



**HM Prison &  
Probation Service**



**Memorandum of Understanding  
Between HM Inspectorate of Prisons and HM Prison and Probation Service**

**Revised October 2019**

1. HM Inspectorate of Prisons (HMI Prisons) is an independent inspectorate whose Chief Inspector is a Crown appointment. It carries out its functions under section 5A of the Prisons Act 1952. The Chief Inspector reports directly to the relevant Secretaries of State and Parliament on the treatment and conditions for prisoners in England and Wales, and immigration detainees in the United Kingdom. HMI Prisons also inspects police and court custody with the relevant criminal justice inspectorates, and invites HM Inspectorate of Probation to inspect offender management in custody on all full inspections of prisons and young offender institutions. HMI Prisons also inspects military custody and other jurisdictions by invitation.
2. The HM Prison and Probation Service (HMPPS) is an executive agency of the Ministry of Justice (MOJ), and brings together HM Prison Service and the Probation Service to enable a more effective delivery of their services. HMPPS is responsible for commissioning and delivering offender management services in custody and in the community, helping to deliver punishments and reparation and coordinate rehabilitative, health, educational, employment and housing opportunities for offenders to reduce re-offending. It is also responsible for the contracts of privately run prisons and managing the delivery of probation services through Community Rehabilitation Companies (CRC).
3. HMI Prisons' 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.

**Purpose**

4. The purpose of this Memorandum of Understanding (MOU) is to set out working arrangements between HMI Prisons and HMPPS during the inspection process. It replaces the MOU signed in September 2016.

## **Programming**

5. The Police and Justice Act 2006 requires HMI Prisons to 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 HMPPS. However, the decision to inspect a particular establishment is ultimately a matter for HMI Prisons.
6. Currently, HMI Prisons will inspect adult prison establishments at least once every five years and children and young people's establishments at least once every three years, but will ordinarily inspect more frequently. Inspections are normally unannounced, although may be announced on occasion. Any announced inspections will usually be notified six months before the date of inspection. The nature and timing of an inspection will be at the discretion of HMI Prisons and will be informed by HMI Prisons' dynamic risk assessment.
7. Under the Police and Justice Act 2006, HMI Prisons is the "gatekeeper" 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 inspect simultaneously under its auspices and, in so far as possible, produce uniform and consistent judgments. HMI Prisons will put in place Memoranda of Understanding with all its partners to ensure that they adhere to the requirements placed upon HMI Prisons by this MOU.

## **Access**

8. 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.
9. HMPPS will provide authorised HMI Prisons staff, acting on the instructions of the Chief Inspector, 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 relevant to the inspection, as well as relevant records held regionally or nationally.
10. In accordance with OPCAT, HMPPS will inform HMI Prisons of the location of any new prisons or Young Offender Institutions before they are operational.
11. HMI Prisons will have immediate access to the Security Information Report System (SIRS), where this is relevant to their inspections, and will guarantee confidentiality. Where records or files relate to covert surveillance and/or the use of a covert human intelligence source (CHIS), the establishment's Governing Governor will be notified in case any additional and proportionate arrangements are required for their secure viewing.
12. HMI Prisons will ensure that all staff, including partners, have appropriate security vetting, personal photographic identification and security training. HMI Prisons 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. HMI Prisons has agreed not to take mobile phones into establishments, but will routinely take in cameras (which it will use to photograph its findings as appropriate), and on occasion take in digital audio recording equipment (which it will use to record interviews it may carry out with detainees), subject to safety and security considerations. HMI Prisons and its partners will take secure laptops with secure internet access and related mobile media devices into establishments as part of the inspection process — without the need for individual authorisations.

13. HMI Prisons may on occasion invite visitors or guests to accompany an inspection (such as senior visitors from partner inspectorates, officials from the Ministry of Justice or representatives of external organisations). All visitors will sign an agreement with HMI Prisons, which sets out that it is the responsibility of HMI Prisons to organise all aspects of their visit, that they must follow HMI Prisons' Code of Conduct, and that they will be subject to a confidentiality agreement with HMI Prisons. HMI Prisons will inform the inspected establishment of the visitors in advance of their visit. HMI Prisons will consult with the MOJ press office should they wish to invite media representatives to an inspection.

