</sup>

### **Guernsey**

39. In September 2022, Guernsey’s parliament agreed the Domestic Abuse & Sexual Violence Strategy for Guernsey and Alderney 2022–2025.<sup>14</sup> This broadened the scope of the Domestic Abuse Strategy to include sexual violence.

### **Isle of Man**

40. The IOM Government brought the majority of the Domestic Abuse Act 2020 into operation in January 2023, strengthening the Island’s legislation in this area. Alongside this, the Sexual Offences and Obscene Publications Act 2021 modernises the Island’s legislation on the prevention of sexual offences, protection of victims and provides increased sentencing powers for relevant offences. The Justice Reform Act 2021 updates a range of the Island’s criminal justice legislation. Implementation plans can be found online.<sup>15</sup>

<sup>11</sup> <https://www.gov.scot/collections/justice-analytical-services-safer-communities-and-justice-statistics-monthly-reports/>.

<sup>12</sup> <https://www.gov.wales/violence-against-women-domestic-abuse-and-sexual-violence-strategy-2022-2026-html>.

<sup>13</sup> <https://www.gibraltarlaws.gov.gi/uploads/legislations/domestic-abuse/2023-06/2023-06o.pdf>.

<sup>14</sup> <https://www.gov.gg/CHttpHandler.ashx?id=160291&p=0>.

<sup>15</sup> <https://www.gov.im/about-the-government/departments/home-affairs/legislation>.

## Jersey

41. In 2022 Jersey adopted the Domestic Abuse (Jersey) Law which introduces a new offence of domestic abuse. The law will come into force in 2023. The Government has also established a Taskforce on Violence Against Women and Girls to undertake research and provide recommendations to inform the Government's approach. The Taskforce will report in September 2023.

## Reply to paragraph 6 of the list of issues

42. Since October 2016 (following the introduction of the Modern Slavery Act 2015), the UK Government has invested £16.5m, including £1.4m in the financial year 2022/23, to improve the policing response to modern slavery in police forces in England and Wales. This is led by the Modern Slavery and Organised Immigration Crime Unit (MSOICU). This funding has provided a national infrastructure for forces dealing with modern slavery, including a bespoke intelligence hub and thematic experts brought together to support individual police forces. Since 2019, the MSOICU has produced a range of best practice guidance for police officers, including how to better identify and support victims and guidance on investigation strategies.

43. The most recent published data (April 2021 to March 2022), shows the CPS charged 78.7% of modern slavery cases that were referred from the police<sup>16</sup> and 70% of cases charged resulted in a conviction at court, similar to preceding years.<sup>17</sup> However, the volume of cases referred for charge and prosecution has been increasing year on year since 2016, except in 2020 which saw a decrease in prosecutions due to the closure of courts as a result of Covid-19.

44. Part 2 of the Modern Slavery Act 2015 makes provision for Slavery and Trafficking Prevention Orders (STPOs) and Slavery and Trafficking Risk Orders (STROs). These are civil orders which enable prohibitions to be imposed by the courts on individuals who have been involved in modern slavery or trafficking or convicted of a slavery or trafficking offence. In February 2022, the Police National Computer recorded that there were 168 STPOs and 78 STROs live across UK Regions.

45. Victims of trafficking and modern slavery can access compensation through a range of criminal and civil routes. Sections 8-10 of the Modern Slavery Act 2015 make provision for Slavery and Trafficking Reparation Orders for victims of modern slavery, which enable the courts to order a person convicted of a modern slavery offence to pay reparations to their victim(s). These orders can only be made where a confiscation order is made against the person in respect of the modern slavery offence. Comprehensive data on the number of slavery and trafficking reparation orders granted to date is not available.

46. Grant funding was provided (2021-22) to law enforcement to implement measures to support victims of modern slavery within the criminal justice system. Independent research has been commissioned on criminal justice victim support models run by non-governmental organisations, to better understand what support is available and what helps to support and engage victims. The findings will be used to improve provision of support to victims in engaging with the criminal justice system.

47. The National Referral Mechanism (NRM) connects victims of modern slavery with appropriate support, including through the government funded Modern Slavery Victim Care Contract (MSVCC). Support is also provided by local authorities, asylum services, and wider state support services such as the NHS.

48. Local authorities are responsible for safeguarding and promoting the welfare of all children in their area, including child victims of modern slavery. If a trafficked child becomes 'looked after' (i.e., in the care of their local authority), they will be entitled to the same level

<sup>16</sup> <https://www.cps.gov.uk/sites/default/files/documents/publications/Pre-Charge-Data-Tables-Year-Ending-March-2022.xlsx>.

<sup>17</sup> <https://www.cps.gov.uk/sites/default/files/documents/publications/Prosecution-Crime-Types-Data-Tables-Year-Ending-March-2022.xlsx>.



of support and care as all looked after children, regardless of their nationality or immigration status. Local children's services work in close co-operation with the police and other statutory agencies to offer potentially trafficked children the protection and support they require. In addition, the Government has rolled out Independent Child Trafficking Guardians to two thirds of local authorities in England and Wales.

### **First responders and training for relevant practitioners**

49. First Responder Organisations are approved authorities whose staff, acting as first responders, can refer a potential victim of modern slavery into the NRM. Decisions on these referrals are then made by trained specialists within a competent authority; the Single Competent Authority or the Immigration Enforcement Competent Authority.

50. The Government has launched an e-learning package applicable for all First Responders. This currently consists of two modules, one on indicators of modern slavery and how to make a referral into the NRM (published summer 2020) and a second (published June 2021) that focuses on the vulnerabilities of child victims. We are in the process of developing a First Responders Hub where learning materials will be accessible to First Responders.

### **Two-stage decision process**

51. The first stage is the reasonable grounds decision. Where a positive decision is issued, the competent authority will gather further information about the case and make a second decision on 'the balance of probabilities' whether that individual is a victim of modern slavery. This is the conclusive grounds decision. This process is consistent with our international obligations, including those deriving from the Council of Europe Convention on Action against Human Trafficking.

52. Statistics are included in the annex.

### **Scotland**

53. In May 2017, the Scottish Government published its first Trafficking and Exploitation Strategy,<sup>18</sup> which sets out three focus areas as part of the overall vision to eliminate human trafficking and exploitation:

- to identify victims and support them to safety and recovery;
- to identify perpetrators and disrupt their activity;
- to address the local and global conditions that foster trafficking and exploitation.

54. The strategy includes a section on actions specific to children. Each action area is led by an implementation group with membership ranging across government, law enforcement, victim support, local authorities, business, nongovernmental organisations and academia.

55. The National Human Trafficking Unit was created within Police Scotland to provide an overview of human trafficking and to manage NRM cases allocated for investigation in Scotland.<sup>19</sup> The Unit supports divisional activity, engages regularly with partners on the Trafficking and Exploitation Strategy and develops policy and strategy in this area.

### **Wales**

56. The Welsh Government works with a range of partners to raise awareness of the risks and signs of modern slavery, tackle modern slavery wherever it exists, and provide support to survivors. This includes through the Anti-Slavery Wales Forum and four thematic working groups organised by the Welsh Government.

<sup>18</sup> <https://www.gov.scot/publications/trafficking-exploitation-strategy/>.

<sup>19</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/progress-report/2022/01/trafficking-exploitation-strategy-fourth-annual-progress-report/documents/trafficking-exploitation-strategy-fourth-annual-progress-report/trafficking-exploitation-strategy-fourth-annual-progress-report/govscot%3Adocument/trafficking-exploitation-strategy-fourth-annual-progress-report.pdf>.

## Reply to paragraph 7 of the list of issues

57. The Nationality and Borders Act 2022 defines what it means for a claimant to have a well-founded fear of persecution and creates a new statutory framework for decision-makers to follow when assessing whether a claimant has a well-founded fear of persecution in accordance with Article 1(A)(2) of the Refugee Convention. When considering asylum claims, decision-makers must continue to consider all of the evidence in the round, but apply a different standard of proof at different points in the determination process.

58. The Act breaks the determination process down, creating a clear two-stage assessment to help decision-makers determine whether a claimant has a well-founded fear of persecution.

59. In ‘Stage One’, the decision-maker must determine, on the balance of probabilities, whether the claimant has a characteristic which would cause them to fear persecution for one or more of the convention reasons, and that they do in fact fear persecution.

60. In ‘Stage Two’, the decision-maker must assess whether there is a reasonable likelihood that the claimant would in fact face the harm they fear if they returned to their country of nationality (or in a case where they do not have a nationality, the country of their formal habitual residence). This assessment must be made to the lower standard of a ‘reasonable likelihood’, in the same way as in claims made before the Act came into force.

61. There is no specific requirement for claimants to provide medical evidence in support of an asylum claim and it is likely to be available in only a minority of cases. Further details are provided in our guidance on considering medical evidence in asylum claims.<sup>20</sup>

62. Where a protection or human rights claim is being considered in the UK an individual assessment of the merits of the claim must be carried out. Where a person is entitled to reside in a state listed under section 94 (4) of the Nationality, Immigration and Asylum Act 2002 and their claim fails then the UK will certify their claim unless satisfied it is not clearly unfounded. The clearly unfounded test is a “high threshold” which as interpreted by the UK’s Courts means the claim is bound to fail. In assessing whether the claim is bound to fail, up to date country reports are considered. Where a claim is assessed as being clearly unfounded and is certified under section 94 the ability to appeal from outside the UK was removed by section 28 of the 2022 Act. It remains possible to bring an application for judicial review of a decision to certify before removal takes place.

63. The UK does not have a “list of safe countries” which automatically allows “for return of asylum seekers”, but does maintain a list of designated safe states for which there is a presumption that claims would be unfounded, to which an individual may be returned if safe to do so in their specific circumstances. That presumption is rebuttable and always considered on a case-by-case basis.

64. In light of recent developments, our published Country Policy and Information Notes<sup>21</sup> (see section 2.7.1) clearly set out that such claims are not likely to be suitable for certification.

65. The 2022 Act includes significant new measures to increase the fairness of our asylum system, so that we can better protect and support those in need of protection, to deter illegal entry into the UK and stringently punish those responsible for facilitating it, and to help remove more easily from the UK those with no right to be here, including foreign national offenders. The UK remains committed to meeting our obligations under both the ECHR and the 1951 Refugee Convention. All the asylum related provisions brought in by the 2022 Act are fully compliant with all our international obligations.

## Reply to paragraph 8 of the list of issues

66. Statistics on asylum are included in the annex. These statistics are not currently recorded in a way which enables statistics to be disaggregated by claims of torture.

<sup>20</sup> <https://www.gov.uk/government/publications/medical-evidence-in-asylum-claims>.

<sup>21</sup> <https://www.gov.uk/government/publications/ukraine-country-policy-and-information-notes>.

67. Extradition from the UK generally takes place under treaties or international agreements. Specific human rights safeguards are enshrined within the UK's domestic extradition legislation. The UK courts determine whether a person's extradition is compatible with their human rights. As such, in the majority of cases the UK would not require diplomatic assurances about specific aspects of a person's treatment if extradited.

68. Where the courts have substantial grounds to believe that a person's human rights are at risk of being breached were extradition to be ordered, they or the independent UK prosecuting authorities, who act on behalf of the requesting State, may invite the requesting State to provide an assurance in response to the requirements of the UK courts.

69. Where necessary, the Home Secretary may seek an assurance that the death penalty will not be imposed or carried out. It is the responsibility of the requesting State to provide such assurances. The UK would regard such assurances as binding on the requesting country. If the court is not satisfied with the assurance it may discharge the requested person on the grounds that extradition would not be compatible with their human rights, in accordance with the statutory provisions of the Extradition Act 2003.

70. The UK courts are open to seek or require further details in the assurance as to how the country concerned might demonstrate it was adhering to specific commitments. When considering the adequacy of an assurance in any particular case, the courts are encouraged to place appropriate weight on any assurance previously obtained in extradition requests from the same requesting country. Where breaches or potential breaches of assurances are identified, it is best practice to inform the courts so that any breach may be considered in the determination of the acceptance of future assurances from that country.

