

PROTOCOL TO SUPPORT JOINT INSPECTION BY ESTYN AND HMI PRISONS OF PRISON ESTABLISHMENTS

Scope

1. This protocol has been agreed between HM Inspectorate of Prisons (HMI Prisons) and HM Inspectorate for Education and Training in Wales, Estyn. It applies to the inspection of those prison establishments holding children and young people up to the age of 18 years, and those holding adults aged 18 plus.
2. It outlines our commitment to co-operation and collaboration so that together we meet our respective aims and objectives. This protocol is not a legally binding document.

Context

The role of His Majesty's Inspectorate of Prisons

3. 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 to the Secretary of State 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 secure training centres (jointly with Ofsted and the Care Quality Commission). 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" in which staff work effectively to support prisoners and detained people to reduce reoffending and achieve positive outcomes for those detained and for the public. Estyn inspectors are invited to inspect education, skills and work in prisons and YOIs in Wales by agreement with HMI Prisons.
4. Details of HMIP's framework, approach and general methodology can be found at: <http://www.justiceinspectorates.gov.uk/hmiprison/about-our-inspections/>.

The role of Estyn

5. Estyn is a Crown body established under the Education Act 2002. Estyn is independent of the Welsh Government but receives its funding from the Welsh Government under Section 104 of the Government of Wales Act 1998. Estyn is responsible for providing independent inspection of the quality of all education and training funded by the Welsh Government or the soon-to-be established Commission for Tertiary Education and Research (excluding higher education but including initial teacher education and training and youth and community work training). The Inspectorate's aim is to raise standards and quality in education and training in Wales through inspection and advice, in support of the vision and strategic direction set out by the Welsh Government and the Commission for Tertiary Education and Research.
6. Estyn's objectives are:

- Provide public accountability to service users on the quality and standards of education and training in Wales;
 - Inform the development of national policy by the Welsh Government; and
 - Build capacity for improvement of the education and training system in Wales.
7. Estyn's vision of being recognised through the expertise of its staff as an authoritative voice on education and training in Wales is the driver for its learner-centred approach to inspection work. The quality of the learners' experiences, their attainment of their individual learning plans, and the providers' activities relating to the Welsh Government's learning policies are key areas addressed in Estyn's inspection process.

Joint Working Practice

8. This protocol is intended to assist joint working between the two organisations, with a clear focus on improving efficiency and effectiveness when conducting joint inspections within places of detention, including by minimising burdens on the inspected body. Both inspectorates are committed to the principles of public service inspection set out by the Government.
9. The Deputy Chief Inspector of Prisons (HMDCIP) produces an annual inspection programme each December for the twelve months from the following April. The Deputy Chief Inspector of Prisons will liaise with the Assistant Director from Estyn during November each year and inform them of the planned inspection programme and likely staffing needs.
10. Estyn inspectors will attend inspections simultaneously with HMI Prisons.
11. Estyn inspectors will take the lead role in inspecting education, skills and work in Welsh establishments. The Assistant Director will allocate appropriate Estyn resources to each relevant HMI Prisons inspection.
12. Unannounced inspections in which Estyn are to be involved will be notified to them by HMI Prisons at least 12 weeks prior to the inspection and in confidence to the Estyn Assistant Director alone, who will maintain this confidentiality. Where possible, HMI Prisons will inform Estyn of the dates of relevant unannounced inspections for the coming financial year during its regular meetings.
13. Amendments to respective programmes will be shared at the earliest opportunity.
14. The appointment of inspectors will be a matter for the respective inspectorates. However, in the interests of security, Estyn will liaise with HMI Prisons on the security requirements necessary for custodial inspection. All inspectors require enhanced DBS checks. HMI Prisons will advise Estyn on issues of enhanced security clearance where necessary.
15. Deployment of staff will be a matter for the respective inspectorates. However, in the interest of minimising burdens on those to be inspected, Estyn will liaise with HMI Prisons on the capacity of particular places of detention to ensure an appropriate balance and total number of inspectors on site.

16. Estyn will appoint a lead inspector for each inspection and during the inspection the Estyn lead inspector will report to the HMI Prisons team leader. The organisational lead contacts will be:

Estyn – Assistant Director and HMI Sector Lead

HMI Prisons – Deputy Chief Inspector and A Team Leader.

17. Where HMI Prisons undertake thematic inspections or research in Wales to which they feel Estyn can contribute, HMI Prisons will notify Estyn during the early planning stage of such an exercise in order to identify how Estyn inspectors can be deployed to the best effect.