### **Data and Retention Periods**

14. This MOU is also the data sharing agreement between HMPPS and HMI Prisons. HMPPS 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.
15. HMI Prisons will meet all legal and government requirements for the protection of personal information, records and images accessed on inspection.
16. HMPPS has a specific set of retention periods about the length of time offender data should be kept. Personal data provided to HMI Prisons by HMPPS will be kept for retention periods defined by HMI Prisons and then destroyed in accordance with standard MOJ policy.

### **Inspections**

17. HMI Prisons will seek in all instances to minimise unnecessary burdens on establishments during inspections.
18. HMI Prisons will issue pre-inspection instructions about the conduct of inspections, either as part of a pre-inspection visit (for announced inspections) or on the day of arrival (for unannounced inspections). In particular, the establishment will be required to appoint a liaison officer and provide a suitable room or rooms for the inspection team. HMI Prisons will also appoint a co-ordinator as a first point of call for establishments.
19. On full inspections, the inspection team will endeavour to provide informal feedback throughout the inspection to explain and reinforce its findings and evidence base. HMI Prisons will provide a formal debrief with indicative judgments on the final day of the inspection. The location of and attendance at the final debrief will be a matter for the Governor or Director, but will include attendance by regional management and may also include the Chair of the Independent Monitoring Board.

20. At the formal debrief, HMI Prisons will provide the Governor with a debrief note that details the key judgements made during the inspection. These judgements will be provisional and may be subject to review as evidence is considered further. In addition, HMI Prisons will send a copy of the debrief note to HMPPS Headquarters. This will be done the week following the inspection and will be co-ordinated in HMPPS by the Director General, Prisons. There is a requirement that the debrief note will not be made public or quoted publicly, that it will be communicated under an "Official" marking with all the requirements that entails, and that it will only be communicated in a targeted way consistent with the requirements of specific pieces of work. It will not be circulated generally.

### **Operational Managers Loan Arrangements**

21. HMI Prisons may, at its discretion, engage some operational prison managers formally employed by HMPPS where this is necessary to achieve a reasonable experience and skill mix amongst its inspectors. Posts will be offered by HMI Prisons from time to time on a permanent, fixed term or loan basis. Loans between HMPPS and HMI Prisons will be for an initial fixed term, but are intended to be open ended and can be extended as determined by HMI Prisons. Loans will only take place on terms and conditions acceptable to HMI Prisons, including those which allow HMI Prisons to ensure its independence. These arrangements seek to address HMI Prisons' requirement to loan skilled individuals whilst ensuring its independence as a member of the NPM.

### **Conduct and Complaints**

22. 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' complaints process.
23. Formal complaints by inspectors about prison staff, or the behaviour of prisoners, will be made to the Governor or Director or, if necessary the relevant Prison Group Director or Executive Director.
24. HMI Prisons will seek voluntary feedback for quality assurance purposes from establishments after each inspection. In addition, HMI Prisons will conduct an annual stakeholder survey to inform performance improvement.

### **Correspondence**

25. Correspondence received from prisoners or members of the public that raise issues or matters of potential concern or urgency about a prisoner's safety will ordinarily be referred to the Safer Custody Team or Governor of the establishment to which the concern relates. In exceptional circumstances, or where the nature of the correspondence requires it, correspondence will be referred directly to HMPPS.

### **Report Production**

26. The content of inspection reports and the decision to publish are entirely matters for HMI Prisons. However, HMI Prisons will send a draft report to HMPPS' Scrutiny and



Intelligence Unit (SIU) for factual accuracy checks within eight weeks (the target timeline is 36 days) of the completion of an inspection. A covering letter will specify an indicative publication date between six to seven weeks (approximately 33 days) later.

