

MEMORANDUM OF THE GOVERNMENT OF THE UNITED KINGDOM IN
REPLY TO CERTAIN QUESTIONS ADDRESSED TO IT BY THE
COMMISSION IN APPLICATION No. 3317/78 LODGED BY
THOMAS McFEELEY, KIERAN NUGENT, JOHN HUNTER AND
WILLIAM CAMPBELL

In response to the request contained in the letter from the Secretary to the Commission dated 24 October 1979, the Government submit the following answers to the questions posed in that letter.

So far as material in the application is concerned, no admission is made, whether relating to matters of law or fact, save as expressly indicated in this memorandum.

This memorandum adopts the order of the questions posed in the letter referred to above and refers to them by the designations there employed.

1(a): the applicants' claim that the option of exercising naked was withdrawn in late 1977 or early 1978.

1. The Government refers to its Observations dated 9 January 1979, paragraphs 3.8 and 3.43. The applicants have not been prevented from taking exercise, but have not availed themselves of this opportunity. They may exercise in prison clothing, or in prison underwear, or without clothing; the Governor issued orders to this effect in February 1977 and November 1977. In the interests of good order in the prison they may not, however, exercise wearing blankets. If the weather conditions are inclement, the Governor, on the advice of the Medical Officer, will decide whether exercise should be taken naked.

2. Accordingly, the applicant's claim is untrue.

1(b): the applicants' claim that as from November 1976 they were not allowed to remove their blanket from their cell.

1. In the early stages of the protest campaign within the prison, the applicant Nugent and certain other prisoners were not prevented from exercising while wearing blankets. By November 1976 it became clear that protesting prisoners were using blankets not for the purpose for which they were issued (i.e., bedding) but as a form of clothing in substitution for prison clothing. The wearing of prison clothing is a normal and reasonable incident to imprisonment, and accordingly it would have jeopardized good order in the prison to have allowed prisoners to insist on wearing blankets instead, particularly in the circumstances of the protest campaign. In consequence, instructions were given in November 1976 that blankets should not be removed from cells. It was in November 1976 that the issue of whether prisoners were to be allowed to wear blankets outside their cells first arose in a sufficiently wide context to require a concerted overall policy in regard to it.

2. Accordingly, it is correct that prisoners are not permitted to remove blankets from their cells, and have not been so permitted since November 1976. This is justified for the reasons explained above.

1(c): the applicants' claim that they are subjected to strip "mirror searches" at visit periods.

1. All prisoners are liable from time to time to searches, including strip searches. This latter denotes a visual examination of the prisoner's body and a check of his clothing, and the main physical contact involved is to check that items are not concealed in the prisoners hair. Such a search occurs, in the case of a prisoner not participating in the protest campaign, on average once a fortnight; in such cases the prisoner usually removes clothing from one half of his body at a time, and so is not in fact at any point wholly naked. A protesting prisoner, on the other hand, is likely to be "wearing" only a towel on the occasion of being searched on transfer from one wing of the prison to another. He will be unclad prior to putting on items of prison clothing for a visit or after taking them off after the visit on the occasion of being searched in connection with a visit.
2. As indicated above, protesting prisoners are strip-searched on transfer to a different wing and before and after visits. (Because of the need to clean cells when they have been fouled by protesting prisoners, these prisoners are usually moved from such cells to a new wing at intervals of every seven to ten days.). In addition, experience has shown that articles may also be concealed in the mouth or in the rectum. Accordingly, what is known as a close-body search is carried out on these prisoners on these occasions. The prisoner is required to open his mouth, which is subjected to a visual examination. He is also required to bend his legs over a small mirror and hold his buttocks apart to allow a prison officer to observe whether any object is concealed; in poor light a torch may be used for illumination, and a metal detector is used to check for metal objects. No examination involving physical contact is made of either mouth or rectum.
3. If a prisoner is suspected of concealing an article in his rectum, he is removed to the cell block; if a metal or dangerous object is suspected, a doctor (a prison medical officer) is called, but will not conduct a physical examination if the prisoner refuses this; if the prisoner

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does so refuse, or the attempted concealment of the object is not thought to involve any hazard to his health, he is left in a cell with a chamber pot until the object is excreted or the doctor is satisfied that any object would have been excreted.

4. If a prisoner does not co-operate with a search before a visit, the visit is terminated, except in the case of a visit from a legal adviser. On the very rare occasions that a prisoner has refused to be searched before such a visit, the Governor is informed, the visit occurs under close visual supervision, and a search is made after the visit.

5. Close body searches are usually carried out by three prison officers and one senior officer; this number is required as prisoners regularly make at least token resistance, but only if there is strong resistance will further officers be summoned. No other prisoners are present.

6. The above procedures regarding close body^{searches} are those currently in operation. The essential features were introduced after the discovery of many smuggled items culminating in an incident on 30 August 1978 when a prisoner was found to have a metal cigarette lighter so firmly lodged in his rectum that the Medical Officer had to use forceps to remove it. Procedure was not in the initial stages uniform in all respects. The use of a mirror was introduced in January 1979, since otherwise a prison officer was at risk of being kicked in the face and the prisoner might injure himself by excessive resistance.

