

## MEMORANDUM OF UNDERSTANDING ON THE JOINT INSPECTION OF OFFENDER MANAGEMENT IN CUSODY IN ENGLAND AND WALES

1. This memorandum of understanding (MOU) has been agreed between Her Majesty's Inspectorate of Probation and Her Majesty's Inspectorate of Prisons to cover joint inspection of offender management.

### 2. **Her Majesty's Inspectorate of Prisons**

Her Majesty's Inspectorate of Prisons (HMI Prisons) 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). 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. HMI Prisons also inspects, court custody; police custody and customs custody facilities with Her Majesty's Inspectorate of Constabulary (HMIC), and secure training centres with Ofsted. By invitation, HMI Prisons 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. HMI Prisons is the coordinating body for the UK's National Preventive Mechanism, 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.

### 3. **Her Majesty's Inspectorate Probation**

Her Majesty's Inspectorate of Probation (HMI Probation) is an independent Inspectorate, funded by the Ministry of Justice and reporting directly to the Secretary of State. Its purpose is to report on the effectiveness of work with adults and children who have offended. This is aimed at reducing reoffending, protecting the public, and improving the wellbeing of children at risk of reoffending, whoever undertakes this work. HMI Probation inspect the quality and impact of services provided, and make recommendations designed to enable providers to continually improve the effectiveness of their services.

HM Chief Inspector of Probation's responsibilities are set out in Section 7 of the Criminal Justice and Court Services Act 2000, as amended by the Offender Management Act 2007, section 12(3)(a). This requires the Chief Inspector to inspect (section 1) and report to the Secretary of State (section 3) on the arrangements for the provision of probation services.

Under Section 7(6) of the Criminal Justice and Court Services Act 2000, HM Chief Inspector of Probation is also conferred to inspect and report on Youth Offending Teams, established under section 39 of the Crime and Disorder Act 1998, and bodies acting on their behalf.

#### **4. National Preventive Mechanism**

HMI Prisons coordinates the UK government's obligations arising from its status as a party to the UN Optional Protocol to the Convention Against Torture (OPCAT 2003). OPCAT was ratified by the UK in 2006. Under Article 3, each State Party is required to establish regular, functionally independent inspection of all places of detention. This obligation includes police custody facilities. OPCAT requires state parties to establish an independent National Preventive Mechanism (NPM) to inspect all places of detention. Article 19 (c) of the Protocol sets out the NPM's powers to submit proposals concerning existing or draft legislation.

#### **5. Statutory status of inspections**

Offender management is the term used to denote assessment, planning and implementation of work with offenders in the community or in custody to address the likelihood of them reoffending and the risk of harm they pose to the public. Community based offender managers and staff in prison Offender Management Units have responsibility for undertaking or co-ordinating work with prisoners to address the attitudes, behaviour and lifestyle that contributed to their offending.

The inspection of all offender management units in establishments inspected as part of the annual inspection programme will be carried out jointly by inspectors from HMI Probation and HMI Prisons. The latter will include healthcare inspectors and social researchers. To facilitate this joint working, HM Chief Inspector of Prisons has formally delegated powers to HM Chief Inspector of Probation, giving probation inspectors powers equivalent to those of prison inspectors.

HMI Prisons consult annually on its inspection plans and framework, and on the joint plan of the chief inspectors of criminal justice. Consultation is undertaken with a range of stakeholders, including HMI Probation. However, the decision to inspect a particular establishment is ultimately a matter for HMI Prisons.

Currently, HMI Prisons will inspect adult prison establishments at least once every five years and juvenile establishments at least once every two years but will ordinarily inspect more frequently. Inspections may on occasions be announced but are normally unannounced. The nature and timing of an inspection will be at the discretion of HMI Prisons and will be informed both by chronology and risk.

HMI Prisons is the “gatekeeper” under the Police and Justice Act 2006 for other inspectorates seeking to inspect in prison custody. To minimise burdens and maximise effectiveness, HMI Prisons will seek to ensure that all its partners, including HMI Probation, inspect simultaneously under its auspices and report findings in a consistent and co-ordinated way.

## **6. Access**

HMI Probation staff will be provided, acting on the authority of the Chief Inspector of Prisons, unfettered access to establishments, records and prisoners. This will include the immediate provision of keys on arrival for authorised inspection staff. Records will include electronic images and records identified by inspectors as relevant to the inspection, as well as relevant records held regionally or nationally.

HMI Probation will ensure that all staff have appropriate security vetting, personal photographic identification and security training. HMI Probation is covered by Crown immunity from prosecution under the Offender Management Act 2007 regarding the conveying of items in and out of the establishment related to their designated duties. Staff from neither HMI Probation nor HMI Prisons will take mobile phones into establishments. Secure laptops with secure internet access and related mobile media devices may be taken into establishments as part of the inspection process.

## **7. Objectives of the programme**

The programme of inspection is designed to meet obligations under OPCAT by examining the treatment and conditions under which people are detained in prison custody. In addition, inspection will provide an assessment of the operational and strategic effectiveness of resettlement measured against published inspection criteria agreed jointly by HMI Probation and HMI Prisons.