71. The Illegal Migration Bill will ensure that those who arrive in the UK illegally will not be able to stay. Instead, they will be detained immediately and promptly removed, either to their home country or a safe third country, where any asylum claim will be considered. We will work with the United Nations High Commissioner for Refugees to identify those who are most in need so that the UK remains a safe haven for the most vulnerable.

## **Reply to paragraph 9 of the list of issues**

72. Information on how extradition requests are handled and treaties we have concluded is available online.<sup>22</sup>

73. An extradition offence is defined in the UK's domestic extradition legislation in sections 64 and 65 (Category 1 territories), and Sections 137 and 138 (category 2 territories) of the Extradition Act 2003. See also the response in the UK 6th Periodic report at paragraphs 74 to 77 and 80.

74. In respect of legislative and administrative measures, Section 194 of the Extradition Act 2003 (Special Extradition Arrangements) provides for a discretion for the Home Secretary to enter into arrangements with the requesting state via a Memorandum of Understanding in relation to the extradition request; the Home Secretary may then issue a certificate which would thereby mean the request is treated as if it was a request from a Category 2 territory (explained in the Extradition Act 2003).

75. Torture is a crime of universal jurisdiction and the UK has no bar on extraditing its own citizens. If a circumstance listed under CAT Article 5 were to arise, UK law enforcement is responsible for referring relevant offences to a prosecuting authority in their jurisdiction.

76. Information on how mutual legal assistance requests are handled by the UK, including a list of mutual legal assistance agreements, is available online.<sup>23</sup>

77. During this reporting period, no such treaties or agreements have led to the transfer of any evidence in connection with prosecutions concerning torture or ill treatment.

<sup>22</sup> <https://www.gov.uk/guidance/extradition-processes-and-review>.

<sup>23</sup> <https://www.gov.uk/guidance/mutual-legal-assistance-mla-requests>.

## **Reply to paragraph 10 of the list of issues**

### **Armed Forces**

78. All members of the UK Armed Forces receive mandatory training on the Law of Armed Conflict, including the prohibitions against torture and mistreatment. This is reinforced in training on the treatment of captured persons. Torture is specifically mentioned as a war crime with attendant likelihood of prosecution within the section on operational accountability. The Service Police and custodial staff receive comprehensive training, including refresher training in advance of certain key appointments and in advance of any deployments on operations or exercises. Custodial staff deliver relevant training to any non-custodial staff who will have responsibility for detention in an operational context.

### **England and Wales: Police**

79. The College of Policing's (CoP) Policing Education Qualifications Framework (PEQF) is the professional training framework for police officers and staff. It covers all areas of policing, including conducting investigations, interviewing and custody. It also covers ethical and professional interviews which include the "PEACE" process (Preparation and Planning, Engage and Explain, Account clarification and challenge, Closure, Evaluation) and the principles of investigative interviewing; the complex circumstances that officers may encounter when conducting interviews; the Victims' Code, and best evidence when interviewing victims and witnesses; and what to take into account when interviewing suspects.

80. The Police and Criminal Evidence Act 1984 (PACE), the Victims' Code and the national policing curriculum are all designed to set modern investigations in an ethical framework, which places the rights of victims, witnesses and suspects at its heart.

### **England and Wales: Judiciary**

81. Judicial training in England and Wales is the responsibility of the Lord Chief Justice under the Constitutional Reform Act 2005 section 7 (2)(b) and is exercised by the Judicial College. Judges receive specialist training in hearing cases of abuse of children in detention. Judges who hear criminal cases involving serious sexual offences in a criminal court context require specialist authorisation. These judges must attend a serious sexual offences induction seminar before they first try such a case. Thereafter they must attend serious sexual offences training at least every three years. Additional training materials, both written and e-learning, are regularly made available to such judges via the Judicial College's Learning Management System to ensure they stay entirely up to date on developments in the law.

82. The Equal Treatment Bench Book (ETBB) (revised in July 2022) gives guidance to the judiciary to increase awareness and understanding of different circumstances of people appearing in courts and tribunals. The ETBB is publicly available online.<sup>24</sup> Chapter 2, concerning Children, Young People and Vulnerable Adults, highlights the judiciary's role in safeguarding; detailing guidance and considerations on how to deal with children and vulnerable parties appearing in courts and tribunals.

83. The Judicial College also publish the Crown Court Compendium. This publication makes reference to the judicial approach to receiving evidence from children. The Crown Court Compendium is publicly available online.<sup>25</sup>

### **Scotland: Prisons**

84. All prison staff are required to develop a foundational understanding of human rights and the Universal Declaration of Human Rights ("UDHR") as part of the Scottish Prison Service's equality and diversity training. In addition, all new Residential Officers are required

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<sup>24</sup> <https://www.judiciary.uk/wp-content/uploads/2022/10/Equal-Treatment-Bench-Book-July-2022-revision-2.pdf>.

<sup>25</sup> <https://www.judiciary.uk/guidance-and-resources/crown-court-compedium/>.

to undertake further training on the UDHR, the ECHR, and the HRA, with a specific focus on how human rights apply to their professional role and individuals in custody.

#### **Scotland: Police**

85. Through its Equality and Human Rights Impact Assessment course, Police Scotland ensure that students are aware of the provisions of the ECHR and that the prohibition of torture is an absolute right and should not be breached.

86. Probationary constables also take part in a lesson entitled Prisoner Rights, Care and Welfare. This lesson builds on Police Scotland's Code of Ethics and explains the threat and vulnerability assessment conducted for each prisoner accepted into custody, the suicide prevention strategy, and custody rights (including in relation to younger children, older children and vulnerable people). The lesson also explains the importance of searching the prisoner, not only for the purpose of evidence-gathering, but also as a means to protect prisoners from themselves whilst in custody by recovering any item which could be used to cause harm. The lesson also covers the rights of access to legal representation, the use of appropriate adults and interpreters (including British Sign Language), sequential arrest, and processes for Post Charge Questioning.

#### **Guernsey**

87. Forensic Medical Examiners and Prison Doctors are trained in identifying signs of torture.

#### **United Kingdom: Cooperation with Libya**

88. The UK Government ended all cooperation with Libya on migration issues in 2016 due to human rights concerns.

### **Reply to paragraph 11 of the list of issues**

#### **England and Wales**

89. The PACE Codes of Practice set out the legal framework for the detention, treatment and questioning of persons by police officers. The operational management of custody suites is carried out in accordance with the Authorised Professional Practice requirements as set by the CoP.

90. Interviews of suspects in police custody must comply with the requirements of PACE Code C (updated 4 November 2020) and E (updated 31 July 2018), and in accordance with the individual's rights, entitlements and appropriate adult safeguards (if required). The interview must be carried out with professionalism and integrity and should follow the CoP Authorised Professional Practice guidance (updated 26 October 2022) as detailed in the PEACE framework (see above).

91. The integrity of police custody is maintained via HMICFRS, which makes unannounced visits to police custody suites as part of a continuing inspection programme to check on the standard of service provision. Visitors coordinated by the Independent Custody Visiting Association also make unannounced visits to check on the rights, entitlements, well-being and dignity of detainees held in police custody.

92. Nobody should be arrested or required to voluntarily attend the police station to be interviewed because of their race or ethnicity. Safeguards exist to ensure that this does not happen, including the PACE codes of practice, use of body worn video and extensive data collection.

#### **Scotland**

93. Police interviewing within Scotland is compliant with both Scots Law and the ECHR.

94. Chapter 4 of Part 1 of the Criminal Justice (Scotland) Act 2016 (“the 2016 Act”)<sup>26</sup> deals with interviews carried out by the police. The provisions apply to an arrested person or a person who is to be interviewed on a voluntary basis. The person must be informed of their right to have a solicitor present during the interview. The 2016 Act provides that a person aged over 18 may consent to an interview without a solicitor and a written record must be kept. There are safeguards in place for young persons aged 16 and 17 years and also children and those aged 16 years or over who, due to a mental disorder, may not understand or be able to communicate effectively. Any suspect in custody has the right to a private consultation with a solicitor at any time.

95. All police officers within Police Scotland receive training on non-coercive investigative techniques within their Probationer Training. This is captured within the “PRICE” model (Preparation, Rapport, Information, Clarify, Evaluation; similar to the England and Wales “PEACE” model) whereby officers are encouraged to make suitable preparations for interview and to conduct the interview in a fair and effective manner. Probationers are provided with a lesson entitled Witness Interview Training – Questioning Skills. This training provides officers with the appropriate questioning styles and techniques to gain information required to progress an enquiry. The training also identifies and explains the stages of the PRICE model for witnesses and explains the advantages of preparation and following an interview plan.

## **Reply to paragraph 12 of the list of issues**

### **England and Wales**

96. Published figures show that crowding across the prison estate reduced from 22.5% of the population to 20.6% between 2018/19 and 2021/22, equivalent to c. 4,300 fewer prisoners held in crowded conditions.<sup>27</sup> An additional 20,000 modern prison places are being provided.

97. The UK Government intends to publish its Female Offender Strategy Delivery Plan in 2023. The Plan will set out our priorities for further delivery of the aims of the Female Offender Strategy (June 2018), including better outcomes for women in custody.

98. Separately, the Prisons White Paper, published in December 2021, set out the Government’s approach for women’s prisons. It is trauma responsive, recognises the distinct nature of women’s experience in custody and provides the appropriate levels of support, particularly for pregnant women and those with young children.

99. The Women’s Health and Social Care Review Group is a partnership between NHS England and HMPPS convened in January 2021 to undertake a review to improve the health and wellbeing of women in prison, reduce inequalities, and ensure equity of access to health and social care services for all women across the Women’s Estate. The review was published in June 2023 and was informed by women who are ‘experts by experience’ at every stage, to ensure their views are heard and feed directly into recommendations.

100. Roll out of NHS England’s refreshed mental health service specification will commence by April 2023. The specification will highlight the importance of integrated working and the need to take a holistic approach to healthcare assessment and delivery, ensuring that women in prisons receive mental health services that consider their different physical and mental health needs, social and family circumstances.

101. To address the high rate of self-harm in the women’s prison estate the Government has established a Women’s Self-Harm Taskforce, which has: recruited psychologists to assist delivery of enhanced support to women with the most complex needs; funded a pilot to better support women in the early days of custody; piloted bespoke residential provision for young adult women; and implemented a gender specific Offender Management in Custody model.

<sup>26</sup> <https://www.legislation.gov.uk/asp/2016/1/contents>.

<sup>27</sup> <https://www.gov.uk/government/statistics/hmpps-annual-digest-april-2021-to-march-2022>.

## Scotland

102. The SPS is developing a new Health and Wellbeing Strategy that recognises the increasing complexities and underlying health conditions of the prison population in comparison to the wider population. It will take a public health approach by promoting and protecting health and wellbeing, preventing ill-health, and prolonging life through the organised efforts of the SPS in partnership with key partners and stakeholders. It will provide the overarching framework for all health-related strategies including drugs and alcohol, physical health, and mental health, including a bespoke component for children and young people.

## Wales

103. The Partnership Agreement for Prison Health<sup>28</sup> sets out agreed priorities for improving the health and wellbeing outcomes of people in prisons. It includes a specific focus on substance misuse, mental health, medicines management and the role of the wider prison environment in supporting the health and wellbeing of people in prison.

104. The Welsh Government recently consulted on a new Substance Misuse Treatment Framework and new standards for mental health services for the prisons in Wales,<sup>29</sup> and will now be working with the prisons, the health boards, Public Health Wales, and HMPPS in Wales on implementation.

105. The Welsh Government also funds Traumatic Stress Wales (£1.2million annually) which aims to improve the health and wellbeing of people of all ages living in Wales at risk of developing or with post-traumatic stress disorder or complex post-traumatic stress disorder. Traumatic Stress Wales have a specific workstream focussed on prisons and criminal justice – which is leading on the development of an effective trauma care pathway, for people who are in the criminal justice system on custody in Wales.

## Reply to paragraph 13 of the list of issues

### England and Wales

106. Prisoners should only be held in segregation under the proper authority. This is provided by the Prison (YOI) Rules. Prisoners with severe mental-health conditions should not be placed in segregation units solely as an alternative to holding them in normal accommodation, as per the Prison Rules above.

