

**MEMORANDUM OF UNDERSTANDING
ON THE JOINT INSPECTION OF
POLICE CUSTODY CONDITIONS IN ENGLAND AND WALES**

1. This memorandum of understanding (MOU) has been agreed between the Association of Chief Police Officers (ACPO), the Association of Police Authorities (APA), Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Inspectorate of Prisons (HMI Prisons).

Background

2. The UN Optional Protocol to the Convention Against Torture and other cruel, inhuman or degrading treatment or punishment (OPCAT - 2003) 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.
3. In England and Wales, Ministers have agreed that this inspection of police custody conditions should be carried out jointly by HMIC and HMI Prisons. To meet the requirement for 'regular' inspection, while adopting a proportionate approach a programme will ensure that all custody conditions in forces are inspected within a six year period.
4. Once all forces have been inspected at least once the benchmark data established will be used to take a risk assessed approach to subsequent inspections.

Objectives of the programme

5. The programme of inspection is designed to meet the obligations under OPCAT, by examining the treatment and conditions under which people are detained in police custody, but in addition to provide an operational and strategic overview of the efficiency and effectiveness of an important aspect of policing measured against published inspection criteria which are based on national policing standards and relevant inspectorate criteria.

Statutory status of inspections

6. HMIC undertakes inspection of police forces under section 54 of the Police Act 1996, as amended by the Police Reform Act 2002 and the Police and Justice Act 2006. The Police and Justice Act also introduced a power for each of the criminal justice inspectorates to delegate powers to each other, and other public authorities.
7. The inspection of police custody conditions will be carried out jointly by inspectors from HMIC and HMI Prisons, the latter will include healthcare inspectors and social researchers. To facilitate this joint working, HM Chief Inspector of Constabulary has formally delegated powers to HM Chief Inspector of Prisons, giving all the inspection team

the powers of HM Inspectors of Constabulary. The Care Quality Commission will also provide specialist health input to most inspections.

8. As the inspections are undertaken under the provisions of section 54 of the Police Act, there is a duty on police authorities of the inspected forces (under section 55) to provide a formal response to the resultant published reports.

Methodology

9. The inspection framework has been developed using an adapted version of the methodology employed in custodial settings, adjusted to the particular context of police cells. This methodology was piloted in 2007/08 and further developed in conjunction with ACPO, APA, the Independent Police Complaints Commission (IPCC) and the National Policing Improvement Agency (NPIA) and reviewed and updated in 2009 and again in 2011.
10. The methodology focuses on four key issues: strategy; treatment and conditions; individual rights; and healthcare. It reflects both published custodial inspection criteria, the expectations that underpin OPCAT and the core standards for police custody as set out in the *Guidance on the Safer Detention and Handling of Persons in Police Custody*, issued jointly in 2006 (soon to be revised) by ACPO and the National Centre for Policing Excellence (now part of NPIA).
11. The inspection methodology includes:
 - Collation of performance data and intelligence;
 - Analysis of documentation
 - Questionnaires to relevant prisoners to elicit views on previous police detention;
 - Fieldwork visits to custody suites;
 - Interviews with detainees, staff, managers and key individuals, including forensic medical examiners and other healthcare staff, solicitors, independent custody visitors; designated Police Authority lead; and responsible adults;
 - Custody record analysis and if necessary review of other sources of evidence (records; CCTV).
 - Hot debrief to force representatives and designated Police Authority lead; and
 - Publication of a final report.
12. Essentially, there are three key phases to each inspection; pre-visit preparation (from 8 weeks before the inspection); fieldwork (usually three to five days in force); and report preparation (with publication within sixteen weeks of completing the fieldwork). The full indicative timetable is attached as **ANNEX A**.

13. All core team members will have undertaken a bespoke training course or a period of on-the-job shadowing to better understand police custody issues, legislation and practice. All are trained in security and personal safety awareness, and conflict resolution.
14. The Regional HM Inspector (HMI) from HMIC will be informed prior to the inspection commencing. The HMI, Chief Inspector or Deputy Chief Inspector from HMI Prisons may participate in the inspection.

