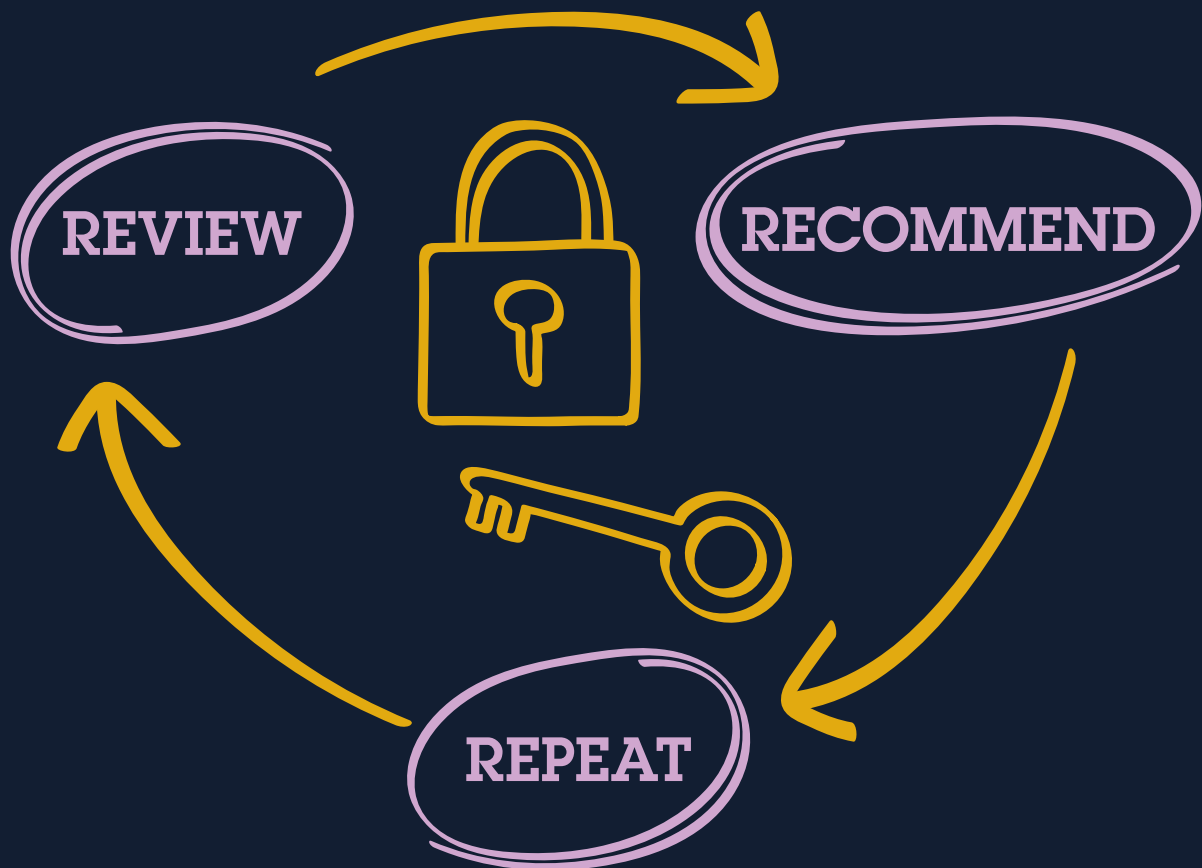


SHRC

Scottish
Human Rights
Commission



Review...
Recommend...
Repeat...

**An assessment of where human rights
have stalled in places of detention**

EXECUTIVE SUMMARY

Executive Summary

The Scottish Human Rights Commission (the Commission) and the National Preventive Mechanism (NPM) have been concerned for many years about the pace of progress in remedying the serious issues facing places of detention in Scotland. International, European and domestic bodies have all pointed to gaps in the protection of human rights and made recommendations to remedy the issues. Many of those recommendations have been made repeatedly over a long period of time and yet the issues persist.

In 2021, the NPM published a follow-up report to track implementation of two visits by the European Committee on the Prevention of Torture (CPT) carried out between 2018 and 2019. The report found little progress. Over the course of this research, we have examined 29 recommendations for improvement made by international human rights bodies in respect of Scotland's prison and forensic mental health settings. Of these, we have found 83 per cent where little or no meaningful progress has been made in addressing the recommendation.

The report reviews recommendations made by international human rights bodies at the United Nations and the European Committee on the Prevention of Torture over a ten-year period. It focuses on two specific places of detention: **prisons** and the **forensic mental health estate**. It also focuses on two specific human rights:

- The **right to life**, which requires that everyone's life shall be protected by law. This right is protected by Article 2 of the European Convention on Human Rights and repeated across United Nations (UN) human rights treaties.

- The **prohibition of torture and inhuman or degrading treatment or punishment**. This right is protected by Article 3 of the European Convention on Human Rights and repeated across UN human rights treaties.