107. A Segregation Review Board (SRB) must be held within the first 72 hours of a prisoner being placed in segregation, then a further SRB must be held within 14 days and every 14 days thereafter. These reviews should be conducted by a multidisciplinary team (including colleagues from operations, healthcare, education etc) and consider carefully all the available evidence for and against continued segregation in an impartial manner and the option of either extending segregation or removing the prisoner from segregation.

108. A Governor may authorise segregation beyond 72 hours under the Prison and YOI Rules. A Governor must obtain leave from the Secretary of State for Justice (usually a senior manager from the Prison Group Director (PGD) office acting on behalf of the Secretary of State) to continue segregation beyond 42 days. If segregation is to continue beyond 84 days, then a further Subsequent Review will take place. Segregation over 6 months must be authorised by the PGD themselves.

109. Prisoners in segregation have the opportunity for daily interaction with prison and healthcare staff and chaplaincy and can speak and, if safe to do so, associate with other segregated prisoners. They also have regular contact with the IMB, a doctor and the prison governor. As far as possible, segregated prisoners have access to a regime comparable to that on normal location.

<sup>28</sup> <https://www.gov.wales/partnership-agreement-prison-health-wales>.

<sup>29</sup> <https://www.gov.wales/draft-substance-misuse-treatment-framework-and-standards-mental-health-services-prisons>.

110. Prison Service Order 1700 provides for data to be collected and analysed locally. A review of the policy is currently underway, considering potential measures to enhance data collection and use at key levels of governance.

111. Prior to the Covid-19 pandemic, assaults were on a downward trend. The number of assaults peaked in July – September 2018, and the rate of assault in the 12 months to March 2020 was 9% lower than in the previous 12 months.

112. In the 12 months to June 2022, there were 20,551 incidents of assault, up 12% from the 12 months up to June 2021. Between April and June 2022, there were 5,319 assaults, an increase of 13% from the previous quarter, which remains lower than the peak of 8,563 in the July to September 2018 quarter. Whilst the number of assaults incidents remains lower than pre-pandemic levels, we continue our efforts to address violence in prisons.

113. The use of force policy sets out the legal requirements for using force and considerations that must be made prior, during and after the application of force to ensure all force is necessary, reasonable, and proportionate and therefore lawful.

114. A national use of force committee whose remit extends to public, private and young offenders institutions meet on a quarterly basis and has been established to provide strategic oversight of the use of force across HMPPS. The committee develops reporting processes and share points of learning, examples of good practice and research findings with internal and external stakeholders including those responsible for local and regional use of force governance.

### **Scotland**

115. Rule 95 of the Prison and Young Offenders Institutions (Scotland) Rules 2011 makes provision for the removal of prisoners from association with other prisoners either generally or to prevent their participation in a prescribed activity. The aim of the SPS Removal of Association Policy is to ensure compliance with Rule 95 and the ECHR, in particular Articles 3 and 8. The removal of a prisoner from association under Rule 95 must be either to maintain good order or discipline, protect the interests of any prisoner, or ensure the safety of other persons. In accordance with direction 5 of the Health Board Provision of Healthcare in Prisons (Scotland) Directions 2011, where an individual has been removed from association under rule 95 of the Prison Rules, a medical practitioner or nurse must visit the person as soon as possible and thereafter as often as they consider necessary. A medical practitioner or nurse must review the prisoners' medical condition at least once in every seven days.

### **Wales**

116. In 2021, the Welsh Government published the Reducing Restrictive Practices Framework.<sup>30</sup> This framework is intended to promote measures that will lead to the reduction of restrictive practices. The framework also seeks to ensure that where restrictive practices are used, as a last resort, to prevent harm to the individual or others, that this is informed by person centred planning within the context of the service setting and in a way which safeguards the individual, those whom they interact with, and those who provide services to them.

### **Guernsey**

117. Police, Customs and Prison Officers are required to undergo periodic 'Use of Force' training in which they are trained in the latest restraining techniques. All 'Use of Force' Instructors are required to undergo re-validation training. Debriefs are held after each 'Use of Force' incident and reports on such incidents are required to be submitted 72 hours post-incident.

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<sup>30</sup> <https://www.gov.wales/reducing-restrictive-practices-framework>.



## Reply to paragraph 14 of the list of issues

### England and Wales: Prisons

118. Each death in prison is investigated by the independent Prisons and Probation Ombudsman (PPO), as well as being the subject of a Coroner's inquest. The PPO publishes the report of each investigation at the conclusion of the inquest.<sup>31</sup>

119. HMPPS accepts and acts on the vast majority of the recommendations in PPO reports and responds to all Prevention of Future Deaths reports received from Coroners. The national safety team co-ordinates these responses and ensures that the learning from the reports and recommendations are shared across the prison estate.

120. In the 12 months to September 2022, there were 307 deaths in prison custody, a decrease of 22% from 396 deaths the previous 12 months. Of these, 70 deaths were self-inflicted, a 16% decrease from the 83 self-inflicted deaths in the previous 12 months. Detailed statistical breakdowns including sex, age, nationality and ethnicity are published online.<sup>32</sup>

121. The Prisons Strategy White Paper was published in December 2021 and sets out our vision for prisons of the future. We are investing in our prisons to make them safer for both prisoners and staff by taking a preventative approach to safety and making key changes to the physical environment, introducing specialist support, developing bespoke interventions, testing new technology and increasing our understanding of debt as a driver of violence and self-harm.

122. We are improving how we identify and manage those who pose a raised risk of being violent through the Challenge, Support and Intervention Plan (CSIP), the national case management model for managing those who pose a raised risk of being violent, which was mandated for use across the adult prison estate from November 2018. CSIP provides a framework for managing violence that is centred around the prisoner and their specific needs to help them manage and move away from violent behaviours.

123. All responses to violence must be documented and recorded on NOMIS to support defensible decision making. Governors must implement a quality assurance process to ensure robust challenge and investigation of instances of violence and the sharing of learning from these incidents.

124. We are developing and phasing in a Safety Support Skills training package for staff. This includes training for staff on violence. The violence module will equip staff to understand how to mitigate the drivers of prison violence as well as teaching them the skills required to hold difficult conversations, de-escalate effectively and finally, how to support the use of CSIP effectively within their establishments. We are developing and phasing in a Safety Support Skills training package for staff. This includes a violence module equipping staff to mitigate the drivers of prison violence, teaching the skills required to hold difficult conversations and de-escalate effectively, and support the use of CSIP effectively within their establishments.

### England and Wales: Police

125. Under the Police Reform Act 2002, forces in England and Wales have a duty to refer to the Independent Office for Police Conduct (IOPC) all deaths during or following police contact. The IOPC considers the circumstances of all referrals and will decide whether to investigate.

126. Since April 2006, the IOPC has also received mandatory referrals for cases where someone has died during or following contact with His Majesty's Revenue and Customs (HMRC); the Gangmasters and Labour Abuse Authority (GLAA), and the National Crime Agency (NCA).

127. In the most recent reporting year of 1 April 2021 to 31 March 2022, no one died after making an apparent suicide attempt while in a police custody suite. The last incident of this

<sup>31</sup> <https://www.ppo.gov.uk/document/fii-report/>.

<sup>32</sup> <https://www.gov.uk/government/statistics/safety-in-custody-quarterly-update-to-june-2022>.

kind was in 2016/17. Before that, there was one incident in 2014/15 and one in 2008/09. Since 2004/05, seven people are known to have died as a result of self-inflicted acts while in a police cell.

128. Statistics are included in the annex.

### **Scotland**

129. A Fatal Accident Inquiry (“FAI”) is mandatory into the death of a person who dies in legal custody under section 2 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016.<sup>33</sup> One potential exception to this is where the Lord Advocate may decide an inquiry is not to be held if he/she is satisfied that the circumstances of the death have been sufficiently established in proceedings such as criminal proceedings. The decision to hold an FAI is a matter for the Lord Advocate/Procurator Fiscal. The Scottish Courts and Tribunals Service (“SCTS”) are responsible for the hosting, administration, and management of Inquiry. When an FAI is held, consideration is given to what steps, if any, might be taken to improve prisoner safety and to prevent other deaths in similar circumstances.

130. An Independent Review into the Handling of Deaths in Prison Custody,<sup>34</sup> led by HM Chief Inspector of Prisons for Scotland and co-chaired by the Chief Executive of Families Outside and the Chair of the Scottish Human Rights Commission, examined the operational policies, practice and training in place within the SPS and NHS relevant to the deaths of prisoners, with a view to identifying and making recommendations on areas of improvement in the immediate aftermath of a death in custody. The Review was published in November 2021. The Cabinet Secretary for Justice and Veterans accepted all its recommendations in principle.<sup>35</sup>

### **Guernsey**

131. Prisoners in Guernsey’s prison at risk of self-harm or suicide are identified and given appropriate care and support. All vulnerable adults at risk are identified, protected from harm and neglect, and receive effective care and support. Guernsey Prison has had recent success in reducing rates of self-harm, anti-social behaviour, violence and use of force.

### **Isle of Man**

132. Inquests are heard before a jury if the death occurs in prison or whilst in police custody, or as a result of an injury caused by a police officer in the ‘performance of his duty’. As a result of recent incidents, appropriate changes including those to mandatory training to staff have been implemented.

## **Reply to paragraph 15 of the list of issues**

133. Decisions to detain are taken on a case-by-case basis. Published Home Office detention policy is clear that detention must be used for the shortest period necessary.

134. We do not detain individuals without limit. By law, we only have power to detain people for the purpose of examination, or for the purpose of removal where there is a realistic prospect of removal within a reasonable timescale. The Detained Asylum Casework team considers the asylum claims of some individuals in detention. All decisions to detain (or to maintain detention of) asylum claimants are considered in accordance with published detention policy, including the ‘Adults at Risk in Immigration Detention’ policy where appropriate.

135. Most people detained under immigration powers spend only a short period of time in detention. In the year ending March 2023, data shows that the overwhelming majority

<sup>33</sup> <https://www.legislation.gov.uk/asp/2016/2/contents/enacted>.

<sup>34</sup> <https://www.prisonsofscotland.gov.uk/publications/independent-review-response-deaths-prison-custody>.

<sup>35</sup> <https://www.parliament.scot/chamber-and-committees/official-report/what-was-said-in-parliament/meeting-of-parliament-30-11-2021?meeting=13439&iob=121982>.

of people (98%) who left detention were detained for less than 6 months, 73% were detained for 28 days or less, and 44% were detained for 7 days or less. Virtually all those held for more than 6 months are Foreign National Offenders. 95% of individuals with no leave to remain in the UK are managed within the community rather than detained.

136. We have conducted two pilots exploring alternatives to detention. In line with international best practice, each pilot ran for two years before final evaluation. The first of these pilots, Action Access, provided women who would otherwise be detained with a programme of support in the community. This pilot concluded on 31 March 2021 after two years.

137. The second pilot, the Refugee and Migrant Advisory Service, supported both men and women and concluded in June 2022 as planned. We are working with the United Nations High Commissioner for Refugees on these pilots, and they have appointed the National Centre for Social Research to independently evaluate this work.

138. The evaluation report of the Action Access pilot was published on 24 January 2022 and the report for the Refugee and Migrant Advisory Service is due to be published soon. We will use the evaluations of these pilots to inform our future approach to case-management focused alternatives to detention.

139. We fully accept that some groups of individuals can be at particular risk of harm in immigration detention. This is the basis of the adults at risk in immigration detention policy, which strengthens the presumption against detention for vulnerable individuals. Under the adults at risk policy, vulnerable individuals will be detained only when the evidence of vulnerability in their particular case is outweighed by the immigration considerations. Rule 35 of the Detention Centre Rules 2001 requires doctors in immigration removal centres (IRCs) to report to the Home Office cases of individuals whose health is suffering in detention, who are suspected of having suicidal intentions, or who may have been victims of torture. Evidence produced through these processes is used when considering cases in line with the adults at risk in immigration in detention policy.

