

Dated 11th February 2014



Ministry
of Defence



MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MINISTRY OF DEFENCE
AND
HER MAJESTY'S INSPECTORATE OF PRISONS
CONCERNING
THE INSPECTION OF SERVICE CUSTODY PREMISES

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Section 1 - Participants

1.1 This Memorandum of Understanding (MOU) has been reached between the Ministry of Defence (MoD) and Her Majesty's Inspectorate of Prisons (HMIP), hereinafter referred to as 'the Participants'.

Section 2 - Definitions

2.1 In this MOU:

- 'Service Custody Premises' (SCP) are places in which a person may be required to serve the whole or part of a sentence of service detention. They consist of Service Custody Facilities and the Military Corrective Training Centre (MCTC), Colchester.
- 'Service Custody Facility' (SCF) has the meaning contained in the Service Custody and Service of Relevant Sentences Rules 2009.

Section 3 - Purpose and Aim

3.1 HMIP was established as an independent inspectorate in 1980. It carries out its functions under section 5A of the Prison Act 1952, as amended by section 57 of the Criminal Justice Act 1982. It reports to the Secretary of State on the discharge of its statutory functions.

3.2 The UN Optional Protocol to the Convention Against Torture and other cruel, inhuman or degrading treatment or punishment (OPCAT - 2003) was ratified by the UK in 2006. In order to fulfil its obligations under OPCAT, the UK formally designated a national mechanism to prevent torture and ill treatment through regular, independent inspection of all places of detention within its jurisdiction (the National Preventive Mechanism, NPM). As a member of the NPM, which it also coordinates, HMIP discharges obligations established under OPCAT.

3.3 HMIP inspections of the MCTC began in 2004, and in 2013 a trial period inspection of UK based SCFs began. Further to the successful completion of the trial period, an understanding has been reached for HMIP to continue with a system of inspection of UK based Service Custody Premises by invitation of the MoD. To meet the requirement for regular inspection, while adopting a proportionate approach, a programme will ensure that custody conditions in all UK based SCP are inspected at least every 4 years.

Section 4 – Objectives of the Programme

4.1 The programme of inspection is designed to meet the obligations under OPCAT, by examining the treatment and conditions under which people are detained in UK based SCPs.

4.2 In addition, the programme aims to provide an operational and strategic overview of the efficiency and effectiveness of the facilities measured against published inspection criteria which are based on Joint Service Publications and relevant inspectorate criteria.

Section 5 – Governance Structure

5.1 HMIP will notify MOD of all proposed inspections of SCFs at least 2 weeks in advance, for authorisation and to facilitate entry to the UK based SCF. Authority to enter the MOD establishment housing the SCF will ordinarily be granted, but may be delayed or deferred for reasons including, but not limited to, operational necessity, or security. Specific arrangements will be made between the HMIP team and the relevant local contacts prior to

the inspection. A Notice of Details of Inspection as set out in Annex B to this MOU shall be handed to the senior officer on duty at the SCF at the commencement of an inspection.

5.2 Inspections of MCTC will be unannounced to the establishment, but Provost Marshal (Army) staff will be informed prior to the inspection for authorisation and to facilitate entry and inspection. Authority to enter MCTC will ordinarily be granted, but may be delayed or deferred for reasons including, but not limited to, operational necessity, or security.

5.3 HMIP's employees and agents will abide by all security instructions issued to them during the inspection period by the Commanding Officer of the MOD establishment or any of his personnel, employees or agents, including any instructions relating to the storage of information.

Section 6 – Common Methodology

6.1 The inspection of Service custody conditions will be carried out by inspectors from HMI Prisons, and will include healthcare inspectors and social researchers.

6.2 The inspection framework has been developed using an adapted version of the methodology employed in civilian custodial settings, adjusted to the particular context of military custody.

6.3 The methodology focuses on outcomes for detainees. It reflects both published custodial inspection criteria, the relevant human rights standards and the core standards for Service custody as set out in the *Joint Service Publications 397 & 837*.