Force selection

15. Each force will be inspected during the programme but the timing of their inclusion will be determined through a mix of risk assessment and practical factors – such as the need to have a mix of large and small forces in each year of the programme and the maintenance of an appropriate geographic and regional spread.
16. The selection of forces and timing of visits will be informed through liaison with HMIC's regional offices to identify any known reasons why an inspection on the proposed dates should not go ahead.
17. Once a force has been selected for an announced inspection, a letter will be sent to the respective Chief Constable and copied to the Chair of the Police Authority 8 weeks prior to the inspection notifying of the dates of the inspection and enclosing the most up-to-date version of the inspection framework. For unannounced inspections a telephone call will be made to the force 30 minutes prior to the team deploying.

Force liaison officers

18. Following formal notification to a force of intended inspection dates or arrival for an unannounced inspection, HMIC will make direct contact with the previously nominated HMIC Force Liaison Officer (and/or any other individual specifically nominated by the chief officer) to establish a single point of contact for on-going liaison.
19. The team will use the nominated force liaison officer to make all in-force arrangements for interviews, visits, logistics and access. While it is not necessary for the liaison officer to accompany inspection teams, it is expected that they will have arranged appropriate notice to inspection sites to ensure unrestricted access.

Announced inspections

20. The team will inspect all designated custody suites. Although designated custody suites are the main focus, the team may decide to visit other detention facilities if felt appropriate (for example non-designated suites or holding areas).

Unannounced inspections

21. The majority of the inspections will be unannounced, which clearly excludes the pre-planning of support from the force liaison staff and creates a situation where the operational staff at the relevant custody suite will not be expecting the team's arrival.
22. While the specific circumstances encountered may dictate additional and/or different action, the expectations of an unannounced visit will be that the inspection team leader or HMIC lead inspector will:
- speak to the Force Duty Officer half an hour before the visit is due to commence and ask him/her to inform the Chief Constable and Police Authority Chief Executive that the inspection team are due to inspect the force. The purpose of this call is to assist logistics, security and access to custody suites;
 - establish contact with the senior officer on duty or a relevant and appropriate supervisory officer at the premises to be inspected;
 - present photo identification to identify themselves and their role;
 - explain the purpose of the inspection visit;
 - give details of a central point of reference (if required to confirm the inspection's validity);
 - hand them a written notice setting out the rationale in greater detail and explaining the expectations of the force (see ANNEX B to this MOU);
 - ask if there are any exceptional and substantial operational reasons why the inspection should not proceed or should be delayed at any particular custody suite; and
 - (subject to above) seek immediate access for the team to the custody area.
23. If the Duty Chief Officer raises objections to the inspection proceeding, the team leader will refer the matter immediately to senior inspectorate managers with an opinion on the validity of the reasoning given and a recommendation that either:
- the inspection be delayed or deferred; or
 - the request for access to carry out the inspection be reasserted by the Chief Inspectors with an explanation as to why the reason given does not constitute a sufficient cause for deferral or delay.

Inspection findings and report

24. The team leader will provide representatives of the force and the Police Authority custody lead with a verbal 'hot-debrief' on the last day of the field work visit. Any particularly urgent or dangerous issues will be flagged when they emerge. This will be followed up by written confirmation within 5 working days.
25. The full findings will be made available to the force and Police Authority within 8 weeks of the visit, as a draft report. This is presented to the force at this stage to resolve any challenges to factual accuracy prior to subsequent publication, normally within 16 weeks of the inspection. Report content will ultimately be a matter for the two Chief Inspectors

and it will be for them, not officials or Chief Constables, to alert Ministers and other stakeholders to imminent publication.

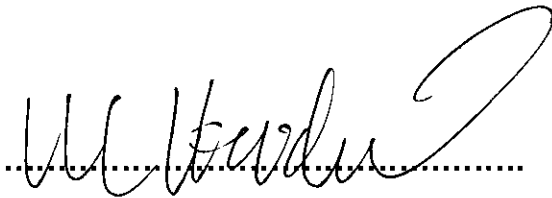
26. All reports will be published and placed on the websites of both inspectorates, together with a media statement to cover publication. The media statement will be compiled in liaison with the inspected force and Police Authority. However, media handling will ultimately be a matter for the two Chief Inspectors. The force and Police Authority will receive advance copies, embargoed to an agreed publication time and date.