140. There are established procedures in place in every IRC and short-term holding facility (STHF) to minimise instances of self-harm with formal risk assessments on initial detention and systems for raising concerns at any subsequent point. Assessment Care in Detention and Teamwork is the system used for monitoring detained individuals considered to be at risk of self-harm or suicide and is operated in all IRCs and STHFs. Staff at all centres are trained to identify and prevent the risk of suicide and self-harm. Notices in various languages are displayed in all centres, to encourage any concerns about a fellow detained person to be brought to the attention of a member of staff.

141. In 2010 the routine detention of children and families being returned from the UK ended. The Family Returns Process (FRP), introduced in 2011, has greater focus on engagement with families with children to encourage their voluntary return. Under the FRP, where families with children refuse to leave the UK voluntarily, they may be accommodated for a short period immediately prior to their removal in pre-departure accommodation (at Gatwick airport) to support their ensured return. It also remains necessary, on occasion, to hold families with children who have been intercepted at the border while enquiries are made to decide whether they can be admitted to the country, or until the next available return flight if they are refused entry. Unaccompanied children are detained only when absolutely necessary and for the shortest period possible. A person being treated as an unaccompanied child must not be detained in an immigration removal centre under any circumstances. The Immigration Act 2014 introduced a 24 hour time limit on unaccompanied children being detained for removal in a short-term holding facility. It is worth noting that the Illegal Migration Bill makes bespoke provision for the detention of children and families who are subject to removal under the provisions of that Bill.

142. Healthcare in all immigration detention facilities in England (except Manston Processing Centre where there is a contract with a private provider) is commissioned by NHS England. At Dungavel House IRC in Scotland, and Larne House STHF in Northern Ireland, healthcare is commissioned by the service providers. All IRCs have dedicated health facilities run by doctors and nurses delivered to the equivalent quality standards as services are in the community. Detained individuals arriving at IRCs are medically assessed by a nurse within

two hours of their arrival and offered an appointment with a doctor within 24 hours. Individuals also have access to a range of medical care whilst they are in an IRC including their primary care, dentistry, substance misuse treatment services and mental health care.

143. NHS England is committed to delivering a high standard of healthcare with equivalence to community provision within all Immigration centres that it has responsibility for, Short Term Holding Facilities (STHF) and Immigration Removal Centres (IRCs). To support this, NHS England is currently in the process of publishing new service specifications for roll out in 2023/24 including those for mental health and substance misuse to ensure that they are appropriate and meet the needs of the population.

144. In addition, NHS England has been working closely with the Home Office to ensure that all new detention sites, are designed, built, and equipped to the highest healthcare standards and that services commissioned to deliver them meet the needs of the population. NHS England regional commissioners ensure the delivery and quality of detention services are monitored through regular contract management meetings which include centre directors and regional partnership delivery groups.

145. Statistics are included in the annex.

### **Reply to paragraph 16 of the list of issues**

146. Staff are trained to identify and support the most vulnerable as they make their way through the system. We have a robust team set up who specifically deal with these types of claims. All staff are trained and informed on how to make appropriate referrals across all claim types including those who are claiming to be stateless. We routinely provide assistance to applicants to help them to evidence their claim.

147. Training for Statelessness staff consists of a week of classroom training plus 12 weeks mentoring on live cases, which can be extended to accommodate those who need further time to develop and those on part time hours. After they have completed mentoring, they work independently with reduced targets for a period of time to enable them to settle into the workflow aspects of the role and seek guidance from their senior caseworker. The team senior caseworker is available for everyone on the team to seek advice and escalate issues. Caseworkers are subject to regular decision quality assurance by the senior caseworker on a monthly basis. Our training package remains under constant review to ensure that our caseworkers receive the most up to date and relevant information.

148. The standard of proof used is the same as the standard detailed in the Statelessness leave policy,<sup>36</sup> the balance of probabilities.

149. The immigration appeals system was reformed by the Immigration Act 2014. Rights of appeal are now limited to decisions affecting a person's fundamental rights or where they have preserved rights as an EEA citizen (or their family member). Where a stateless person claims they are at risk of persecution or that removing them would be a breach of their human rights and we refuse that claim they will have a right of appeal.

150. A stateless person who does not claim they are at risk of persecution, or that removal would breach their human rights, who is refused permission to stay in the UK can apply for an administrative review of the decision to refuse their stateless application. The administrative review is carried out by an independent team within the Home Office, which is separate to the initial decision-making team. If the administrative review finds that the original decision was correct, then it is open to the person to seek a judicial review of the decision.

151. As of October 2019, immigration and asylum advice to separated migrant children, including on statelessness, is within the scope of the legal aid scheme.

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<sup>36</sup> <https://www.gov.uk/government/publications/stateless-guidance>.

## Reply to paragraph 17 of the list of issues

### England and Wales: Prisons

152. Prisoners are statutorily entitled to make complaints under Rule 11 of the Prison Rules 1999 and Rule 8 of the Young Offender Institution Rules 2000, and every prison in England and Wales operates a standardised complaints process in line with the national Prisoner Complaints Framework. The process has multiple layers enabling individual complaints to be escalated to an appeal and to the PPO if the complainant is not satisfied with the internal response.

153. Complaints about allegations of crime may be referred to the Police for investigation and the framework contains specific guidance on the process for managing allegations against staff and referrals to the police, mandating that all complaints relating to alleged misconduct by staff must be managed in accordance with the procedures set out in PSI 06/2010: Conduct and Discipline. Within the Youth Secure Estate, all complaints relating to allegations against staff are dealt with through the child protection procedures as described in Annex C of PSI 08/2012: Care and Management of Young People.<sup>37</sup>

154. Prisons must allow a prisoner who is a victim of a crime to report that crime to the police if they wish to do so, even if the prison has decided not to report that crime directly.

### England and Wales: Police

155. Complaints against the police are handled under the legislative framework provided by the Police Reform Act 2002 and the Police (Complaints and Misconduct) Regulations 2020. The IOPC is an arm's-length body responsible for overseeing the police complaints system in England and Wales and investigates the most serious matters, including deaths following police contact, and sets the standards by which the police should handle complaints. They are independent and make their operational decisions entirely independently of the police and government. The police are also operationally independent and will collect and hold various information and data at police force level rather than centrally with the government.

156. The vast majority of complaints will be handled by the professional standards departments of the relevant police forces. All death and serious injury matters involving the police must be referred to the IOPC to carry out an assessment. Further to this, the IOPC has its 'mandatory referral criteria' which set out that specified complaints and certain conduct matters against the police, such as serious assaults, must also be referred to the IOPC. The IOPC, when deciding on whether a referral should be investigated, can determine the type of investigation:

- Independent – the IOPC will investigate the matter using its own investigators;
- Directed – the IOPC will direct and control the investigation using resources from the police;
- Local – the police force Professional Standards Department investigates, with no involvement from the IOPC.

157. Statistics on the IOPC's independent investigations can be viewed online.<sup>38</sup>

158. Data and statistics are published on the IOPC website.<sup>39,40</sup> This year, for the first time as a standalone publication, statistics have been published on police misconduct.<sup>41</sup> Work is being done to improve data quality for future publications.

<sup>37</sup> <https://www.gov.uk/government/publications/caring-for-young-people-in-custody-psi-082012>.

<sup>38</sup> <https://www.policeconduct.gov.uk/outcomes-following-iopc-independent-investigations-202122>.

<sup>39</sup> <https://www.policeconduct.gov.uk/research-and-learning/statistics/police-complaints-statistics>.

<sup>40</sup> <https://www.policeconduct.gov.uk/research-and-learning/statistics/annual-deaths-during-or-following-police-contact-statistics>.

<sup>41</sup> <https://www.gov.uk/government/statistics/police-misconduct-england-and-wales-year-ending-31-march-2021>.

**England and Wales: Immigration**

159. The UK operates a comprehensive complaints system for detained individuals who feel that they have not been treated in accordance with our standards. We take complaints made by detained individuals very seriously and ensure that they are investigated thoroughly and in a timely manner. Complaints that relate to detained individuals are investigated in accordance with published guidance.<sup>42</sup>

160. Detained individuals who submit complaints are not disadvantaged in any way in relation to their treatment while in detention, or in relation to the outcome of their immigration case. Detained persons who are not satisfied with the way in which their complaint has been handled may ask for it to be reviewed by the Independent Examiner of Complaints or the independent PPO.

161. Complaints of serious misconduct made about a member of Home Office or contracted supplier staff, are referred to the Home Office Professional Standards Unit (PSU) for investigation. The PSU undertake an investigation and provide a substantive response to the complaint within 12 weeks. In some circumstances, complaints referred to the PSU will not be accepted for investigation. This may be for a range of reasons, including where complaints fall instead under the 'minor misconduct' category as set out in the Detention Services Order.

**Scotland: Prisons**

162. The SPS takes all allegations of inappropriate use of force seriously and investigates each complaint, including, where necessary, referring the matter to Police Scotland. If there is a situation where an individual has exhausted the internal complaints procedure (complaints can be made confidentially through the internal process) and they are not satisfied with the response, they can refer their complaint to the Scottish Public Services Ombudsman. Copies of the Ombudsman's Complaint Form can be obtained from all residential areas.

163. 37 new gross misconduct cases were initiated against prison staff in 2020-2021, 53 were initiated in 2021-22, and 38 were initiated between 1 April 2022 to 23 November 2022. There have been 4 dismissals since 1 April 2022, and of the 13 cases subject to police investigation during the same period one has resulted in prosecution and seven have open investigations.

**Scotland: Police**

164. Police Scotland's process for addressing complaints is set out in the Complaints About the Police Standard Operating Procedures,<sup>43</sup> which are currently undergoing review. A new version will be published once complete. Statistics are included in the annex.

**Reply to paragraph 18 of the list of issues**

165. Service Police Legacy Investigations (SPLI) was established in June 2017 following the decision to close the Iraq Historic Allegations Team (IHAT) and transfer its, by then greatly reduced, caseload back to a Service Police body. The SPLI caseload of 1,291 allegations, of which 178 were pursued through 55 separate investigations included 1,269 allegations inherited from the IHAT following its closure. None of the IHAT or SPLI investigations have resulted in any prosecutions.

166. Overall 3,681 allegations were received or identified by the IHAT and SPLI. These were reduced for a number of reasons: removed due to auditing errors, withdrawn by complainant, duplicate allegations, dealt with by another police force, no criminal allegation. In total, the SPLI assessed 1,291 allegations.

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<sup>42</sup> <https://www.gov.uk/government/publications/handling-complaints-in-immigration-removal-centres>.

<sup>43</sup> <https://www.scotland.police.uk/spa-media/fifhh5vo/complaints-about-the-police-sop.pdf>.

167. The SPLI formally closed on 30 September 2021. This was announced in a written ministerial statement laid on 18 October 2021.

168. Following the closure of the SPLI the Royal Navy Policy (RNP) took responsibility to investigate eighteen legacy cases which did not form part of the SPLI's allocated caseload under the title Operation Scalable.

169. This Operation Scalable investigative works concluded as the RNP investigator took the decision that all cases should be discontinued with no further action and the operation was closed on 27 September 2021. However, further serious allegations may arise in the future, and, where credible, these will have to be investigated in line with our obligations under international and domestic law.

170. In future, any historical criminal allegations relating to allegations of torture and ill-treatment of Iraqi citizens by the United Kingdom armed forces in Iraq between 2003 and 2009 will be referred to the Royal Navy Police Provost Marshal who has law enforcement powers that enable him to carry out investigations into Service offences; both disciplinary and criminal.

171. In 2013 the High Court appointed a Designated Judge to oversee progress of investigations into allegations arising from operations in Iraq entitled the Iraq Fatality Investigations. The UK Government has provided regular updates to the Court on investigative progress and methodology. The Court has made no criticism of the categorisation of cases (reflecting the severity of the allegations, and of the physical and mental harm suffered) nor of the investigative processes. These have been designed to ensure allegations are investigated appropriately, and to enable investigative resources to be prioritised.

#### **Single Public Inquiry**

172. The UK Government considers that a single public inquiry would serve no useful purpose. Allegations against UK Forces in Iraq have been, and are being, appropriately investigated. Systemic failings have been remedied, with significant changes to some policies and training.