Pre-Fieldwork Activity and Planning – Inspections

18. HMI Prisons will notify Estyn of inspections as early as possible to allow inspectors to be allocated. Estyn will then inform HMI Prisons of the team leader's name.
19. Announced inspections follow the same format as unannounced inspections, except that the first week of the inspection is conducted usually four to six weeks in advance of the inspection. HMI Prisons will send a pre-inspection pack to the Governor/Director before the inspection takes place, explaining the process and requesting advance information. This will include information required by Estyn in accordance with Estyn's Common Inspection Framework (CIF) for prisons.
20. The HMI Prisons inspection coordinator will contact the lead inspector from Estyn to confirm dates for the pre-inspection visit. This will normally take place approximately 6 weeks before the inspection. Estyn will arrange their own (internal) planning separately and make telephone contact with the head of learning and skills at the prison to be inspected to ensure that pre-inspection planning is proceeding as agreed. This will include requesting data requirements on the outcomes for individuals in respect of their education, training and work. The Estyn Lead Inspector will provide the HMI Prisons inspection coordinator with the names of all the Estyn inspectors who will be present during the inspection, including their computer serial numbers, dates of attendance and who will require keys.
21. The HMI Prisons inspection coordinator will notify Estyn of hotel arrangements. However, Estyn inspectors will make the final arrangements for their own accommodation. The HMI Prisons inspection coordinator will produce a pre-inspection pack including a summary report providing an overview of the establishment in accordance with an agreed template. This report will be sent in a pack, usually electronically, containing other relevant preparatory information to the Estyn lead inspector, no later than 1 week before the beginning of the inspection. HMI Prisons will pass on all relevant pre-inspection information to participating Estyn inspectors including time of arrival at the establishment.
22. Given the nature of unannounced inspections, Estyn's Assistant Director will maintain confidentiality about HMI Prisons' inspection programme within her own organisation, imparting only essential information to inspectors until the latest possible date.

Fieldwork - Inspections

23. Estyn will conduct its inspections using HMI Prisons' Expectations (which encompass Estyn's Common Inspection Framework). They will assist HMI Prisons with its inspection of education, skills and work activity.
24. Estyn will consult HMI Prisons on changes to interpretation of the CIF, and HMI Prisons will consult Estyn on changes to its inspection framework.
25. A joint team briefing on the first day of the inspection will determine how the Estyn inspection team and the HMI Prisons team will work together to establish how education, skills, work activities and the regime interact. Estyn will complete evidence forms for all activities inspected and provide HMI Prisons with copies if requested.
26. The Estyn lead inspector will meet daily with the HMI Prisons Team Leader to inform them of progress and to bring emerging issues to their attention. At this meeting the Estyn lead inspector will also provide emerging key points for daily feedback to the Governor.
27. Estyn will maintain a separate base room for the inspection. Estyn will also be the main point of contact with the establishment's education, skills and work nominee. Estyn's lead inspector will meet daily with the nominee to discuss emerging issues, further inspection activities and to provide an opportunity for the presentation of further evidence.
28. The Estyn lead inspector will provide a separate, short feedback session to the nominee by way of bullet points of strengths and areas for development on the last day of inspection. The draft feedback will be shared with HMI Prisons prior to the feedback meeting. In addition, the Estyn lead inspector will be responsible for preparing brief feedback and participating in the inspection deliberation meeting prior to the full HMI Prisons debrief to the establishment on the last day of the inspection.
29. Estyn will quality assure the inspection in line with its own procedures.

Pre-Fieldwork Planning and Fieldwork – Independent Reviews of Progress

30. Estyn will participate in IRPs at Welsh prisons where the recommendations or areas of concern identified for review relate to education, skills and work.
31. HMI Prisons is responsible for selecting prisons for IRP visits; when a Welsh prison will be subject to an IRP, HMI Prisons will consult with Estyn to identify the recommendations or areas of concern for review. If the chosen recommendations or areas of concern relate to education, skills and work, Estyn will lead review of these.
32. The HMI Prisons inspection coordinator will notify Estyn of hotel arrangements. However, Estyn inspectors will make the final arrangements for their own accommodation. The HMI Prisons inspection coordinator will produce a pre-visit pack, which will be sent, usually electronically, to the Estyn lead inspector, no later than 1 week before the beginning of the IRP visit. HMI Prisons will pass on all other

relevant pre-visit information to participating Estyn inspectors, including time of arrival at the establishment.

33. During the visit, the Estyn lead inspector will meet daily with the HMI Prisons Team Leader to inform them of progress and to bring emerging issues to their attention. At this meeting the Estyn lead inspector will also provide emerging key points for daily feedback to the Governor. At the end of the IRP visit, the Estyn lead inspector will be responsible for preparing and delivering brief feedback, agreed in advance with the HMI Prisons Team Leader, as part of the full HMI Prisons debrief to the establishment.

Sensitive documents and data

34. Both parties agree to comply with:

- Data protection legislation (General Data Protection Regulation (GDPR), Data Protection Act 2018, Freedom of Information Act 2000)
- HM Government's Security Policy Framework:
<https://www.gov.uk/government/publications/security-policy-framework>
- The Information Commissioner's Office (ICO) Framework Code of Practice for sharing personal information:
http://ico.org.uk/for_organisations/data_protection/topic_guides/data_sharing

35. In particular, this includes:

- Preserving the integrity, confidentiality, and availability of shared data and preventing the corruption or loss of such data
- Processing the data only to the extent, and in such a manner, as is necessary for the effective functioning of the justice system or as required by law or any regulatory body
- Conducting, if necessary, a Data Protection Impact Assessment (DPIA) when changes are made to the processing of data

36. Documents containing sensitive personal data will only be taken out of the establishment where necessary, will be handled securely and destroyed in accordance with our data retention and disposal schedules.