Follow-up action

27. The police authority for each force inspected will be expected to publish their considered response to the final report, under the provisions of Section 55 of the Police Act 1996 and in liaison with the Chief Constable. It is expected that this response will include an action plan to address any recommendations from the report and that it will be published within three months of the publication date of the inspection report.

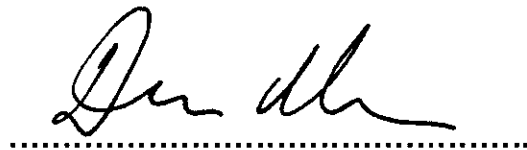
28. A follow-up inspection may be considered but would not normally be undertaken within twelve months of the original inspection dates.

Signed:



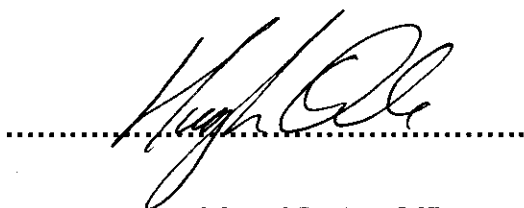
Nick Hardwick CBE
HM Chief Inspector of Prisons

Date: 24/10/11



Denis O'Connor CBE QPM
HM Chief Inspector of Constabulary

Date: 22/10/11



Association of Chief Police Officers

Date: 19-10-2011



Association of Police Authorities

Date: 12/12/11

ANNEXES

A – Indicative timetable for the inspection

B – Standard notice of details of inspection

ANNEX A

INDICATIVE TIMETABLE FOR INSPECTIONS

When	What	Who	How
8 weeks before inspection	<p>Identify team, inform ISM, HMIC of names and contact details.</p> <p>For announced inspections write to force; police authority chair and CC. Request any advance information or data.</p> <p>For unannounced inspections compile a file of relevant research on the force.</p> <p>Contact local IPCC to obtain any relevant intelligence (the week prior to inspection for unannounced).</p>	<p>Team leader</p> <p>HMIC ISM</p>	<p>E-mail</p> <p>Template letters</p> <p>E-mail</p> <p>E-mail</p>
1 week before inspection	Questionnaires to relevant prisons	HMIP researcher and HMIP/HMIC inspector	Local exercise
Up to 2 weeks before inspection	<p>Arrange accommodation.</p> <p>Collate and send out advance information in preliminary pack with benchmarking report and contact details for key providers.</p>	HMIC ISM	<p>Telephone</p> <p>E-mail</p>
Field work	<p>For unannounced inspections telephone the duty officer 30 minutes prior to deploying the team.</p> <p>Carry out fieldwork, team feedback in evenings. Agree findings.</p> <p>Provide hot debrief on last day.</p>	<p>Team leader or HMIC lead inspector</p> <p>All</p> <p>Team leader/HMIC lead Inspector/healthcare lead inspector</p>	<p>Use expectations</p> <p>Verbal briefing to force senior accountable manager and PA lead.</p>
Within 5 working days	Send hot de-brief notes to force senior accountable manager of their representative.	Team leader or HMIC lead inspector	
Within 1 week of inspection	<p>Send all findings and inspection background and summary to the coordinating HMIP Inspector</p> <p>Write up findings including any questionnaire data.</p>	<p>All</p> <p>Coordinating Inspector</p>	E-mail
Within 2 weeks of inspection	Send draft report to editor	Coordinating Inspector	E-mail
Within 3 weeks	Send second draft to HMIC lead inspector for comment. Return to	Coordinating inspector/team	

	the team leader.	leader.	
Within 3 weeks of inspection	Return draft report to the team leader to agree edit	Editor	E-mail
Within 4 weeks of inspection	Send report to Chief Inspectors or their representatives for approval.	Team leader/Editor	E-mail E-mail
Within 8 weeks of inspection	Send draft report to force and police authority for factual accuracy checks	HMIP	E-mail
Within 10 weeks of inspection	Receive back draft report with any proposed amendments. To Team leader for amendments and final edit.	HMIP Team leader and Editor	E-mail E-mail E-mail
Within 16 weeks of inspection	Agree publication date and media statement. Send submission. Publish report on websites with media statement.	HMIC and HMIP	E-mail E-mail to communications teams

STANDARD NOTICE OF DETAILS OF INSPECTION

To be handed to the senior officer on duty at a police custody facility that is subject to an unannounced joint inspection by HM Inspectorate of Constabulary and HM Inspectorate of Prisons.