173. Actions Taken based on the findings contained in the 2018 reports on overseas detainee mistreatment and rendition of the Intelligence and Security Committee of Parliament.

#### **Overseas Operations (Service Personnel and Veterans) Act 2021**

174. The Overseas Operations (Service Personnel and Veterans) Act was passed into legislation in April 2021. The Act introduces a "statutory presumption" measure, which:

- establishes a presumption that, once five years have elapsed from the date of an incident, it is to be exceptional for a prosecutor to decide to prosecute for offences alleged to have been committed on overseas operations;
- requires a prosecutor to give particular weight to certain matters when deciding whether to prosecute; and requires the consent of the relevant Law Officer before such prosecutions can proceed.

175. The "statutory presumption against prosecution" measure is not a statute of limitations nor an amnesty. Rather, the presumption is rebuttable; prosecutors will still retain the discretion to prosecute where they consider it appropriate to do so. The statutory presumption is consistent with the UK's obligations under international law, including the Rome Statute and the UN Convention. There are no plans at this time to review the Act.

176. Anyone who alleges they have been subjected to ill-treatment or torture by UK Forces can, subject to any time limits specified under the applicable law, bring a claim against the UK Government.

177. Operations in Iraq have resulted in over 900 compensation claims against the Ministry of Defence (MoD). These were brought under both tort law and the ECHR for alleged unlawful detention and ill-treatment.

178. Of these, approximately 320 were settled in 2012-2013 following the ECtHR ruling (see *Al-Jedda v UK*) that UK Forces did not have a lawful basis to detain in Iraq.

179. Following the High Court's leading judgment in December 2017 (see *Alseran & Others v MOD* [2017] EWHC 3289 (QB)), which clarified the legal position in relation to detention, approximately 200 claims were withdrawn or struck out. Since then, the MoD has been working with the claimant solicitors to resolve the remaining over 400 claims without the need for further trials. This process is nearly complete.

### **Reply to paragraph 19 of the list of issues**

180. The Government made a statement to Parliament on 18 July 2019<sup>44</sup> explaining why it had decided not to establish a further inquiry. The Government concluded that there was no policy reason to do so, given the extensive work already undertaken to improve policies and practice in this area; nor was there a legal obligation. The statement noted that these matters had been subject to a number of police investigations and a joint panel was set up by the Crown Prosecution Service and the Metropolitan Police Service in January 2012 to consider allegations of UK involvement in detainee mistreatment. None of these police investigations has resulted in further action being taken to date.

### **Reply to paragraph 20 of the list of issues**

181. The UK Government introduced the Northern Ireland Troubles (Legacy and Reconciliation) Bill in Parliament on 17 May 2022. This legislation centres on an effective and timely information recovery mechanism, providing answers and accountability to families and survivors in a process consistent with our international obligations, while promoting reconciliation and encouraging society to look forward together to a shared future. The Bill, currently progressing through Parliament, provides for the establishment of an independent new information recovery body – the Independent Commission for Reconciliation and Information Recovery (ICRIR) – with comprehensive powers to conduct reviews into Troubles-related incidents, including where there remain unanswered questions about allegations of wrongdoings by representatives of the state. These powers allow for a full, police-equivalent criminal investigation with attendant coercive investigative measures capable of satisfying the ECHR Article 2 and 3 procedural obligation. Going further than the Stormont House Agreement's Historical Investigation Unit, the mandate of the ICRIR is expanded to include cases of very serious injury that give rise to investigative obligations, as well as Troubles-related deaths.

182. The UK Government provided a formal response to the UN Special Procedures branch on 22 Aug 2022, setting out how the ICRIR will meet international standards and obligations. As stated in that letter, the Commissioner for Investigations will have all the necessary powers and privileges of a police constable, as will any other ICRIR officer designated by the Commissioner for Investigations. Such officers will, for example, be able to arrest and detain suspects for the purposes of questioning, obtain search warrants or other court orders requiring the production of evidence, and obtain samples for forensic testing. As a public authority, the ICRIR will be under a statutory duty (under the HRA) to exercise its functions compatibly with the UK's obligations under the ECHR. In practice, this means the ICRIR will be under a legal duty to exercise its powers where it is necessary to meet the requirements of the ECHR Article 2 or 3 procedural (investigative) obligation in any particular case.

183. The ICRIR will be supported by an unprecedented legal requirement of full disclosure from UK Government departments, security services and arm's length bodies, to make sure it can gather all the evidence it needs to establish the facts of what happened in each case. This means that relevant authorities will be required to disclose all material that may reasonably be required by the ICRIR for the purposes of its reviews, and the ICRIR will have full and unrestricted access to all of this material. The findings of ICRIR investigations will

<sup>44</sup> <https://hansard.parliament.uk/commons/2019-07-18/debates/86F17839-026E-4F7A-9E1C-06C7219621E5/Detainees>.



be made publicly available as far as possible, helping everyone in Northern Ireland and beyond to have a clearer understanding about the events of the past. While it is right that material released in the public domain is restricted in cases where it poses a risk to national security or life, any decisions restricting the release of material into the public domain will be subject to oversight by the independent courts.

184. All investigations when initiated, will be capable of leading to prosecutions, should sufficient evidence of a criminal offence exist. However, the Bill also provides for the ICRIR to offer immunity from prosecution to individuals on a case-by-case basis, in exchange for providing truthful information about their role. This will create a genuine incentive to come forward with information and many non-state actors who have not cooperated with previous investigations will be required for the first time to acknowledge their role in an incident as part of this process. This addresses the common concern raised with the Stormont House Agreement proposals, that many would not contribute potentially vital information to any information recovery process, while the threat of prosecution – however remote – remained. Those who do not cooperate with the ICRIR’s inquiries, or refuse to acknowledge their role in Troubles-related events, will remain liable to prosecution, should sufficient evidence exist or come to light. This conditional immunity scheme will enhance the ICRIR’s robust investigative work, consistent with the UK’s international obligations, providing answers and accountability to many more families than is the case under the current system.

185. This conditional immunity scheme seeks to strike the right balance, keeping the possibility of prosecution open in certain circumstances while necessarily shifting the focus towards information recovery and reconciliation – recognising the difficult but unavoidable reality that the prospect of successful prosecutions for the vast majority of historic cases is increasingly unlikely, with two-thirds of outstanding cases now over 40 years old, and the quality of both physical evidence and memory severely diminished. The vast majority of investigations in recent times have been unable to satisfy the high standard of proof required to secure a successful prosecution. As a result, families very rarely obtain the answers they seek from the lengthy, adversarial and complex legalistic processes of the current system, and are often re-traumatized. Recent independent polling by the Institute of Irish Studies,<sup>45</sup> would suggest that there is public acknowledgement of this uncomfortable truth – with 46.9% compared to 20.7% of respondents agreeing that providing immunity from prosecution may be the only way truth can be provided to families.

186. The Government is confident that these measures will deliver better outcomes for victims and survivors and Northern Ireland society, while providing an effective mechanism to fulfil the State’s international obligations. We also acknowledge that the provisions in the Bill are challenging for many individuals and organisations. This is an extremely complex and sensitive issue that requires a balanced and considered approach that inevitably involves difficult compromise – as has been the case in other challenging but necessary decisions taken since the Belfast (Good Friday) Agreement, which have restricted or changed the criminal justice model in order to facilitate information recovery, reconciliation and non-recurrence in Northern Ireland. The UK Government has consistently stated, and demonstrated, its commitment to working with all parts of the community in Northern Ireland in seeking to move forward on this issue. Recently, during the Bill’s Committee Stage in the House of Lords, the Government tabled amendments in a number of key areas reflecting the significant ongoing engagement taking place, including with victims and survivors. The Government remains absolutely committed to continuing this engagement with all stakeholders on remaining concerns and how these might be addressed as the Bill proceeds through parliament.

187. On the case of Patrick Finucane, the UK Government has acknowledged the suffering caused by his murder, with former Prime Minister David Cameron apologising in person for the collusion that undoubtedly took place. The UK Government has acknowledged the UK Supreme Court judgment, handed down on 27 February 2019, which held that there had not yet been an effective ECHR Article 2 compliant investigation into the death of Patrick

<sup>45</sup> University of Liverpool, Institute of Irish Studies, 4th Attitudinal Survey – July 2022  
<https://www.liverpool.ac.uk/media/livacuk/humanitiesampsocialsciences/documents/Institute,of,Irish,Studies,UoL,Irish,News,Poll,July,2022.pdf>.

Finucane. The possibility of a public inquiry in the future has not been ruled out, but the former Secretary of State for Northern Ireland's decision in November 2020 reflected his view that it was in the public interest to allow ongoing police and ombudsman processes relating to the case to proceed, before taking a decision on whether the State's Article 2 obligations had yet been discharged, or whether further steps were required. The Secretary of State's decision was subsequently challenged by the victim's wife, Geraldine Finucane, by way of judicial review. The Northern Ireland High Court handed down judgment, on 21 December 2022, which declared that there has still not been an Article 2 compliant inquiry into the death and quashed the then Secretary of State's decision to await the outcome of the police and ombudsman investigations. The UK Government is carefully considering the full judgment.

## **Reply to paragraph 21 of the list of issues**

### **England and Wales**

188. Following the review of safeguarding practice and procedures within the Youth Secure Estate, carried out by HMPPS Youth Custody Service (YCS), the YCS are developing a new YCS Safeguarding Policy. In the interim, the YCS are assessing each site's individual Safeguarding Policy to gain further understanding of any changes needed in the short-term before the new estate-wide policy is in place, as we strive to improve safeguarding practices locally. We have strengthened training for all staff regarding safeguarding, so they understand their responsibilities.

189. We continue to strengthen our relationship with key safeguarding partners, including Local Authorities in the regions where our sites are based. The five Young Offender Institutions (YOI) have dedicated social workers seconded into sites from local authorities, and we have reviewed the service level agreements, to strengthen external oversight and independent review.

190. Furthermore, in response to Recommendation 11 of the Independent Review of using Pain-Inducing Techniques in the Youth Secure Estate, published in June 2020, the Independent Restraint Review Panel (IRRP) carry out twice a year inspection of the YOI and Secure Training Centres (STC) sites to review restraints on children where pain has been used. This panel reports directly to Ministers with key senior leaders in the YCS, Youth Justice Board, HMIP and the Office for Standards in Education, Children's Services and Skills (Ofsted) routinely copied. This ensures rigor around the application of significant restraint across YOIs and the STC, where sites and the YCS are held independently to account and are challenged to demonstrate appropriate practice and demonstrate improvements where required.

191. The YCS collects internal management data on the number of safeguarding referrals where harm to a child is known or suspected, which are collected from individual sites. We use this data to track safeguarding concerns and to ensure children remain safe. Referrals are shared with local safeguarding partners and to the police where appropriate. Once a matter is with the police, they are accountable for data regarding prosecutions, convictions, and sentences, although anecdotally we understand this number to be extremely low.

192. The YCS are currently reviewing the complaints process for children to ensure it is accessible, responsive, investigative, and supportive to children in our care. A working group has been established to produce a set of principles detailing best practice for child-specific complaints processes to sit alongside formal policy, following a review by the Prison and Probation Ombudsman findings and feedback from additional focus groups carried out by the YCS Safeguarding team with both professionals and children in custody.

193. Children are also supported by advocates within sites, so they have professional support to raise any issues they face. Barnardo's deliver an advocacy service and children's rights for all children and young people placed into custody in YOIs and STCs in England and Wales. SCHs commission their own advocacy services. The Service known operationally as Barnardo's Your Rights Your Voice (YRYV) is designed to empower and support children

and young people in resolving issues relating to their welfare, care, and treatment whilst in custody.

194. There are several stakeholders and bodies which carry out inspections of sites within the Youth Secure Estate to determine performance levels in several key areas:

- HMIP are responsible for assessing sites within the YOI sector in the areas of Safety, Care, Purposeful Activity and Resettlement;
- Ofsted and the Care Quality Commission are responsible for assessing our Secure Training Centre and Secure Children's Homes (SCH) sectors in the areas of education & learning, health, and resettlement, considering how children are helped/ protected as well as the effectiveness of leaders and managers;
- YOI sites are also inspected annually by their Independent Monitoring Boards (IMB) to satisfy itself to the humane and just treatment of children held at their sites, as well as assessing the programs and plans that prepare children for life back in the community; and
- IRRP (as detailed above).

