

Appendix 1 – Why the existing estate cannot meet 2019 HMICFRS recommendations and HO guidance through refurbishment

HMIC recommendation	Why cannot implement	Risk of not implementing	Consequences of not implementing
Provision of compliant anti ligature shower facilities	Existing layouts cannot all be modified to meet reqs – new drainage, floors etc	Death in custody = corporate manslaughter	Criminal prosecution. Reputational damage.
Compliance with Equality Act	Cannot modify floor levels to exercise yards, shower areas, cells etc to meet reqs	Non-compliance with Equality Act is unlawful. May also be tied into Human Rights Act. Public sector bodies have higher level of responsibility.	Remedies available from claims to court action. Court action can result in court order to comply together with fines. Reputational Damage.
Provision of ligature free wash hand basins within cells	Existing cells cannot be modified to meet reqs – new drainage and walls etc	This is seen as a dignity issue. May also be tied into Human Rights Act if individual claims lack of facility is inhumane.	Remedies available vary. Reputational Damage. May be used by defence if seen as inhumane.
Bench design within existing cells presents ligatures	Cannot retrofit required Lambeth cell due to condition and width of existing cells – requires new walls and changes to layout/width of cells.	Death in custody = corporate manslaughter	Criminal prosecution. Reputational damage.
Poor temperature control	Custody facilities within existing ageing buildings where M&E end of life. Unable to modify M&E to zone/enable separate custody control without significant works	This is seen as a dignity issue. May also be tied into Human Rights Act if individual claims temperatures create inhumane detention conditions.	Remedies available vary. Reputational Damage. May be used by defence if seen as inhumane.

HMIC recommendation	Why cannot implement	Risk of not implementing	Consequences of not implementing
Unable to meet natural daylight levels required	No way to modify existing cells to achieve this	This is seen as a dignity issue. May also be tied into Human Rights Act if individual claims light levels create inhumane detention conditions and affect circadian rhythms	Remedies available vary. Reputational Damage. May be used by defence if seen as inhumane.
Grill apertures too large (creates ligatures)	Unable to modify as this will affect heating/ventilation system – existing system will not work properly with smaller apertures.	Death in custody = corporate manslaughter	Criminal prosecution. Reputational damage.

The Estate department have advised that compliance with each recommendation is not possible though simple modification, instead works will involve substantial demolition/refurbishment to remove and replace internal and external walls, floors, drainage, and Mechanical and Electrical systems. Costs would be similar to new build but result in a product that still falls below expected HO/HMICFRS standards due to site limitations (e.g., unlikely to be able to increase capacity to accommodate interview: cell ratios).

In addition, note that on next inspection, HMICFRS will no doubt refer to new HO guidance released September 2019 which highlights further issues & deficiencies to include (but not limited to):

- Ratios of cell to ancillary rooms e.g., interview & consultation rooms
- Separation/privacy for juveniles
- Charge desk configuration
- Room sizes and layouts (note recommended layouts and room data sheets are provided for many custody spaces within the guidance document).
- Provision of virtual courts
- Provision of forensic search room
- Acoustic properties
- Sight lines/visibility
- Fire management – avoiding dead ends
- Light levels
- Van docks (only provided at Peterlee)

- Telephone cubicles

HMICFRS recommendations and HO guidance obviously do not form legislation. However, defence may refer to any failing inspection report and/or derogation from guidance to discredit the organisation in any case. This will be particularly pertinent if there is a death in custody as a result of any identified failing.