The recommendations cover ten thematic areas:

Right to life

- Investigating deaths in custody
- Suicides

Prohibition of torture and ill treatment

- Conditions of detention and overcrowding
- Investigating allegations of ill-treatment
- Training for prison staff
- Use of force and restraint
- Use of solitary confinement, seclusion and isolation
- Healthcare services
- Mental health
- Women prisoners

The key question we set out to answer was **whether the gaps in protection of absolute rights that have been identified by human rights bodies have been remedied**. In each theme we present a brief, accessible summary of the human rights standards at stake, the recommendations from international human rights bodies, and an assessment of the available evidence to indicate progress. Assessments are categorised as:



Recommendation making no meaningful progress.

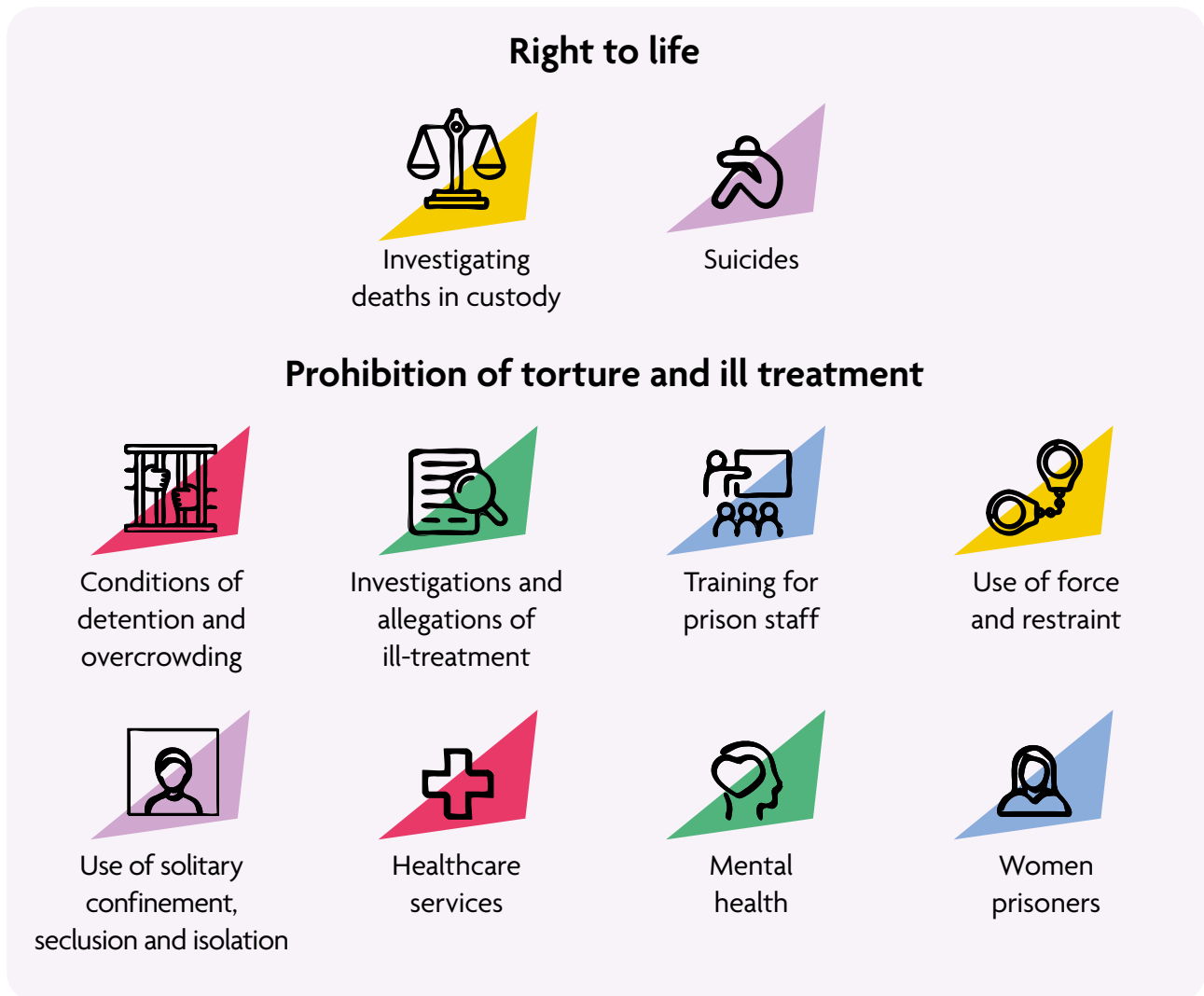


Recommendation making significant progress.



Recommendation addressed.

