

Memorandum of Understanding on immigration detention and escort arrangements between the Home Office (Immigration Enforcement) and HMI Prisons

1. HM Inspectorate of Prisons for England and Wales (HMI Prisons) is an independent inspectorate whose Chief Inspector is a Crown appointment. The Chief Inspector reports on conditions for and treatment of those in prison, young offender institutions, secure training centres, immigration detention facilities, police and court custody suites, customs custody facilities and military detention. The role of HM Inspectorate of Prisons is to provide independent scrutiny of the conditions for and treatment of prisoners and other detainees, promoting the concept of 'healthy establishments' in which staff work effectively to support prisoners and detainees to reduce reoffending and achieve positive outcomes for those detained and for the public.
2. Section 5A(5A) of the Prison Act 1952, as amended by section 152(5) of the Immigration and Asylum Act 1999, requires the Chief Inspector to report on the treatment of and conditions for detainees in immigration removal centres.
3. Section 46(1) of the Immigration, Asylum and Nationality Act 2006 extended the Chief Inspector's inspection and reporting remit to immigration short term holding facilities and escort arrangements throughout the UK. Paragraph 8 of Schedule 9 to the Immigration Act 2014 did the same for pre-departure accommodation.
4. HMI Prison's work is carried out in accordance with the UK's obligations as a party to the Optional Protocol to the United Nations Convention against Torture and other cruel, inhumane or degrading treatment or punishment (OPCAT). OPCAT requires each state party to designate an independent 'national preventive mechanism' (NPM), which monitors places of detention for the purpose of preventing torture and ill-treatment. HMI Prisons is a member of, and coordinates, the UK NPM.
5. Immigration Enforcement (IE) is one of the principal directorates of the Home Office. It is responsible for preventing abuse of the immigration system, tracking immigration offenders and increasing compliance with immigration law. It works with partners such as the police to regulate migration in line with government policy, while supporting economic growth. Its vision is to reduce the size of the illegal population and the harm it causes.
6. The parties to this memorandum of understanding do not intend it to be legally binding or to create a contractual relationship.

Programming

7. Immigration Removal Centres (IRCs) will receive a full unannounced inspection at least once every four years. The inspection is conducted over two or three weeks. During the first week, research staff will conduct confidential detainee surveys, and inspectors will make an initial assessment of the establishment and conduct any immediate inspection activity they consider necessary. They will also make arrangements for detainee and staff interviews, which usually take place in the second week, and make arrangements for the arrival of the full inspection team in the third week. If the inspection is scheduled for two weeks, interviews will be conducted in week one.
8. The pre-departure and borders accommodation at Gatwick will receive more regular inspections (approximately every two years) as they hold children.

9. At least three escort inspections will be conducted every year, and may include overseas charters, scheduled flights and in-country escorts. For planning purposes, HMI Prisons will be provided with a list of forthcoming charter flight removals, including their anticipated dates and destinations, updated every quarter.
10. Non-residential short-term holding facilities (STHFs), also known as holding rooms, are inspected at least once every six years, including facilities in other countries that are subject to juxtaposed controls. Residential short-term holding facilities (RSTHFs) are inspected at least once every four years.
11. Inspections are scheduled on a risk-assessed basis and may take place at any time that HMIP considers it necessary. The number and type of inspections undertaken each year will be subject to consultation, although the individual establishments to be inspected will not be identified.
12. Inspections will focus on the conditions of detention and treatment of detainees. Inspections are carried out against HMI Prisons' published 'Expectations' criteria for immigration detention, brigaded under three or four healthy establishment tests, depending on the type of inspection. The IRC tests are safety, respect, activities and preparation for removal or release. Inspections will make recommendations for change or highlight good practice, based on the evidence available at the time of inspection.
13. Most inspections will be unannounced and will assess progress made since the previous inspection. The manner in which inspections are conducted is set out in an inspection framework published on the HMI Prisons website. Revision to expectations or the inspection framework will be subject to consultation with the Secretary of State and other bodies.

Access

14. In line with the Government's obligations under the Optional Protocol to the Convention Against Torture (OPCAT), inspectors will be given free access to any facilities or areas where people are, or may be, detained and to people who are, or may be, deprived of their liberty. Inspectors have the right to carry out inspections and cannot be refused entry or access that impedes their ability to inspect.
15. In accordance with OPCAT, the Home Office will ensure that HMI Prisons is informed of the number and location of all places of immigration detention (which includes any place where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence). The Home Office will inform HMI Prisons of any new places of detention before they are operational.

16. The Home Office will provide authorised staff from HMI Prisons, including its partners¹, acting on the instructions of Her Majesty's Chief Inspector of Prisons,

¹ Depending on the nature and location of the inspection, HMI Prisons may be joined by the Care Quality Commission, Ofsted or qualified activities inspectors, the Royal Pharmaceutical Society and the National Dental Board and their equivalents in Scotland, Wales and Northern Ireland.

freedom of access to all sites², documentation and records (including relevant electronic images and detainees' digital records), detainees, centre and escort staff, other contractors and service-providers identified as relevant to the inspection by inspectors. This will include the immediate provision of keys on arrival for authorised inspection staff. The Home Office will ensure that all its staff and contractors are aware of these requirements.