### **Northern Ireland**

195. Northern Ireland has one custodial facility for children, the Woodlands Juvenile Justice Centre (JJC) which is part of the Youth Justice Agency. It is inspected by Criminal Justice Inspection Northern Ireland on a regular basis. Additionally, every month, an independent monitor visits the JJC, meeting staff and young people. He makes a report on each visit to the Chief Executive of the Youth Justice Agency and this is shared with the Agency's Board.

196. There is a well-established complaints procedure within the JJC and children use this to raise concerns. These complaints are reviewed as part of the monitoring and inspection arrangements and regular reports on them made to the Agency Board.

### **Scotland**

197. The Scottish Child Abuse Inquiry was set up in October 2015 to investigate cases of abuse of children in care in Scotland.<sup>46</sup> The Inquiry continues to investigate the abuse of children in care, and it was announced that in the summer of 2023, public hearings will commence to examine the abuse of children in residential accommodation for young offenders and children in need of care and protection. The Inquiry will publish its final report which the Scottish Government will carefully consider, including recommendations and will consider what further steps may be necessary to ensure the protection of children in Scotland. The Scottish Government will also consider recommendations within the final report of the Independent Inquiry into Child Sexual Abuse in England and Wales.

198. Scotland's Redress Scheme opened for survivor and next of kin applications on 8 December 2021.<sup>47</sup> The Scheme provides redress for survivors of in-care abuse of children which occurred prior to 1 December 2004 in a relevant care setting. The Scheme has been developed in consultation with survivors and provides, in addition to the opportunity to apply for financial payments, the opportunity for survivors to seek a personal apology. The Scheme provides an alternative to court action for eligible survivors.

199. Young people detained within secure care can raise a complaint through the service provider's own complaints procedure, the Care Inspectorate's complaints procedure, or with the Public Services Ombudsman. Scotland's overarching Getting it Right for Every Child ("GIRFEC") policy represents our commitment to providing all children, young people, and their families with the right support at the right time. The Scottish Government published refreshed GIRFEC policy and practice materials in September 2022.<sup>48</sup>

<sup>46</sup> <https://www.childabuseinquiry.scot/>.

<sup>47</sup> <https://www.gov.scot/collections/financial-redress-for-survivors-of-child-abuse-in-care/>.

<sup>48</sup> <https://www.gov.scot/policies/girfec/childs-plan/>.

## Wales

200. The Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020<sup>49</sup> received Royal Assent on 20 March 2020 and came into force on 21 March 2022. Consistent with UNCRC article 19, the overarching aim of the Act is to protect children's rights by prohibiting all physical punishment of children. As a result of this legislation children are afforded the same legal protection from assault as adults. Implementation, which is ongoing, is being conducted with key stakeholders through a multi-agency Strategic Implementation Group and associated task and finish groups.<sup>50</sup>

## Reply to paragraph 22 of the list of issues

201. The UK Government does not operate a programme of compensation for individuals who have been tortured or ill-treated by other sovereign nations. If an individual alleges that the UK Government is liable in relation to the alleged torture or mistreatment of a person overseas, it is open to them to bring a civil damages claim against the UK Government through the UK's civil courts. Victims of a crime of violence can apply for an award for compensation under the Criminal Injuries Compensation Scheme but there are conditions for receiving an award.

## Reply to paragraph 23 of the list of issues

202. The NIE's Inquiry into Historical Institutional Abuse (HIA) examined if there were systemic failings by institutions or the state in their duties towards children in their care between the years of 1922–1995. The Inquiry Report was formally published on 20 January 2017, detailing the findings of the statutory inquiry panel and its recommendations.

203. The recommendations from the Inquiry included:

- establishment of a Redress Board and financial compensation scheme;
- appointing a Commissioner – The Commissioner for Survivors of Institutional Childhood Abuse;
- establishment of support services;
- a public apology;
- a memorial.

204. The Historical Institutional Abuse (Northern Ireland) Act 2019 was taken through the UK Parliament and enacted on 5 November 2019.

205. Following the making of The Historical Institutional Abuse Redress Board (Applications and Appeals) Rules (Northern Ireland) 2020 on 27 March 2020, the Redress Board opened to applications on 31 March 2020 and made its first awards seven weeks later. By 31 January 2023 the Redress Board had received 3,423 applications for redress and made determinations totalling £62.915m with £59.082m having been paid to applicants.

206. Fiona Ryan was appointed as Commissioner with effect from 14 December 2020.

207. The HIA Support Service launched on 1 December 2020, providing individual needs assessments for HIA victims and survivors and access to a range of services including emotional and counselling support.

208. On 11 March 2022 Executive Ministers offered a public apology to victims and survivors in the Assembly Chamber at Parliament Buildings. The State apology was followed by statements from each of the institutions where systemic failings were found in the Hart Report.

<sup>49</sup> <https://www.legislation.gov.uk/anaw/2020/3/contents>.

<sup>50</sup> <https://www.gov.wales/children-abolition-defence-reasonable-punishment-wales-act-2020-implementation-groups>.

209. A project group has been established to focus on progressing a memorial, comprising The Executive Office, the Arts Council, Department of Finance, and Department for Communities. Victims and survivors and the Commissioner will be involved in the process of preparing options for the consideration of Ministers.

### **Operation of Mother and Baby Homes and Magdalene Laundries**

210. In January 2021, following the publication of the research by Queen's University Belfast and Ulster University into the operation of Mother and Baby Homes and Magdalene Laundries, the NIE agreed to undertake an independent review.

211. The independent panel, called the Truth Recovery Design Panel, published its report on 5 October 2021. Locally and internationally, 186 victims-survivors engaged with the Panel during the co-design process and informed the development of the Panel's recommendations. The report is in three parts, has 11 chapters and runs to 147 pages, including a bibliography and appendices.

212. The Panel recommended an integrated truth investigation into Mother and Baby Institutions, Magdalene Laundries and Workhouses comprising five 'core' recommendations as set out below (with 77 sub-recommendations in total). In November 2021, the NIE agreed to implement all those recommendations.

213. Progress on the five core recommendations:

- (a) Adoption of Guiding Principles:
  - A Consultation Forum made up of victims-survivors has been established and has met on 17 occasions to date. An independent Chairperson has been appointed to aid the Forum.
- (b) Responsibilities of the Executive Office:
  - TEO has taken on lead responsibility and a discrete Division has been created to lead implementation;
  - A cross-departmental Programme Board has been established.
- (c) An Integrated Truth Investigation:
  - Appointments to the Independent Panel will be made by way of Public Appointments. The necessary documentation for both 'expert' members and victim-survivor representatives is now complete. Appointments are hoped to be made in April 2023;
  - The statutory Inquiry will require bespoke legislation which is currently being drafted.
- (d) Access to Records:
  - The Assembly passed the Preservation of Records (Historical Institutions) Bill on 24 March 2022 to make it a statutory obligation for state and non-state institutions to retain records. The Bill has now received Royal Assent;
  - The Adoption and Children Bill passed its Final Stage on 15 March 2022 and has now received Royal Assent. It contains a number of Provisions designed to improve access to records.
- (e) Redress, Reparation and Compensation:
  - There are newly commissioned support services for victims-survivors;
  - Financial redress will require bespoke legislation which is being drafted.

## Reply to paragraph 24 of the list of issues

### Police and Criminal Evidence Act 1984

214. In England and Wales, legislation under PACE<sup>51</sup> provides concrete measures to ensure respect in practice of the principle of inadmissibility of evidence obtained through torture or ill-treatment as detailed below.

215. PACE code C<sup>52</sup> sets out the requirements for the detention, treatment and questioning of suspects not related to terrorism in police custody by police officers. Paragraph 11.5 of code C states that “no interviewer may try to obtain answers or elicit a statement by the use of oppression”. PACE code H<sup>53</sup> sets out the requirements for the detention, treatment and questioning of suspects under the Terrorism Act 2000.<sup>54</sup> As with Code C, paragraph 11.6 of code H states that “no interviewer may try to obtain answers or elicit a statement by the use of oppression”.

216. Section 76 of PACE deals with the admissibility of confessions intended for use as evidence against defendants in criminal or service (military) proceedings at court. The use of the term “oppression” for the purposes of section 76 of PACE is defined at section 76(8) to include “torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture)”. This reflects the wording of Article 3 of the ECHR.

217. Where a representation is made that a confession was or may have been obtained by the oppression of the defendant (or in other circumstances likely to make it unreliable), section 76(2) of PACE states that the court shall not allow the confession to be used as evidence against the defendant unless the prosecution can prove otherwise to the court beyond reasonable doubt. Furthermore, section 76(3) of PACE states that the court may of its own motion require the prosecution to prove the confession was not obtained by oppression (or in other circumstances likely to make it unreliable) prior to allowing it to be used in the court proceedings as evidence against the defendant.

218. Section 78 of PACE also enables the defence to apply, or for the court to decide of its own motion, to exclude any evidence on which the prosecution intends to rely if the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it (for example, having been obtained through a breach of the PACE codes of practice).

219. In criminal and service proceedings, courts have the power to rule confessions as inadmissible evidence against a defendant in accordance with sections 76 and 78 of PACE. Where the question of admissibility of evidence is raised, the answer will usually be determined at a separate hearing to ensure that these kinds of important evidential matters are resolved prior to the commencement of the trial. If an issue of admissibility arises during the course of a trial it would be dealt with in the absence of the jury.

220. Finally, section 82(3) of PACE preserves all the powers that existed at common law for a court to exclude evidence as a matter of discretion.

221. In the time since the sixth period report was published in 2019, we are not aware of any cases in the UK that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment. Furthermore, we have no reason to believe that there would be any such cases.

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<sup>51</sup> <https://www.legislation.gov.uk/ukpga/1984/60/contents>.

<sup>52</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/903473/pace-code-c-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903473/pace-code-c-2019.pdf).

<sup>53</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/903475/pace-code-h-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903475/pace-code-h-2019.pdf).

<sup>54</sup> <https://www.legislation.gov.uk/ukpga/2000/11/contents>.

## Reply to paragraph 25 of the list of issues

222. The UK Government is clear that when police are required to use force to achieve a lawful objective, such as making an arrest, acting in self-defence or protecting others, all use of force must be reasonable, proportionate and necessary in the circumstances.

223. Police decisions are guided by the National Decision-Making Model which has been adopted by UK police to ensure any decisions can be effectively evaluated and challenged where necessary.

224. Any death or serious injury (DSI) that occurs during or as a result of contact with the police must by law be referred to the IOPC for consideration and, where appropriate, investigation. Police forces (and other enforcement bodies under the IOPC's jurisdiction) must also refer any serious complaints and allegations of misconduct. The IOPC has powers to investigate without waiting for a referral and powers to 'call in' referrals of matters that come to its attention.

225. Where the IOPC investigates incidents, it will establish the facts and, where appropriate, assess whether the officer or officers involved have a case to answer for misconduct or gross misconduct. It can also establish whether a criminal offence may have been committed and refer criminal cases to the CPS for consideration.

226. The Government approves less lethal weapons for use by police, in line with Articles 2 and 3 of the UN Basic Principles on the Use of Force and Firearms which states law enforcement officials should have access to weapons allowing for a differentiated use of force. Conducted Energy Devices (Tasers) are authorised for use by specially trained officers only, in line with police forces' strategic threat and risk assessments. They provide officers with an important tactical option when facing potentially physically violent situations. Before officers can be authorised to deploy with Taser, they must undergo a comprehensive training programme which reinforces the importance of legitimacy in police use of force at every level and trains officers to factor in the potential vulnerabilities of a person, including their age and size.

227. All officers are taught skills for de-escalation and an understanding of the dangers of using restraint techniques with vulnerable people. Following the National Police Chief Council's 'Officer and Staff Safety Review' in 2020, this training was updated and provides new guidance and learning materials on recognising and responding to vulnerability, such as acute behavioural disturbance and mental health conditions. All Taser trained officers are required to undergo annual refresher training, in line with the most up-to-date training curriculum.