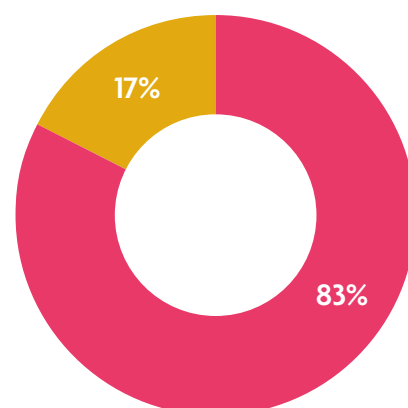
Recommendations


















We have adopted the framework of human rights measurement to assess not only what **efforts** or discussions have happened on a particular issue, but also what specific **commitments** have been made, and what actual **outcomes** have been achieved. This approach aims to assess the gap between rhetoric and reality by looking at all the steps that are required to realise human rights – a State must not only commit to addressing a problem, but also make continuous efforts to do so, and make sure that those efforts achieve real results for rights holders.

We examined 29 specific recommendations made by human rights bodies about Scotland's prisons and forensic mental health estate since 2014. Of those 29:

- 24 were **RED** – recommendation making little or no progress.
- 5 were **ORANGE** – recommendation making significant progress.
- 0 were **GREEN** – recommendation complete.



The following table summarises our findings.

Recommendation	
Ensure an independent, prompt and impartial review of all deaths in custody	
Review the overall Fatal Accident Inquiry system to find ways to speed up the process	
Reduce the number of deaths by suicide	
Compile data to assess the effectiveness of suicide prevention strategies	
Tackle overcrowding and reduce the remand population	
Improve prison conditions – “dog boxes”, cell sizes, access to purposeful activity	
Ensure prompt and systematic investigation of all injuries and allegations of ill-treatment	
Collect, analyse and publish data	
Establish accessible complaints mechanisms	
Ensure ongoing, up-to-date training	
Ensure human rights standards are included in training	
Develop a methodology to assess the effectiveness of training	
Explicitly prohibit the use of harmful devices, disciplinary restraint and any technique designed to inflict pain on children	
Develop statutory guidance on the use of restraint on children	
Collect, analyse and publish data on restraint on children	

Recommendation	
Take urgent measures to protect minority ethnic groups from ill-treatment and disproportionate restraint	
Review behaviour management policies	
Consider measures to ensure body cameras for all control and restraint operations	
Stop using segregation for those with mental health needs	
Ensure appropriate use of segregation, adequate regimes and reintegration	
Address staffing issues	
Improve record sharing	
Address substance use	
Improve mental healthcare in all prisons	
Transfer prisoners with acute mental health problems to appropriate psychiatric facilities	
Provide training for prison personnel on recognising symptoms of mental health problems and appropriate referral	
Establish a high-secure psychiatric unit for women	
Improve admission screenings for women	
Upgrade the female prison estate	

This presents a dispiriting picture. Only one matter has been fully resolved, which is the removal of the so-called “dog boxes” used as holding cells in the reception area of HMP Barlinnie. Whilst this is welcome, we note that recommendation had been outstanding since 1994 and was finally addressed in 2023.

There are some issues which are complex and which we recognise take time, such as reducing the prison population and addressing substance use. In those areas, we do see substantial legislative and policy efforts being made, however, as yet the results show little sign of improvement. On overcrowding and deaths in custody for example, the situation is in fact worsening.

There are many other, arguably less complex issues, however, in which action appears to be completely lacking, never mind progress. Recommendations to ensure human rights standards are included in training, to ensure proper recording and follow-up of allegations of ill-treatment and to collect and publish data on allegations, are relatively straightforward matters of process on which we can find no evidence of commitment, let alone action. These may seem like procedural issues; however, they are fundamental building blocks of a system that adequately protects absolute human rights.

More concerningly, we have found that there are recommendations on specific matters such as providing high-secure care for women experiencing mental disorder, which are recognised as urgent human rights issues and yet we can find no evidence of any meaningful progress.

Overall, it is difficult to identify the state of progress on any given recommendation. This report required the collection of a wide range of information across publicly available sources in order to determine what had taken place since the recommendation was made. There is no simple or transparent way to track progress, which makes it difficult to even know the state of human rights in places of detention. In the NPM’s 2021 report, we called on the Scottish Government to implement all recommendations and regularly monitor progress. Three years later, it is clear this has not been done.

What will happen next?

We will share this report with a range of bodies to allow progress to be assessed and tracked over time. This includes:

- The Criminal Justice Committee of the Scottish Parliament
- Audit Scotland
- The European Committee on the Prevention of Torture
- The United Nations Human Rights Committee
- The United Nations Special Rapporteur on Torture

The NPM and the Scottish Human Rights Commission will also track progress on these recommendations and any new ones which arise. We intend to measure progress again in four years.

SHRC Scottish
Human Rights
Commission

Scottish Human Rights Commission
Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS

scottishhumanrights.com



nationalpreventivemechanism.org.uk