

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 the treatment of, and conditions for, those in prison, young offender institutions, court custody suites in England and Wales and immigration detention facilities in the United Kingdom. HMI Prisons also inspects police and Border Force customs custody (jointly with Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services) and secure training centres (jointly 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 promotes the concept of "healthy establishments" to improve outcomes for those detained and the wider 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 detained individuals 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 Prisons is a designated member of the UK National Preventive Mechanism (NPM). This mechanism was established in response to the UK's obligations as a party to the [Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(OPCAT\)](#), an international human rights treaty designed to strengthen the protection of people deprived of their liberty.
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 normally conducted over three weeks. During the first week, research staff will conduct confidential surveys with detained persons, and inspectors will make an initial assessment of the establishment. Inspectors will also conduct any immediate inspection activity they consider necessary and make arrangements for the arrival of the full inspection team in the third week. They will also arrange interviews with detained individuals and a staff survey. Interviews will take place in the first and, if necessary, second week of the inspection.

8. Facilities holding children will receive more regular inspections (approximately every two years).
9. At least three escort inspections will normally 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, at least every quarter.
10. HMI Prisons will normally inspect short-term holding facilities (STHFs), including residential facilities (RSTHFs) and those in other countries that are subject to juxtaposed controls, in groups and will publish a single report on key themes and findings across the inspected facilities. At least two such inspections will take place each year. HMI Prisons will provide an inspection window of four weeks and the inspection will normally take place over one to two weeks within that window. In order for the Home Office and its contractors to provide data in advance, approximately four weeks' notice will be provided before the start of the inspection window. HMI Prisons may still conduct individual and unannounced STHF inspections where it considers this to be necessary.
11. All 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 detained people. 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 identify areas of concern 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 may 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, freedom of access to all sites², documentation and records (including relevant electronic images and detainees' digital records), detained individuals, 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 sharing, protection and retention periods

19. Further guidance on data sharing, data protection and retention periods can be found in Annex A.

Inspections

20. Inspection length will vary according to site. HMI Prisons will seek in all instances to minimise unnecessary burdens on detention facilities or escort providers.
21. 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.
22. 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 Home Office officials within five working days.

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.

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. For STHF and RSTHF 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.
24. 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.
25. The findings of an inspection may be of such immediate concern that an urgent response is required by senior Home Office managers to secure acceptable treatment of people in detention. 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

26. 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 will be made to senior contractor or Home Office managers, as appropriate.
27. 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.
28. Correspondence that raises issues or matters of concern about a detained person's safety will be referred to the duty manager of the relevant contractor or, exceptionally, to the Home Office.

Report production and publication

29. The content of inspection reports and the decision to publish are matters for HMI Prisons. However, HMI Prisons will normally send a draft report to Immigration Enforcement's corporate operations and oversight team for factual accuracy checks within eight weeks of the end of the inspection and identify a publication date approximately seven weeks later.
30. 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.
31. HMI Prisons will write a press release to accompany circulation of the published report to the media. The report and release will normally be sent to the media on the day before publication, under embargo to 00.01 on the day of publication. HMI

Prisons will endeavour to circulate the text of the draft press notice to the Home Office communications team three days before publication, to enable them to prepare their response.

Action Plans

32. Within three months of publication of an inspection report, the Home Office will submit an action plan ('service improvement plan') to HMIP. The action plan should set out the action taken or planned in response to each recommendation or area of concern and the timeline for each action. These plans will be cleared by Ministers.
33. The service improvement plan will be placed by HMI Prisons on the HMI Prisons website alongside the relevant inspection report.

Reviewing the MOU

34. The MOU will be reviewed every two years or sooner if considered appropriate by HM Chief Inspector of Prisons and the Director General of Immigration Enforcement.



Charlie Taylor
HM Chief Inspector of Prisons
Date: 24 May 2022



Tony Eastaugh
Director General, Immigration Enforcement
Date: 24 May 2022