228. Home Office police forces are required to collect data on use of force, which has been published since 2018. The most recent publication shows an increase in the total number of Taser uses in 2020/21 compared with the previous reporting year, however the non-discharge rate has also increased. The majority of the increase in uses can be accounted for by an increase in non-discharge uses (i.e. the device being drawn, aimed, red dotted or arced but not fired), which accounted for 2,122 of the 2,372 increase in uses. The increase in use may reflect:

- Better reporting of police use of Taser, as part of the Home Office Use of Force data collection;
- Officers dealing with more incidents with the potential for conflict;
- An increase in recent years of the number of Taser trained officers and Tasers available in police forces (which is based on forces' strategic assessments of threat and risk).

229. As part of the strategy in the Inclusive Britain report, the UK Government has made a series of commitments including driving forward local community scrutiny of police use of powers, such as use of force, and removing unnecessary barriers to the use of body-worn video. The UK Government will also support the College of Policing and the National Police Chiefs' Council to review and deliver any necessary improvements to police officer training in de-escalation skills and conflict management in everyday police-citizen encounters.

230. The National Police Chiefs' Council have funded an Independent Review into Disproportionate Effects of Use of Taser to explore the nature, causes and consequences of racial disparities in the police use of Taser, with a view to identifying changes aimed at minimising the problem and mitigating its impact.

231. The UK Government is clear that nobody should be subject to police use of force, or different treatment, based on their race or ethnicity, and police must use force in a way that is fair lawful and effective.

### **Scotland**

232. Prior to June 2018, only authorised firearms officers were equipped with Taser. In response to an increase in assaults on officers, the decision was taken to introduce Specially-Trained Officers ("STOs") who have been trained in the use of Taser. There are currently 975 STOs (around 5.6% of total police numbers), although not all will be on duty at the same time. These officers have undergone rigorous training which includes scenarios linked to vulnerable people and protected characteristic groups. A number of factors which may influence the operational use of Taser are highlighted in the training, including factors relevant to children and vulnerable people.

233. In attending an incident, an STO will employ the National Decision Making Model to determine the appropriate and proportionate response to resolving the incident. If the decision is made to use Taser, an oral or visual warning is given where possible. Since 2018, of the 1533 Taser uses, Tasers have been used on people who identify as belonging to a minority ethnic group on 42 occasions (2.7% of all uses). In addition, since 2018 'Drive Stun mode' or 'Direct Contact mode' has been used on one occasion.

### **Reply to paragraph 26 of the list of issues**

234. The UK Parliament passed the Northern Ireland (Executive Formation etc) Act 2019 ("the NIEF Act") in July 2019. The NIEF Act placed a duty on the UK Government to reform Northern Ireland's abortion law, with the duty coming into force if the Northern Ireland devolved administration had not reformed by 21 October 2019. Section 9 of the NIEF Act also placed a duty on the UK Government to make provision for the purposes of regulating abortions in Northern Ireland, including provision as to the circumstances in which an abortion may take place, to come into force by 31 March 2020.

235. The legislative changes resulted in the immediate decriminalisation of abortion through the repeal of sections 58 and 59 of the Offences Against the Person Act 1861 (OAPA), which came into effect on 22 October 2019.

236. At this time a moratorium on abortion-related criminal prosecutions also came into effect, meaning that no police investigations or prosecutions underway at that time, in respect of an offence under sections 58 and 59 of the OAPA (regardless of when an offence may have been committed), could be carried out, and no criminal proceedings may be brought or continued.

237. On 12 May 2020, the Abortion (Northern Ireland) (No. 2) Regulations 2020 were made. These Regulations came into force on 14 May and revoked earlier Regulations which had come into force on 31 March 2020. The Regulations provide that abortions may be carried out in the circumstances set out in the 2018 Report of United Nations Committee on the Elimination of Discrimination Against Women report, Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, as required by section 9 of the NIEF Act.

### **Formal commissioning**

238. On 2 December 2022, the Secretary of State wrote to the Department of Health formally instructing the commissioning of abortion services in Northern Ireland. The formal commissioning of services and availability of funding will enable Health and Social Care Trusts to recruit and train staff to support the development of high quality and sustainable



services. As of December 2022, early medical abortion services (EMA), and abortions where there is a risk to the woman or girl's life or risk of grave permanent injury, are available in all five Health and Social Care Trusts.

239. Until services are fully operational, where a woman needs abortion care that is not currently available in Northern Ireland, for example for late term complications with pregnancy, she will continue to be able to access NHS services in Great Britain free of charge, with travel funded by the UK Government.

#### **Public awareness and conscientious objection**

240. Whilst abortion is devolved in Northern Ireland, we are continuing to work with the Department of Health in relation to public awareness, to promote the development of Sexual and Reproductive Health Services and to raise awareness of early intervention and prevention services across Northern Ireland, as well as existing contraception across all Health and Social Care Trusts and Family Practitioner Services in Northern Ireland.

241. The Department of Health is currently working on guidance for Health and Social Care Trusts in relation to conscientious objection.

#### **Reply to paragraph 27 of the list of issues**

242. The UK does not operate a visa category for "domestic tied workers". All overseas domestic workers are free to change employer during the validity of their visa. The UK seeks to prevent the importation of exploitative employment practices to the UK via our visa regime, but also by encouraging exploited workers to access help as soon as possible.

#### **Reply to paragraph 28 of the list of issues**

243. The UK Government is clear that all forms of hate crime are completely unacceptable, and we have a robust legislative framework to respond to it. Since 2016, there has been an improved response to all forms of hate crime in England and Wales. Key achievements include:

- Funding innovative projects to tackle hate;
- Working with the CPS to produce guides for victims of hate crime;
- Requiring police forces to disaggregate racially or religiously aggravated offences by race or religion;
- Commissioning the police inspectorate to undertake a thematic report into police effectiveness in responding to hate crime;
- Engaging directly with over 17,000 young people to challenge hatred and prejudice.

244. The UK Government has worked with the police to fund True Vision, an online hate crime reporting portal designed so that victims of hate crime do not have to visit a police station to report. The Government also funds the National Online Hate Crime Hub, a central capability designed to support individual local police forces in dealing with online hate crime.

245. The Government asked the Law Commission to conduct a review of existing hate crime legislation in 2018. The Law Commission published its final recommendations in December 2021<sup>55</sup> and the Government will issue a full response shortly.

246. The Online Safety Bill was introduced in March 2022 and is currently going through Parliament. Under new legal duties of care, technology companies will need to prevent, identify and remove illegal content and activity online.

247. Over the last seven years of the Places of Worship Scheme, the Home Office has approved 523 grants worth over £19 million for the installation of protective security measures at places of worship across England and Wales – 225 mosques, 201 churches, 47

<sup>55</sup> <https://www.lawcom.gov.uk/project/hate-crime/>.

gurdwaras, 38 Hindu temples, and 12 places of worship of other faiths. Additionally, in March 2023, the Home Secretary announced the continuation of the Jewish Community Protective Security Grant, and increased funding for 2023-2024 by £1million, to a total of £15million. The grant provides protective security measures (such as guarding, CCTV and alarm systems) at Jewish schools, colleges, nurseries, and some other Jewish community sites, as well as a number of synagogues.

248. In 2020-21, the UK Government provided £1.8 million for the Faith, Race and Hate Crime Grant Scheme which supported established community groups and civil society organisations to run short projects that champion the government's commitment to building a diverse and tolerant society for all faiths and races and to tackle hate crime motivated by race and religion.

249. The UK Government have supported Tell MAMA (Measuring Anti-Muslim Attacks) with nearly £5m since 2016 to monitor and combat Anti-Muslim hatred. The UK was the first country to adopt the International Holocaust Remembrance Alliance Working Definition of Antisemitism. The Government funds 'On Your Side', a third-party reporting and support service for East and Southeast Asian communities in the UK.

### **Increase in police-reported hate crimes**

250. The biggest driver for the increase in reported hate crimes is likely to be general improvements in police recording. The police are also better at identifying whether a crime is a hate crime, along with increased victim willingness to come forward. This is positive and reflects the hard work that has gone into ensuring that police can target their resources, understand the scale of the challenge, reduce underreporting, and ensure that victims get the support they need. Experiences of hate crime are also measured by the Crime Survey for England and Wales (CSEW), which measures crime by asking members of the public about their experiences of crime over the last 12 months. The combined 2017/18 to 2019/20 CSEW indicates a downward trend in overall hate crime over the past decade.

### **Conviction rates**

251. The report states that 2% of all hate crimes result in a successful conviction with an enhanced sentence for hostility on the basis of a protected characteristic. However, this is using reported hate crime data rather than referrals to the CPS. Data available online<sup>56</sup> provide the following information.

252. From January–December 2022:

- The CPS prosecuted 12,593 defendants for hate crimes with 10,609 convictions and a conviction rate of 84.2%.
- The charge rate for hate crime offences referred to the CPS was 86.0%.
- The rate of sentence uplifts for all hate crime offences was 79.6%.
- The volume of hate crime cases referred from the police was 9,916.

253. Hate crime training is included in the initial learning for all new officers, and for detectives and supervisors. In England and Wales, the College of Policing provides operational guidance for police officers and staff at all levels of the police service in order to deliver a consistent, proportionate and robust policing response to hate crime and non-crime hate incidents. This operational guidance was updated in June 2023. The CPS has also developed a package of hate crime training for CPS lawyers.

<sup>56</sup> <https://www.cps.gov.uk/publication/cps-data-summary-quarter-3-2022-2023> ;  
 Tabs 6.2 and 6.3 of <https://www.cps.gov.uk/sites/default/files/documents/publications/Prosecution-Crime-Types-Data-Tables-Year-Ending-Dec-2022.xlsx> ;  
 Tabs 1.2 and 3.8 of <https://www.cps.gov.uk/sites/default/files/documents/publications/Pre-Charge-Data-Tables-Year-Ending-Dec-2022.xlsx>.

## Northern Ireland

254. Current legislation allows for enhanced sentencing for offences aggravated by hostility towards protected groups of race, religion, disability and sexual orientation. Following an independent review of hate crime legislation, the Department of Justice (DOJ) are developing a Hate Crime Bill for introduction in this Assembly mandate, subject to the return of the NI Executive and Ministers, to improve the criminal justice process for hate crime victims. It will include a new statutory aggravation model for hate crime, inclusion of transgender identity as a protected group, the creation of a sectarian aggravator and measures to improve victims experience in court.

255. The Hate Crime Advocacy Service moved to a three-year contract model (with the option of two one-year extensions) from 1 April 2022. The Service raises awareness of hate crimes; encourages reporting; and supports hate crime victims through the criminal justice process.

256. Hate Crime training is provided to all Police Officers on joining the Police Service of Northern Ireland. The Service Instructions which provide the framework for the response to Hate Crime are reviewed annually, including with a Human Rights assessment, alongside updates for officers focused on best practice.

257. The Police Service is also in the process of developing its forthcoming Hate Crime Strategy, due for release in 2023, which will look to include officer training in an effort to improve the service offered to hate crime victims thereby increasing confidence across groups impacted by this.

## Scotland

258. The Hate Crime and Public Order (Scotland) Act 2021<sup>57</sup> will modernise, consolidate, and extend existing hate crime legislation in Scotland. It will maintain current legislative protections against offences aggravated by prejudice towards disability, race, religion, sexual orientation, transgender identity, and variations in sex characteristics, and will also extend protection to the characteristic of age. The Act also provides for new “stirring up of hatred” offences covering all characteristics protected in the updated legislative framework, to complement the existing offence of stirring up racial hatred.

259. The Scottish Government published a new Hate Crime Strategy on 24 March 2023 which sets out a vision for a Scotland where everyone lives free from hatred and prejudice and where our communities are empowered, inclusive and safe. It was developed in partnership with organisations with expertise in tackling prejudice, building cohesive communities and advancing human rights, and is informed by people with lived experience of hate crime. It makes a number of commitments including ensuring improved support for victims of hate crime, improving data and evidence on hate crime and developing effective approaches to preventing hate crime.

260. It will also support the implementation of the Hate Crime and Public Order (Scotland) Act 2021. A delivery plan, setting out our immediate and longer-term activity, will be published in Summer 2023.

## Wales

261. The Welsh Government fund the Wales Hate Support Centre, run by Victim Support Cymru, to provide free, confidential support and advocacy to all victims of hate crime, over the telephone, face-to-face, or virtually. The Centre is the first service in the UK to offer a national children and young person friendly hate crime service.

262. We have recently awarded a new contract to deliver the next phase of our anti-hate crime communications campaign, Hate Hurts Wales, which will run until at least March 2024. The campaign highlights to perpetrators, or potential perpetrators, the hugely negative impact of their actions on both the victim and their own lives, as well as highlighting the importance of bystanders for securing a positive outcome.

<sup>57</sup> <https://www.legislation.gov.uk/asp/2021/14/contents/enacted>.

263. We are currently scoping out work with hate crime perpetrators to better understand how to reduce racial abuse, building on evidence from other successful perpetrator diversion schemes, and looking at restorative justice practices.

264. This work is overseen by a multi-agency Hate & Community Tensions Board Cymru, which includes representatives from the Welsh Government, Welsh Police, Crown Prosecution Service and Victim Support.<sup>58</sup>

### **Isle of Man**

265. The IOM Government has brought forward proposals for new sentencing and hate crime legislation. A Bill in relation to hate crime to meet international obligations around racial discrimination/offences motivated by racial discrimination and aggravation of such offences is expected to be introduced to the Manx Parliamentary Branches in the current administration.

### **Reply to paragraph 29 of the list of issues**

266. The terrorist attacks at Fishmongers' Hall and Streatham were committed by known terrorist offenders who had been automatically released from custody at the halfway point of their sentence. The UK Government introduced the Terrorist Offenders (Restriction of Early Release) (TORER) Act 2020, which ended the automatic early release of terrorist offenders in England, Wales and Scotland in order to protect the public. This meant that around 50 terrorist prisoners saw their automatic release halted.

267. The next stage of the UK's legislative response was securing the Royal Assent of the Counter-Terrorism and Sentencing Act 2021, which implements a significant overhaul of terrorist sentencing and monitoring. The Act gives the courts, probation service, Counter Terrorism Policing and the Security Service greater powers to protect the public and keep our streets safe. As well as ensuring dangerous terrorist offenders can spend longer in prison and on licence, it strengthens the tools to manage the risk posed by terrorist offenders and individuals of terrorism concern in the community. The Act also extended the effect of the TORER Act 2020 to Northern Ireland.

268. The Police, Crime, Sentencing, and Courts Act 2022 contains provisions to strengthen the management of terrorist and terrorist risk offenders on licence, based on recommendations made by the Independent Reviewer of Terrorism Legislation (IRTL), Jonathan Hall KC, following his independent review of Multi-Agency Public Protection Arrangements (MAPPA).<sup>59</sup> These provisions, which include new powers of stop and search, premises search, and urgent arrest pending a recall decision, improve the ability of Counter Terrorism Policing to protect the public from the risk posed by offenders of terrorism concern in the community.

269. The UK Government continues to consider that its counter-terrorism legislation and measures comply with the UK's international human rights obligations and are accompanied by appropriately robust human rights safeguards. Legislation is closely scrutinised by the UK Parliament during its passage and can be kept under scrutiny by parliamentary committees including the Joint Committee on Human Rights.

270. Police officers build their awareness of new legislation through various packages of learning, including e-learning, internal communications, classroom-based courses and self-study.

271. In the year ending September 2022, there were 42 people convicted under legislation adopted to combat terrorism, according to published statistics.<sup>60</sup>

<sup>58</sup> <https://www.gov.wales/written-statement-national-hate-crime-awareness-week-2022>.

<sup>59</sup> <https://www.gov.uk/government/publications/multi-agency-public-protection-arrangements-review>.

<sup>60</sup> <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-september-2022>.

272. The independent UK courts are able to fully review and scrutinise the decisions of the Government and the agencies, including considering in ‘closed material procedure’ sensitive intelligence material which it would not be in the public interest to disclose publicly, but without which the court could not fairly consider such cases. The IRTL has a wide remit to keep under review the operation of our core terrorism legislation to ensure it is effective and fair and has full access to sensitive Government information and staff to help him do so.

273. The specific safeguards in law and practice necessarily vary from one counter-terrorism measure to another. For example, for any individuals stopped and searched under the Terrorism Act (TACT) 2000 there is a Code of Practice governing the police use of these powers to which officers must have regard. This Code of Practice was most recently revised by the UK Government in October 2022.<sup>61</sup> Similarly, the UK Government publishes Codes of Practice governing the use of other counter-terrorism powers, including port examinations under Schedule 7 to TACT 2000.<sup>62</sup>

274. For other types of counter-terrorism power, for example the ability of the Secretary of State to proscribe an organisation believed to be concerned in terrorism, there are different types of safeguards in operation. Under TACT 2000, a proscribed organisation, or any other person affected by a proscription, may submit a written application to the Home Secretary, asking that a determination be made whether a specified organisation should be removed from the list of proscribed organisations. The Home Secretary is required to determine a deproscription application within 90 days from the day after it is received. If the deproscription application is refused, the applicant may appeal to the Proscribed Organisations Appeals Commission (POAC). POAC will allow an appeal if it considers that the decision to refuse deproscription was flawed, applying judicial review principles. Either party can seek leave to appeal POAC’s decision at the Court of Appeal.

275. In the year ending September 2022, the average duration of pre-charge detention in cases where the individual was being detained under section 41 of TACT 2000 was 4.2 days, and the maximum duration of pre-charge detention in terrorism cases was 14 days.

276. The use of available arrest powers, including section 41 of TACT 2000, is an operational matter for the police. It is open to the police to decide which power of arrest is most appropriate to use, based on all the circumstances of the investigation and the operational context, and the evidence available at the time of the arrest. It is right that it is possible to make an arrest without a warrant of a person whom an officer reasonably suspects to be a terrorist. This strikes the correct balance between civil liberties and public protection. When an arrest leads to a need to search or detain a suspect, these scenarios are covered in detail by primary legislation, including TACT 2000, as well as Codes of Practice. Furthermore, the IRTL provides oversight of the use of police powers such as this and includes sections on arrest and detention in his published annual reports.

277. A power to grant bail under section 41 TACT 2000 could put the public at risk. The need to charge or release within 14 days provides a clarity and focus to the investigation. In the aftermath of a section 41 arrest this enables investigators to obtain the immediate release of resources, such as technical assistance, in a way that would not otherwise be possible. The timing of arrests, and the management of risk to the public (e.g. the tipping off of co-conspirators), following arrest are meticulously planned. The ability to detain for up to 14 days, subject only to obtaining a warrant of further detention, without the distraction of having to consider what bail conditions might be sufficient to safeguard the public and how to manage risk in the event that a court granted conditional bail in spite of police submissions, is extremely useful. In *Magee v United Kingdom*, the ECtHR concluded that the applicants’ detention under Schedule 8 of TACT 2000 did not breach Article 5(3) of the convention.

278. In May 2020, the UK Government published a memorandum addressing issues arising under the ECHR in relation to the Counter-Terrorism and Sentencing Bill (now the Counter-Terrorism and Sentencing Act 2021).

<sup>61</sup> <https://www.gov.uk/government/publications/police-stop-and-search-powers-code-of-practice>.

<sup>62</sup> <https://www.gov.uk/government/publications/codes-of-practice-for-officers-using-examination-powers-at-ports>.

279. On introduction in the House of Commons, the then Secretary of State for Justice made a statement under section 19(1)(a) of the HRA that in his view the provisions of the Bill are compatible with Convention rights.

## **Reply to paragraph 30 of the list of issues**

### **England and Wales**

280. During the pandemic a number of mental health services were available to support prison inmates to alleviate the stresses induced by the pandemic.

281. The Government was determined to ensure the Covid-19 response effectively mitigated the risk of reduced wellbeing due to restrictions being placed on the activities available to children and young people in the justice system. Providing mental health support, as well as the continued provision of education to children and young people in institutions was a priority of the Covid-19 response.

282. In recognition of the risks posed to people living in care homes from the Covid-19 virus and in the context of a wider and unprecedented lockdown, the Government decided to advise restricting in-person visits in care homes at the start of the pandemic, except in exceptional circumstances, e.g. to visit a person who was near the end of their life. The Government balanced competing priorities and risks to keep people safe while also supporting residents to maintain relationships and minimise the harm caused by isolation and loneliness and produced guidance to care homes. As the risks changed throughout the pandemic, the guidance was changed to best support those living within care homes and enable them to enjoy meaningful contact with loved ones while continuing to minimise the risks posed by Covid-19. The current guidance makes clear that visiting should be encouraged and facilitated wherever possible, and that care home residents should always be able to receive at least one visitor at a time, even if they test positive for Covid-19 or during an outbreak. The guidance also advises that care home residents who test positive should be supported to continue to access outdoor spaces during this time.

### **Scotland**

283. The powers established under the Coronavirus (Scotland) Act 2020<sup>63</sup> for Ministers to instruct the emergency early release of prisoners in response to the impact of Covid-19 on the prison estate have been extended in subsequent legislation and will – subject to Parliamentary approval – be extended further until 2025, if necessary. These powers have been utilised once, in May 2020.

284. In September 2021 the Scottish Government updated its guidance for care homes so that any resident can nominate a person to visit once a day, even during an outbreak situation, except in truly exceptional circumstances. The guidance has been developed over time to, for example, allow a resident to nominate multiple persons, with each person supported to visit once per day and to allow for maximum flexibility in changing the nominated persons.

285. In March 2022 the Scottish Government updated the Health and Social Care Standards, which set out what people should expect when experiencing health, social care or social work services in Scotland and form the basis of the Care Inspectorate's regulation and inspection of care homes. The two new standards have a strong emphasis on helping residents and their families stay connected, and aim to enable relatives to support the resident in the provision of their care if the resident wants this.

286. The National Care Service (Scotland) Bill<sup>64</sup> will enable Scottish Ministers to issue Directions to care homes that will require them to support the named visitor policy enabling, for example, a flexible means of responding to Covid-19 and any future pandemics.

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<sup>63</sup> <https://www.legislation.gov.uk/asp/2020/7/contents>.

<sup>64</sup> <https://www.parliament.scot/bills-and-laws/bills/national-care-service-scotland-bill>.

**Guernsey**

287. Public Health directions meant that visits to patients on wards (including patients detained under Mental Health legislation) were reduced. This was done for as short a period as necessary and, during that time, efforts were made to allow on-going contact with family and medical professionals, for instance via use of technology. In ‘end of life’ care, further support was provided to enable family members to spend time with their loved ones. Full personal protective equipment was provided to reduce the risk of cross-infection.

288. Prison Regulations were amended to allow for new receptions into the prison to undergo a mandatory 14-day period of self-isolation, following Public Health guidance. This was carried out in an isolated segregation wing to prevent a Covid-19 outbreak within the prison. The Independent Monitoring Panel were notified of any instance of mandatory segregation; however, their attendance was not necessary. The prison restricted all visitors during the acute phases of lockdown and had an adapted service depending on what contact restrictions were in place in the community. Prisoners were able to access the Independent Monitoring Panel via telephone or Purple Visits, a secure video calling system.

**Reply to paragraph 31 of the list of issues****Guernsey**

289. In April 2020, Guernsey’s parliament approved the Capacity (Bailiwick of Guernsey) Law, 2020. The purpose of the Law is to empower people to make their own decisions wherever possible, to allow them to plan for their future and, if they lack capacity, to ensure that decisions made on their behalf respect their basic rights and freedoms.

290. The Extradition (Bailiwick of Guernsey) Law, 2019 came into force on 7 December 2021. This introduced domestic extradition legislation broadly based on the Category II procedures in the UK Extradition Act 2003.

**Jersey**

291. In 2023 legislative amendments will be lodged with the States Assembly to strengthen the Conditional Early Release and Remission framework for children and young people (10–17 years) serving youth detention.

292. Work is currently underway on a new Youth Justice Strategy for Jersey which will strengthen the diversionary response to children and young in conflict with the law.

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