27. The SIU will ensure that factual accuracy checks are undertaken within three weeks (15 days). During this time the SIU will indicate whether HMPPS is content for publication to go ahead on the indicative date, although HMI Prisons reserves the right to move to publication if HMPPS does not meet this deadline.
28. HMI Prisons will respond to any factual accuracy points within two weeks (10 days). Matters of judgement will remain entirely for HMI Prisons.
29. HMI Prisons will publish within a further two weeks (eight days); this will include printing, circulation to Ministers, media handling and ensuring the availability of relevant senior staff. In total, HMI Prisons aims to publish inspection reports within 14 weeks of the end of inspection.

### **Media Handling**

30. All HMI Prisons reports will be preceded by a press notice. HMI Prisons' press officer will produce a draft press notice five working days before publication and seek a quote from the Chief Executive of HMPPS to insert into this notice.
31. HMI Prisons and HMPPS will independently manage their own media relations.

### **Action Plans**

32. HMPPS will ensure that, within three months of report publication, the establishment puts in place an action plan setting out whether recommendations are accepted and the consequential action taken or planned. The SIU will quality assure these plans, clear them with the Chief Executive and Ministers, and pass them to HMI Prisons no later than six months after the publication of the report.
33. Establishments will keep their action plan up to date and a revised version will be sought by HMI Prisons as part of its next inspection.

### **Urgent Notification**

34. The Urgent Notification process allows Her Majesty's Chief Inspector of Prisons to directly alert the Lord Chancellor and Secretary of State for Justice if he has an urgent and significant concern about the performance of a prison.
35. Having received such a notification, the Secretary of State commits publicly to respond to the concerns raised within 28 calendar days. The response will explain how outcomes for prisoners in the institution will be improved in both the immediate and longer term.
36. HMI Prisons will re-inspect the institution in due course at a date determined by the risk-based scheduling process.

## **Independent Reviews of Progress**

37. In addition to its programme of inspections, HMI Prisons also carries out Independent Reviews of Progress (IRPs). The purpose of an IRP is to assess progress in implementing the recommendations from previous inspection reports, to support improvement in prisons, and to identify barriers to progress.
38. Independent Reviews of Progress differ from inspections, which assess the treatment of prisoners and the conditions of detention against HMI Prisons' Expectations and healthy prison tests. The IRPs instead follow up on a selection of key concerns and recommendations and make judgements about the extent of progress made.
39. HMI Prisons will identify establishments for an Independent Review of Progress based on a number of factors, including: healthy prison test scores over time; the key risks at the establishment; and levels of confidence in the leadership and capacity for change and improvement.
40. Starting in April 2019, HMI Prisons will undertake 15 to 20 Independent Reviews of Progress each business year. Reviews will typically take place 8 to 12 months following the inspection.
41. Independent Reviews of Progress are short announced visits, involving four or five inspectors for 2.5 days. IRP reports are published within 25 days of the end of the review.

## **Thematic Reviews**

42. HMI Prisons may undertake thematic reviews. The nature and subject of these reviews will be a matter for the Chief Inspector but will be informed by the annual consultation arrangement set out above.
43. Where additional fieldwork is required for thematic reviews, individual Governors or Directors will be approached directly to agree access and make appropriate arrangements. HMI Prisons will discuss the emerging findings of its thematic inspections with HMPPS before the report is finalised.
44. The report publication, media handling and action plan stages set out above will apply but, where necessary, will be tailored to the nature, length and complexity of a thematic report. The SIU will co-ordinate handling of thematic reviews on behalf of HMPPS. For reports about a single policy area, the lead HMPPS group will coordinate tailored responses and action plans, seeking advice and guidance from the SIU as necessary.

## **Business Development**

45. The SIU, on behalf of HMPPS, will act as the first point of contact for any issues arising from the MOU or on proposed changes within the review period.

## Reviewing the MOU

46. The MOU will be reviewed annually. Lead contacts for the MOU will be the Deputy Chief Inspector (HMI Prisons) and the Head of Operational and System Assurance Group (HMPPS).

Signed



**Peter Clarke CVO OBE QPM**  
**HM Chief Inspector of Prisons**

Date: 30th October 2019

Signed



**Dr Jo Farrar**  
**Chief Executive Officer, HMPPS**

Date: 4 November 2019.