Force: [details]

Location: [details]

Lead Inspector: [name and position/organisation]

1. Purpose of this document

- 1.1. To explain the reason for this unannounced inspection of your police custody facility;
- 1.2. To set out the procedure to be followed during the inspection;
- 1.3. To explain how you might seek to delay or defer the inspection; and
- 1.4. To provide contact details for senior HMIC representatives, should you require to check the validity of the inspection or discuss any substantial reasons for deferral or delay.

2. The reason for inspection

- 2.1. The UN Optional Protocol to the Convention Against Torture and other cruel, inhuman or degrading treatment or punishment (OPCAT) was ratified by the UK in 2003. 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.
- 2.2. In England and Wales, Ministers have agreed that this inspection of police custody conditions should be carried out jointly by HMIC and HMI Prisons. To facilitate this joint working, HM Chief Inspector of Constabulary has formally delegated powers to HM Chief Inspector of Prisons, giving all the inspection team the powers of HM Inspectors of Constabulary.
- 2.3. The programme of inspections will cover all forces over a period of six years. The majority will be unannounced inspections. This will not only reduce the burden on the force inspected but will encourage all forces to maintain a consistent focus rather than risk complacency if not scheduled for inspection in the near future. (have revised text)

2.4. The selection of specific forces for unannounced inspection should not be taken as indicating that the inspectorates have identified any particular risk, vulnerability or poor performance in that force.

3. The inspection format and scope

3.1. The inspection will be undertaken against the published framework of expectations (a copy of which can be made available if requested) that focuses on:

- Strategy;
- Treatment and conditions;
- Healthcare; and
- Individual rights.

3.2. The team members will not examine operationally sensitive issues - such as sufficiency of evidence - nor interfere with any on-going investigation or interviews. However, the team will require to:

- Visit and examine the custody facility, including cells, exercise yard, medical examination room, interview rooms and any storage areas;
- Check records, CCTV, procedures, equipment, maintenance and security;
- Speak with any detainees (subject to their consent and certain conditions) and complete questionnaires regarding the physical conditions of their detention;
- Interview custody manager(s) and staff;
- Interview investigating/operational officers who deal with detainees;
- Interview the force senior accountable manager for custody;
- Interview the PA and ICVs at a time that is mutually convenient to both parties.

3.3. Everything will be done to reduce as far as possible the additional administrative impact of the inspection but it is accepted that unannounced visits do not, by their nature, allow arrangements for staff to be allocated to escort or service the inspection team's requests.

4. Request for delay or deferral

4.1. While an unannounced inspection will always be inconvenient, it will require a very substantial reason for this inspection to be delayed or deferred – such as posing a significant threat to highly sensitive operational activity or major risk to personal safety.

4.2. If you believe that such exceptional circumstances are indeed evident and wish to request a delay or deferral, the detail of these circumstances must be explained in full to the team leader, who will either:

- accept that the inspection should be delayed or deferred; or

- reassert the request for access to carry out the inspection, explaining why the reason given does not constitute a substantial cause for deferral or delay.

4.3. Where any difference of opinion cannot be resolved between the team leader and the local senior officer, arrangements should be made for one of your chief officers to speak directly with the Regional HM Inspector or other nominated senior member of HMIC (see contacts).

5. Contact details

5.1. In the event that no agreement can be reached, the following person should be contacted:

1. [Details of relevant **HM Inspector** – incl. mobile number]

2. **HMI Drucilla Sharpling**
(HMI lead for joint Inspection)
HM Inspectorate of Constabulary
Mob:
E-mail: