

Memorandum of Understanding

BETWEEN

**CRIMINAL JUSTICE INSPECTION NORTHERN
IRELAND (CJI)**

Criminal Justice Inspection
Northern Ireland
a better justice system for all



and

HER MAJESTY'S CHIEF INSPECTOR OF PRISONS



Introduction

Her Majesty's Inspectorate of Prisons

- 1.1 HMIP is an independent inspectorate whose Chief Inspector is a Crown appointment. The Chief Inspector's powers derive from section 5A of the Prisons Act 1952 (as amended)¹. The Chief Inspector reports directly to the relevant Secretaries of State and to Parliament on the treatment of and conditions for prisoners in England and Wales and immigration detainees in the United Kingdom. HMIP also inspects court custody, police custody and customs custody facilities, with HMIC, and secure training centres with Ofsted. By invitation, HMIP inspects some military detention facilities as well as prisons in Northern Ireland, and in other jurisdictions with links to the UK such as the Isle of Man. HMIP is the coordinating body for the UK's National Preventive Mechanism (NPM)², a group of 20 organisations which monitor places of detention in England, Wales, Scotland and Northern Ireland under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)³.

Criminal Justice Inspection Northern Ireland

- 1.2 Criminal Justice Inspection Northern Ireland (CJINI) is an independent statutory inspectorate, established under the Justice (Northern Ireland) Act 2002, constituted as a non-departmental public body in the person of the Chief Inspector. The CJINI was established in accordance with Recommendation 263 of the *Review of the Criminal Justice System in Northern Ireland* of March, 2000.

1.3 Optional Protocol to the UN Convention Against Torture (OPCAT)

The national programme of police custody inspections is founded on international law and standards for the treatment of persons deprived of their liberty. These are expressed in the United Nations Convention on 'Torture, Cruel, Inhuman and Degrading Treatment or Punishment'.

The obligations which fall upon signatories to the convention are expressed in the Optional Protocol to the treaty (OPCAT). The OPCAT protocol acknowledges that detained persons are particularly vulnerable to ill-treatment and that efforts to stop that ill-treatment should be focussed on prevention through a system of regular independent visits to places of detention.

The requirement to pursue the current inspection programme dates from 2003 when Her Majesty's Government (HMG) ratified the OPCAT

¹ Section 5A of the Prison Act 1952 (as amended by 1982 Criminal Justice Act, Immigration and Asylum Act 1999, Immigration, Asylum and Nationality Act 2006, Police and Justice Act 2006).

² The UK designated its NPM in March 2009. The UK's NPM is coordinated by HM Inspectorate of Prisons.

³ Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/57/199, adopted on 18 December 2003; came into force 26 June 2006.

protocol, thereby accepting for the United Kingdom a State responsibility to:

“set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment”.

The domestic visiting bodies which discharge those obligations form the NPM. The NPM must be independent and adequately resourced to secure the necessary capabilities and expertise to provide effective inspection of detention facilities⁴.

The NPM must:

- regularly examine the treatment of people deprived of their liberty in places of detention;
- make recommendations to the relevant authorities with the aim of improving the treatment and conditions of detainees; and
- submit proposals and observations concerning existing draft legislation.

The NPM must have:

- access to information concerning the number of people deprived of their liberty, the number of places of detention and their location;
- access to information about treatment and conditions of detainees;
- access to all places of detention; and
- the opportunity to privately interview detainees and any other relevant person.

Inspection

- 1.4 HM Chief Inspector of Prisons (HMCIP), at the request of CJINI, will provide an inspection team to carry out inspections of conditions in prisons in Northern Ireland and the treatment of prisoners held in them. Inspections will cover all aspects of the regime and treatment of prisoners, including learning and skills and healthcare.

Methodology

- 1.5 Inspections will be carried out against HMCIP's published inspection criteria and methodology, and in line with the four tests of a healthy custodial environment as set out in Expectations: criteria for assessing the conditions in prisons and the treatment of prisoners. The four tests are:

⁴ See First annual report of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (February 2007 to March 2008), CAT/C/40/2 (14 May 2008).

Safety	prisoners, even the most vulnerable, are held in safety
Respect	prisoners are treated with respect for their human dignity
Purposeful activity	prisoners are able, and expected to, engage in activity that is likely to benefit them
Resettlement	prisoners are prepared for release into the community and are helped to reduce the likelihood of reoffending

Planning

- 1.6 HMCIP and CJINI will agree, based on the requirements of CJINI, the dates of announced and unannounced inspections. A member of the inspection team will visit the site of an announced inspection six to eight weeks prior to an announced inspection to discuss all aspects of the inspection and to ensure that pre-inspection information is obtained in good time. A researcher will accompany the team leader to carry out a confidential survey of prisoners (see 1.10 below). HMCIP will specify in writing the information required before the inspection as well as information to be provided on the first day of inspection.
- 1.7 Joint planning for an unannounced inspection will take place between HMCIP and CJINI.
- 1.8 HMIP and CJINI will keep each other informed of developments and share information (within statutory limitations) in order to minimise burdens upon establishments and enable greater efficiency and effectiveness in relation to each Inspectorate's role.

Staffing arrangements

- 1.9 The inspection will be led by HMIP using a number of core inspectors, these may include one with knowledge of the specific provisions that relate to the detention of those under aged 18 and women when the prison holds these groups.
- 1.10 Full inspections will be conducted jointly under agreed protocols with inspectors from the Education and Training Inspectorate and the Regulation and Quality Improvement Agency. RQIA and ETI will provide specialist healthcare and learning and skills inspectors as required.
- 1.11 Members of CJINI will work with the inspection team as agreed between the two inspectorates.
- 1.12 All inspectors will be bound by the Official Secrets Act and are subject to enhanced Criminal Records Bureau checks.

Evidence gathering

- 1.13 HMCIP, CJINI and their representatives will have access to all relevant documentation during the inspection and will be able to hear the views of both prisoners and staff in private. A confidential survey of prisoners will be carried out prior to the full inspection week (findings will be made available to the establishment as part of the report).
- 1.14 CJINI will ensure that inspectors are provided with the relevant laws and regulations that apply to prisons in Northern Ireland, and with the specific issues that arise in relation to the treatment and conditions in which prisoners are held.
- 1.15 The inspection team will seek the views of the prison's Independent Monitoring Board (IMB).

Debrief

- 1.16 During the inspection the team leader will regularly debrief the Governor on emerging findings and key issues and inform CJINI of any major concerns at the time.
- 1.17 At the end of the inspection, HMCIP (or deputy) , in conjunction with the Chief Inspector CJINI, will formally debrief the Governor and other relevant personnel on the overall findings using the four tests of a healthy custodial environment. The Governor may invite the Chairperson of the IMB and anyone else s/he deems appropriate to attend the debrief.

Reporting arrangements

- 1.17 Within nine weeks of the end of the inspection, HMCIP will present a report to be checked by Northern Ireland Prison Service (NIPS) for factual accuracy. NIPS will respond within three weeks; any follow up responses from HMCIP will be completed within a further two weeks. The report will be submitted to the relevant Minister(s) with a view to publication at the earliest appropriate point agreed with CJINI. The report will include recommendations for change, where appropriate, and will record areas of good practice.

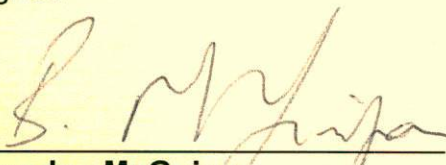
Costs

- 1.18 CJINI will reimburse HMCIP for costs incurred in completing the inspection, research, subsequent analysis and writing up and will be calculated for each individual inspection. These will be agreed prior to the inspection taking place. .

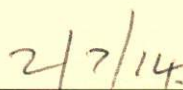
Dispute resolution

- 1.19 If a dispute arises concerning non-compliance with this protocol, and that dispute cannot be resolved between HMCIP and the Chief Inspector CJINI to their mutual satisfactions, both parties will agree to refer to independent arbitration of a kind acceptable to both parties.

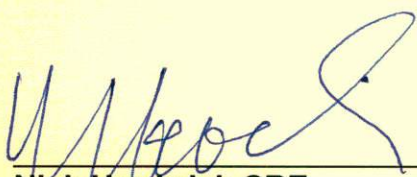
Signed



Brendan McGuigan
Chief Inspector of Criminal Justice Inspection



Date



Nick Hardwick CBE
HM Chief Inspector of Prisons



Date