6.4 The inspection methodology includes:

- Collation of performance data and intelligence;
- Analysis of documentation
- Questionnaires to relevant detainees to elicit views on previous experience in service detention;
- Fieldwork visits
- Interviews with detainees, staff, managers and key individuals, including healthcare staff,
- Custody record analysis and if necessary review of other sources of evidence (records; CCTV).
- Hot debrief to service representatives
- Publication of a final report.

6.5 All core team members are trained in security and personal safety awareness, and conflict resolution.

6.6 The Chief Inspector or Deputy Chief Inspector from HMI Prisons may participate in the inspection.

6.7 The timeline for the production of a report following the inspection are set out in Annex A to this MOU. Within 8-11 weeks of the end of the inspection, the Chief Inspector will present a report to the MoD so that it can be checked for factual accuracy. The report will be formally submitted to the MoD with a view to publication 6 weeks later, subject to any security considerations. The report will include recommendations for change where appropriate, and will record areas of good practice.

6.8 All reports will be published and placed on the HMIP website together with a media statement to cover publication. The media statement will be shared with the MoD. However, media handling will ultimately be a matter for HMIP. The MoD will receive advance copies, embargoed, up to 2 weeks in advance to an agreed publication time and date.

Section 7 – Responses to Report

7.1 Each service will be expected to publish their considered response to the final report. It is expected that this response will include an action plan to address any recommendations from the report and that it will be published within three months of the publication date of the inspection report.

Section 8 - Disputes Resolution


8.1 Should difficulties arise with the operation of this MoU the Governance Structure detailed at Section 5 above should be used to resolve them. If resolution is still not achieved, in the first instance resolution will be sought at the lowest possible level, initially between the team leader and representative of the relevant Provost Marshal's office. If resolution is still not achieved, matters may be referred to the Chief Inspector of Prisons and the Minister of State for the Armed Forces.

Section 9 - Amendment, Effective Date and Duration

9.1 This MOU, including its Annexes, is subject to review and amendment at any time with the agreement of both Participants.

9.2 This MOU will be effective from the last date of signature and will be subject to annual review by either Participant..

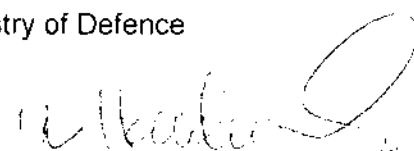
The foregoing represents the understandings reached between the Ministry of Defence and Her Majesty's Inspectorate of Prisons on the matters herein

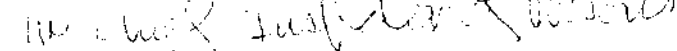
Signed: 

Post: 