7. Close body searches as indicated above are judged to be necessary in view of prisoners' ability to conceal objects; this constitutes a danger to prison security; in addition, the concealment of articles is used by prisoners as part of their efforts to disrupt the proper functioning of the prison and bring the system into disrepute. Further, successful concealment is liable to be treated by prisoners as a victory in their campaign to enforce their will on the prison authorities, and is thereby converted into an important issue in contesting the Governor's authority.

8. The danger to prison security, and the collective safety of all within it, is demonstrated by the fact that HM Prison Maze is a maximum security institution, and many of its most dangerous prisoners are among the protesting prisoners; it is therefore essential to prevent their obtaining the means of escape or of causing further disruption or destruction. For example, on 12 November 1978 flints were used to ignite pieces of toilet paper and so burn perspex weather shields (see paragraph 3.26 of the Government's Observations dated 9 January 1979). It is considered likely that the flints were obtained by being concealed in the rectum of prisoners. Concealed letters might be used to engineer escape attempts, other smuggling in and out of prison and the naming of prison officers as potential targets for murder.

9. Searches on wing transfers are judged necessary because they reveal items missed on other searches. Items obtained within the prison may also be used by prisoners; the burning of the perspex weather shields on 12 November 1978 was made possible by using broken pieces of glass to scratch the sheets and so produce rough edges that could be ignited; the pieces of glass were obtained after a bottle of communion wine had been broken that morning. A further illustration of the dangers is provided by an incident on 16 July 1978 in "A" wing of HM Prison Belfast, when an explosion occurred which is thought to have been produced by concentrating match heads in a tobacco tin and using a sock as a fuse.

10. Items found to have been concealed in the rectum of protesting prisoners have included the following:-

- cigarette lighters
- flints
- razor blades
- tobacco
- cigarettes
- cigars
- cuttings
- tablets
- matches
- chewing gum
- cigarette papers
- ball-point pen refills
- metal comb
- buttons with flints inserted in the holes.

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This list includes items found both during wing transfer searches and during searches in connection with visits. On a single occasion on 9 November 1978 there were found in the rectum of one prisoner the following items:-

- 15 tablets
- tobacco
- cigarette papers
- 2 pen refills
- 1 razor blade.

11. As an example, there is attached as Annex A the text of a letter written by a prisoner (not one of the applicants) asking for items to be smuggled to him.

12. In addition to items found in searches, there remains the possibility that other items have been or might be. For example, the concealment of tobacco in pieces up to 3 inches by 1 inch in the rectum suggests that gelignite in stick form might be similarly smuggled.

13. Accordingly, searches of prisoners are carried out, and it is submitted that the circumstances indicated in the above paragraphs render it incontestable that they are both necessary and reasonable.

Copy of letter from [name of prisoner], H5 'D' Wing

Hello Mum

Well I'm sorry you missed out on my last visit. It was nice to see [name of person] again and she's still as nutty as a fruit cake. [Name of person] wasn't looking to bad either, and I saw that he was ready to go to work when he got back to Belfast. Well things are really starting to heat up again in the camp with the orange men back on the blanket. The screws don't like it, not after what happened the last time when all of their homes were wrecked, and of course a few of them got the ankles blew of them. These blocks are really wrecked and they are doing their utmost to try and clean these cell up, but to no avail. We just dirty them as quick as there cleaned Ha. The poor workers all that sweat and cursing for nothing Ha. They're moving us from Wing to Wing every few weeks. I sometimes miss my little pigsty. I got a lovely wee surprise after my visit. I was standing waiting for transport when [name of person] came in for his visit. I couldn't get talking to him at all, well you know they way we are treated and we can't afford to have any trouble with the "bastards". He was looking quite well to me but I felt sorry for him. I mean his first time in and he lands in this mess, but I'm sure you've told him the importance of this protest, that it is no longer a "status" issue. Who ever wins this has the war won. I had a letter wrote for you all but a little snag ocured as I'm sure you where told. Theres a lot of speculation that Mr Mason is on his way when the elections are over that is if labour get in again, and there is strong belief that the elections may come in Oct, I hope so. I got the wee message back from my visit. It was a really welcomed sight and very enjoyable Ha. There was a lot of life that night in the wing. I heard all about our [names of persons] who do you call her Ha, yes leech. I heard you had a flare up with her. I think [name of person] will see reason when he really gets to know her.

Well mum if its possible on my next visit could you have it arranged to have tobacco brought up in the shape I have in the wee diagram. If it can be got I would like 1 oz. Take the contents out of their wrappers and beat them down into an oblong shape. Get red heads and break the stick close to the head and put_{to} them into the ents. I would also like two refills but they/will have to be cut short and I'll leave it up to you to block the ends and of course cig papers. Then you wrap it up tight with stretch and seal. It would

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be best brought in by a male. You know the old Y-Front trick.
Cut a slit in the Y, shape so as its like a pocket, and pull them
up tight. Its no bother to me. I'm safe getting it put away. Well
mum I'll have to sign of for now so God bless and take care.

Your loving son

[name of prisoner]

PS Let me know who's coming up. By letter or Welfare