Reporting and Publication

37. Estyn will not produce a separate report. The Estyn lead inspector will submit a copy of their draft findings to HMI Prisons within one week of the inspection. These will be subject to HMI Prisons editorial processes. In addition, the report will include additional standalone judgements against the Estyn Common Inspection Framework. Estyn will send a note of the visit with key findings about the education, skills and work provision to the prison governor and HMPPS following the inspection.

38. Within approximately seven weeks of the end of the inspection, HMCIP will send a draft report to the Prison Service\HMPPS for factual accuracy checks. A response is required within three weeks; any follow-up responses from HMCIP/Estyn will be completed within a further two weeks. Amendments will be made at the discretion of HMCIP and in relation to education and training issues by Estyn. The inspection report will be formally submitted to the Secretary of State and published on the HMI

Prisons website. It will include areas of concern which require addressing and any areas of good practice.

39. Reports on Independent Reviews of Progress are published within 25 working days of the visit. Estyn will send their written contribution to the report to HMI Prisons within one working day of the visit. HMCIP will send a draft report to the Prison Service/HMPPS for factual accuracy checks within approximately two weeks of the visit. A response is required within a further two weeks, and publication will follow within two weeks after that. Amendments will be made at the discretion of HMCIP and in consultation with Estyn where they relate to education and training issues.

Media relations

40. HMCIP takes final responsibility for all reports relating to their inspections and Independent Reviews of Progress. Any requests made to Estyn for public comment on such reports will be forwarded to the Chief Inspector of Estyn who will liaise with HMCIP.

Quality assurance and evaluation of inspections

41. HMI Prisons will issue a feedback sheet on all inspections that it leads. Any significant issues or complaints from the prison or from HMI Prisons concerning Estyn or an Estyn inspector will be referred to the Estyn Assistant Director and will be dealt with through Estyn's complaints procedure.
42. Any significant issues or complaints from the prison or from Estyn concerning HMI Prisons or an HMI Prisons inspector will be dealt with through the HMI Prisons complaints procedures.
43. The HMI Prisons team leaders and the Estyn lead inspector will keep each other informed of progress on any significant issues or complaints. The involvement of HMCIP, HMDIP, the Estyn HMI and/or Estyn's Chief Inspector will be requested as appropriate.
44. An analysis of feedback responses will be carried out by both HMI Prisons and Estyn to inform future practice. Estyn may arrange for a visit by an HMI colleague to the inspection to further assure the quality of the inspection by prior agreement with HMI Prisons who will secure the agreement of the establishment.

Safeguarding and sanctions

45. Estyn and HMI Prisons inspectors will follow the HMI Prisons' and Estyn's safeguarding policies and protocols, which set out procedures to be followed in the event of information coming to the attention of any member of staff indicating that a child or vulnerable adult held in any secure estate has suffered, is suffering or is at risk of suffering harm during their period in detention. If any such information comes to the attention of Estyn or HMI Prisons inspectors, they must report it immediately to the HMI Prisons team leader. Any general undertaking of confidentiality or anonymity during the inspection must have the caveat that this cannot be maintained where information suggests that a child or a vulnerable adult has been harmed in any way.

46. If Estyn and HMI Prisons inspectors become aware of any detainee alleging that they have been subject to sanction or other prejudice arising from their, or someone acting on their behalf's, communication with Estyn or HMI Prisons inspectors, or representatives of the Independent Monitoring Board (IMB) or Prisons and Probation Ombudsman (PPO), they will alert the HMI Prisons lead inspector immediately, who will then follow the joint HMIP-IMB-PPO protocol on sanctions.

Inspectors' safety

47. Inspectors' safety is paramount. Estyn inspectors will follow all appropriate advice and guidance given by the custodial establishment being inspected.

48. Estyn and HMI Prisons inspectors will also adhere to all health and safety advice provided by their own inspectorates.

Confidentiality

49. This joint protocol is subject to the duty of confidentiality owed by each organisation to those providing them with confidential information. Where either organisation receives information which bears upon the other's responsibility, both organisations agree to share such information.

50. Nothing in this protocol precludes HMI Prisons from taking relevant action as necessary to safeguard prisoners, staff and/or the public.

Review of Agreement between Estyn and HM Inspectorate of Prisons

51. This agreement will be formally reviewed every two years, or sooner if considered appropriate, by Estyn and HM Inspectorate of Prisons.

Signed:



Owen Evans
HM Majesty's Chief Inspector of
Education and Training in Wales



Charlie Taylor
HM Chief Inspector of Prisons

Date: 25 May 2023