Dated: 16 Feb 2014

For the Ministry of Defence

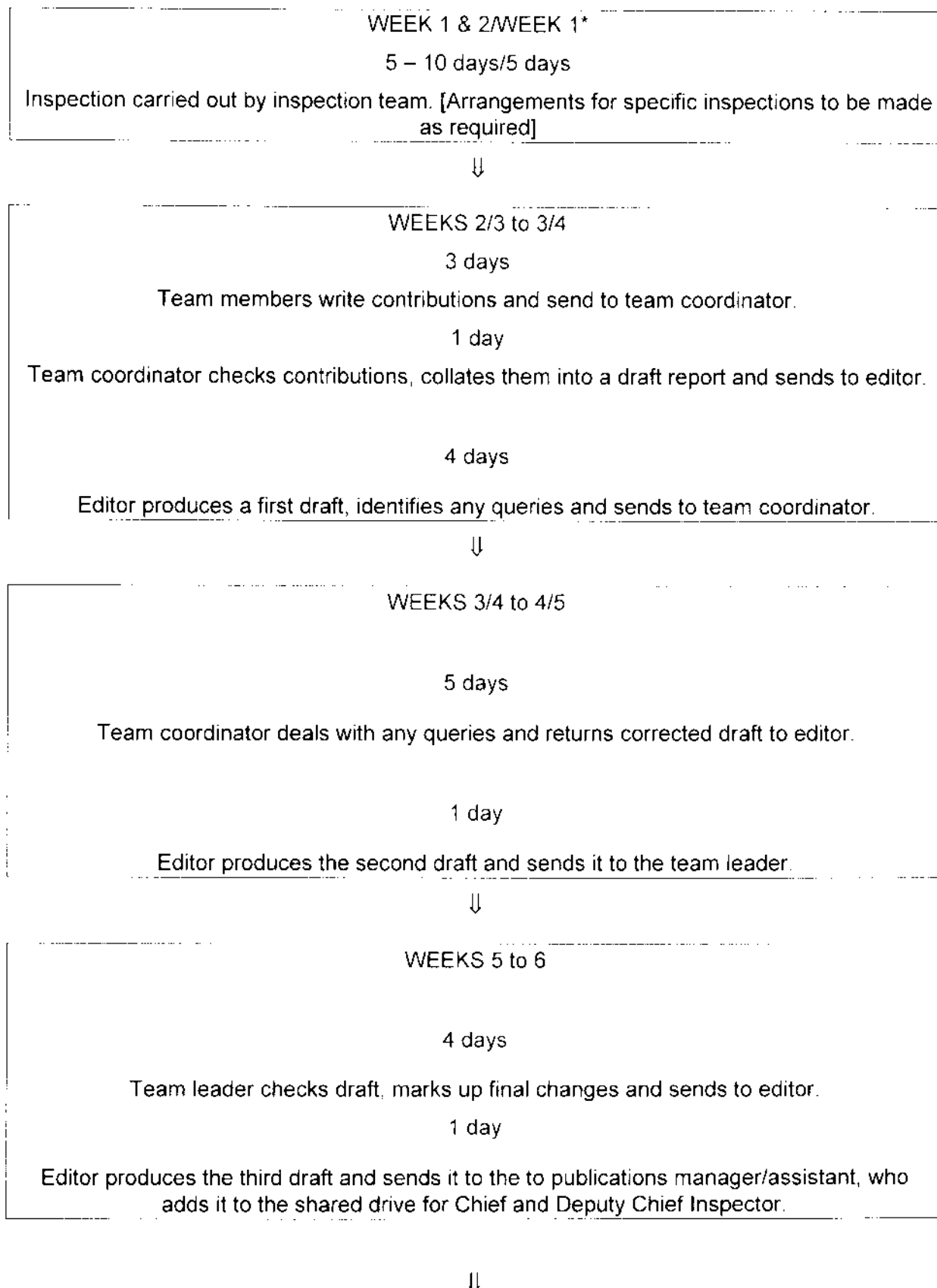
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Dated: 11 February 2014

For Her Majesty's Inspectorate of Prisons

Flowchart of the report production process (18 weeks)



WEEK 6

5 days

Chief Inspector/Deputy Chief Inspector reads final draft and sends queries to team leader.



WEEK 7

5 days

Team leader answers queries (with evidence from inspectors) and suggests amendments.



WEEKS 7 to 8

2 days

Chief Inspector/Deputy Chief Inspector pass agreed amendments to publications manager/assistant.

4 days

Publications assistant makes corrections so report can go for factual accuracy checks.

2 days

Publications assistant prepares submission to NOMS/UKBA/Chief Constable/IMB/MoD for factual accuracy checks. HMCIP secretary/publications assistant sends report with date for response in hard copy and electronic copy, respectively.



WEEKS 8 to 11

15 days

Armed Services & MoD carry out factual accuracy checks and expurgations on security grounds.

Note – for SCP reports issues relating to security etc should be discussed/agreed at this stage



WEEKS 11-14

15 days

Chief Inspector/Deputy Chief Inspector receive factual accuracy amendments; discuss with team leader; agree amendments with Armed Forces & MoD.