## **8. Activity and planning**

HMI Prisons will identify the inspection programme for the forthcoming year, beginning in April, and it will be shared with an identified lead

within HMI Probation. Other than the identified lead within HMI Probation, details of the timetable will remain confidential and HMI Probation inspectors will not be informed of which prison is being inspected until the prison has been contacted during week one of the inspection. Amendments to the timetable will be shared with HMI Probation at the earliest opportunity.

For all unannounced inspections coordinating inspectors from HMI Prisons will ensure necessary documentation is provided to the prison as soon as is practicable on the day the inspection is announced; usually the Monday of week one. This will enable appropriate liaison in order to identify the prisoner cohort.

During the ensuing week the HMI Prisons coordinator and/or resettlement lead will liaise with the HMI Probation lead inspector to plan activity for week two, the main inspection week.

## 9. Methodology

When inspecting offender management units, HMI Probation and HMI Prisons inspectors use independent inspection criteria, or *Expectations*, to assess the treatment and conditions of those detained in prison custody. These *Expectations* also offer a guide to senior prison staff as to the standards that the two Inspectorates expect to find in these settings and the sources of information and evidence upon which they will rely. *Expectations* are informed by, and referenced against, Basic Principles for the Treatment of Prisoners (BPTP), United Nations rules for the Treatment of Women Prisoners (RTWP), Standard Minimum Rules for the Treatment of Prisoners (SMR) and Recommendations Rec(2006)2 for the Committee of Ministers to member states on the European Prison Rules (EPR).

The methodology focuses on four key issues:

- Strategic management of resettlement and offender management;
- Offender management and planning;
- Public protection;
- Resettlement services, primarily those orientated to reducing the risk of re-offending and harm.

The inspection methodology includes:

- Analysis of at least 12 cases of prisoners held in custody by the prison at the time of the inspection, focussing on:
  - i. Effective assessment of individuals
  - ii. Use and completion of appropriate documentation
  - iii. Collation of performance data and intelligence
  - iv. Analysis of effectiveness
  - v. Management overview and support;
- Discussions with both practitioners and managers;

- Discussions with prisoners whose cases are being assessed;
- Questionnaires to relevant prisoners to elicit views on their experience of custody;
- Debriefs with colleagues and team leaders during the inspection as well as appropriate staff within the establishment;
- Contributions and analysis of findings for the final report.

HMI Probation will usually provide a lead inspector who will attend the prison from the Monday lunchtime of the main inspection until the conclusion of the inspection challenge meeting on Thursday afternoon and an assistant inspector who will attend the prison from Monday lunchtime until Wednesday evening.

## **10. Inspection findings and report**

On the final day of the inspection, the team leader and other members of the team will provide a verbal 'hot-debrief' to the governor and other senior managers. Any particularly urgent or dangerous issues will be flagged when they emerge.

The full findings will be made available to NOMS within eight weeks of the visit, as a draft report. This is presented at this stage to resolve any challenges to factual accuracy prior to subsequent publication, normally within 18 weeks of the inspection. Report content will ultimately be a matter for the two Chief Inspectors.

All reports will be published and placed on the websites of both inspectorates, together with a media statement to cover publication. However, media handling will ultimately be a matter for the Chief Inspector of Prisons.

## **11. Data and Retention Periods**

HMI Prisons and HMI Probation will meet all legal requirements for the protection of personal information, records and images accessed on inspection.

Personal data provided to HMI Prisons and HMI Probation will be kept for retention periods defined by HMI Prisons and then destroyed in accordance with standard MoJ policy.

## **12. Conduct and complaints**

The conduct of inspectors, including partner inspectors, will be the responsibility of the on-site inspection team leader. Complaints about inspection staff should be referred to the inspection team leader or to the Chief or Deputy Chief Inspector as appropriate. Formal complaints

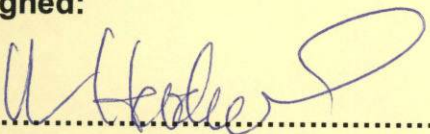
will be dealt with in accordance with HMI Prisons' and HMI Probation's complaints processes.

HMI Prisons and HMI Probation will seek voluntary feedback for quality assurance purposes from prisons after each inspection. In addition, HMI Prisons will conduct an annual stakeholder survey to inform performance improvement.

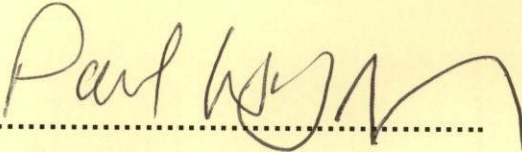
**13. Correspondence or comments received**

Correspondence or comments received from detainees or members of the public that raise concerns about a detainee's safety will be referred to relevant prison managers for immediate investigation, with the individual's consent. Where the nature of the correspondence or comment indicates a risk of harm to self or others or a breach of security, such information will be relayed regardless of the consent of detainees.

**Signed:**

  
.....

**Nick Hardwick CBE**  
HM Chief Inspector of Prisons

  
.....

**Paul Wilson CBE**  
HM Chief Inspector of Probation

**Date:**

17/9/15  
.....

**Date:**

17/09/15  
.....