17. HMI Prisons will ensure that all staff, including partners, have appropriate security vetting, personal photographic identification and security training. HMI Prisons will convey items in and out of the facility related to their designated duties. This will include mobile phones and cameras. HMI Prisons and its partners will take in secure laptops/tablet devices with secure internet access and related mobile media devices as part of the inspection process without the need for individual authorisations
18. From time to time, HMI Prisons will be accompanied by visitors who are observing HMI Prisons work, e.g. from other inspectorates, ministers or officials from government departments, or from third sector organisations. They will be subject to a confidentiality agreement with HMI Prisons and HMI Prisons will take full responsibility for them. They will be supervised at all times by HMI Prisons staff while in establishments.

Data and retention periods

19. This MOU is also the data sharing agreement between the Home Office and HMI Prisons. The Home Office will supply HMI Prisons with case level information centrally, when requested. This will include paper and electronic records. HMI Prisons will ensure that it uses suitably encrypted media when sharing sensitive electronic data.
20. HMI Prisons will meet all legal and government requirements for the protection of personal information, records and images accessed on inspection. Detainee data will be used, kept or destroyed in accordance with relevant HMI Prisons policy. Both parties to the MoU will ensure that personal data is processed in accordance with the General Data Protection Regulation (GDPR) and the complementary Law Enforcement Directive (LED), which since May 2018 have been signed into domestic law by primary legislation.

Inspections

21. Inspection length will vary according to site. HMI Prisons will seek in all instances to minimise unnecessary burdens on detention facilities or escort providers.
22. For IRCs, HMI Prisons will issue instructions about the conduct of inspections on the day of arrival. The centre will be required to appoint a liaison officer and provide suitable room(s) for the inspection team. HMI Prisons will also appoint a co-ordinator as first point of contact.

² Including 'out of hours' access to centres, e.g. to enable inspectors to observe overnight escorts or assess procedures and conditions during night state.

23. The inspection team will keep managers informed of progress throughout the inspection. HMI Prisons will provide a formal verbal debrief to the centre manager, a Home Office senior manager and others at the centre manager's discretion, with indicative judgements on the final day of the inspection. A written note of this debrief will be provided to the centre manager and agreed Home Office officials within five working days.
24. For STHF inspections, inspectors will explain the inspection process to any staff present. The dynamic nature of escort inspections makes such routine explanation difficult, but it will be provided to staff on request. Home Office and contractor managers should ensure that all staff are aware of the possibility of inspection at any time.
25. Emerging findings will be shared with the Home Office within five working days following the inspection. The verbal debrief and written note will be provisional findings which may be subject to change. The Home Office will ensure they are not placed in the public domain.
26. The findings of inspection may be of such immediate concern that an urgent response is required by senior Home Office managers to secure acceptable treatment of detainees. In such circumstances, the Chief Inspector will escalate the matter to the Director General of Immigration Enforcement. The Director General will respond in writing within twenty- eight working days outlining what steps have been taken to address the Chief Inspector's findings. The Chief Inspector reserves the right to make public HMIP's concerns and the Director General's response at any stage before or after the report is published.

Conduct, complaints and correspondence

27. The conduct of inspectors, including from partner inspectorates, will be the responsibility of the on-site inspection team leader. Any complaints about inspection staff should be referred to the inspection team leader and will be dealt with in accordance with HMI Prisons' complaints process. Formal complaints by inspectors about either staff or the behaviour of detainees will be made to senior contractor or Home Office managers, as appropriate.
28. HMI Prisons will seek voluntary feedback for quality assurance purposes from IRCs after each inspection. Feedback by relevant managers following STHF, RSTHF or escort inspections is also welcomed. HMI Prisons will conduct an annual stakeholder survey to inform performance improvement.
29. Correspondence that raises issues or matters of concern about a detainee's safety will be referred to the duty manager of the relevant contractor or, exceptionally, to the Home Office.

Report production and publication

30. The content of inspection reports and the decision to publish are matters for HMI Prisons. However, HMI Prisons will send a draft report to Immigration Enforcement's corporate operations and oversight team for factual accuracy checks within nine

weeks of the end of the inspection and identifying a publication date approximately nine weeks later.

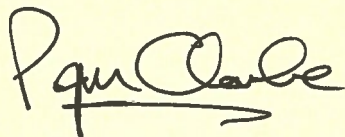
31. The Home Office's corporate operations and oversight team will ensure that factual accuracy checks are completed within three weeks. HMI Prisons will respond to any factual accuracy checks within a further two weeks and finalise the publication date. If the Home Office fails to meet the deadline for factual accuracy checks, HMI Prisons reserves the right to move to publication.
32. HMI Prisons may issue a press release in advance of the publication of the report. HMI Prisons will endeavour to circulate the text of the draft press notice five days before publication.

Action Plans

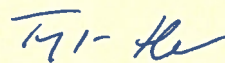
33. Within three months of publication of an inspection report, the Home Office will submit an action plan ('service improvement plan') to HMIP specifying which recommendations are accepted, what progress has been made and what action is to be taken by when. These plans will be cleared by Ministers.
34. The service improvement plan will be placed by HMI Prisons on the HMI Prisons website alongside the relevant inspection report.

Reviewing the MOU

35. The MOU will be reviewed bi-annually or sooner if considered appropriate by HM Chief Inspector of Prisons and the Director General of Immigration Enforcement.



Peter Clarke
HM Chief Inspector of Prisons
Date: 14.1.19



Tyson Hepple
Director General, Immigration Enforcement
Date: 14 January 2019