WEEKS 14 to 15

4 days

Secretary/publications assistant make factual accuracy amendments on hard copy and electronic copy, respectively.

3 days

Publications assistant passes report to Chief Inspector to sign off and press officer for read through.



WEEKS 16 to 17

8 days

Print, press and website preparation work.



WEEKS 17 to 18

3 days

Publication on website; press notice sent out and uploaded on website on day of publication.

* Inspections of all UK SCFs are like to take 7-10 days

MCTC inspections will usually take 5 days

STANDARD NOTICE OF DETAILS OF INSPECTION

[SCF only]

To be handed to the senior officer on duty at an SCF that is subject to an inspection by HM Inspectorate of Prisons.

Service: [details]

Location: [details]

Lead Inspector: [name and position/organisation]

1. Purpose of this document

- 1.1. To explain the reason for this inspection of your facility;
- 1.2. To set out the procedure to be followed during the inspection;
- 1.3. To explain how you might seek to delay or defer the inspection; and
- 1.4. To provide contact details for HMIP representatives, should you require to check the validity of the inspection or discuss any substantial reasons for deferral or delay.

2. The reason for inspection

2.1 The UN Optional Protocol to the Convention Against Torture and other cruel, inhuman or degrading treatment or punishment (OPCAT - 2003) was ratified by the UK in 2006. In order to fulfil its obligations under OPCAT, the UK formally designated a national mechanism to prevent torture and ill treatment through regular, independent inspection of all places of detention within its jurisdiction (the National Preventive Mechanism, NPM). As a member of the NPM, which it also coordinates, HMIP discharges obligations established under OPCAT.

2.2 HMIP inspections of the Military Corrective Training Centre (MCTC) began in 2004, and in 2013 a trial period inspection of UK based Service Custody Facilities (SCF) began. Further to the successful completion of the trial period, an understanding has been reached for HMIP to continue with a system of inspection of UK based Service Custody Facilities by invitation of MoD.

2.3 The selection of Armed Forces custody facilities for inspection should not be taken as indicating that the inspectorates have identified any particular risk, vulnerability or poor performance in that facility.

3. The inspection format and scope

3.1. The inspection will be undertaken against the published framework of expectations (a copy of which can be made available if requested) that focuses on:

- Treatment and conditions;
- Individual rights and
- Healthcare.

3.2. The team members will not examine operationally sensitive issues - such as sufficiency of evidence - nor interfere with any on-going investigation or interviews. However, the team will require to:

- Visit and examine the custody facility, including cells, exercise yard, clinical examination room, interview rooms and any storage areas;
- Check records, CCTV, procedures, equipment, maintenance and security;
- Speak confidentially with any detainees (subject to their consent and risk assessment) and complete questionnaires regarding the physical conditions of their detention;
- Interview custody /detention staff;
- Interview investigating/operational officers who deal with detainees;

3.3. Everything will be done to reduce as far as possible the additional administrative impact of the inspection but it is accepted that inspections do not, by their nature, allow arrangements for staff to be allocated to escort or service the inspection team's requests.

4. Request for delay or deferral

4.1. While an inspection will always be inconvenient, it will require a very substantial reason for this inspection to be delayed or deferred – such as posing a significant threat to highly sensitive operational activity or major risk to personal safety or security.

4.2. If you believe that such exceptional circumstances are indeed evident and wish to request a delay or deferral, the detail of these circumstances must be explained in full to the team leader, who will either:

- accept that the inspection should be delayed or deferred; or
- reassert the request for access to carry out the inspection, explaining why the reason given does not constitute a substantial cause for deferral or delay.

4.3. Where any difference of opinion cannot be resolved between the team leader and the local senior officer, arrangements should be made for one of your chief officers to speak directly with the office of the relevant Provost Marshal, whilst the HMIP inspector should contact the team leader, who will in turn contact the Deputy Chief Inspector, so that the matter can be resolved, with regard to prevailing operational and security issues