



Statement to the 66th Session of the Committee Against Torture by John Wadham, Chair of the UK National Preventive Mechanism

6 May 2019

I am very pleased to have this opportunity to present the UK National Preventive Mechanism's submission to the sixth periodic review of the UK's progress in implementing the Convention against Torture. This review is crucial and timely.

The National Preventive Mechanism which I represent is made up of 21 independent bodies that inspect, visit, or monitor all types of detention in the UK. We have operated as an NPM for 10 years, though most of our members long pre-date OPCAT and their designation to the NPM. It remains relatively unusual for NPMs – as primarily domestic bodies – to act as an interlocutor at international level, but we value this as an opportunity to strengthen our work to prevent ill treatment in the UK.

Our written submission sheds light on the issues raised by the Committee by providing evidence from the monitoring work of NPM members about the conditions and treatment of those deprived of their liberty. We are pleased to acknowledge some areas of progress since the last review, but also report in detail on our concerns. We focus our attention only on detention within UK territory, in line with our mandate.

I would like to provide a brief overview of the issues highlighted in our submission. The Committee asked a wide range of questions of the government, and we have sought to provide our perspective on those relating to detention.

With respect to **prisons**, NPM members continue to find the living conditions for some men in prisons in England and Wales are extremely poor. Some men spend unacceptable amounts of time locked in small cells in poor condition. Levels of violence and the use of force and restraint are high in a number of prisons and too little is being done to address the underlying causes of this. I am in the process of writing a letter to the minister responsible for prisons expressing concern about the lack of governance and clear criteria underpinning the recently-announced roll-out of PAVA spray in prisons. There are already a number of concerns around the use of force in prisons in England and Wales: inadequate governance and recording of incidents, concerns that it may not always be proportionate and/or necessary, and data showing that higher numbers of black, minority ethnic and Muslim prisoners report being restrained than their white or non-Muslim counterparts. In addition, we are very concerned about high levels of self-harm and suicide in men's prisons.. The provision of mental health care is not always adequate and there are also significant delays in transferring some prisoners to mental health inpatient beds.

Living conditions and regimes for prisoners in Scotland and Northern Ireland are generally found to be better. However, there are concerns, including very little time out of cell for some young men in Scotland and in relation to the oversight of use of force in Northern Ireland.

The conditions and regime for women in prison are generally much better, but women continue to report high levels of need, including mental health needs, and not all prisons are doing enough to support them. The NPM has also raised concerns about the location of women's prisons, including the number of women being held far from home.

In relation to **immigration detention**, it is the view of the UK NPM that there should be a limit on the amount of time people can be detained in the UK under immigration powers. This is of particular relevance given that NPM members continue to find individuals in immigration removal centres who appear to be too vulnerable to be detained. Despite improvements being made in recent years, the safeguards put in place to prevent vulnerable people from being detained or to allow for their release are still not working effectively.

NPM members regularly encounter detainees who have been detained for unacceptably long periods of time and the environment in some IRCs is prison-like with disproportionate security measures.

The process of removing immigration detainees on charter flights causes considerable distress to some detainees. NPM members have raised serious concerns about the use of restraints on these charter flights, which are sometimes used without justification, including for prolonged periods of time.

The NPM is particularly concerned about weaknesses in the governance of the use of force in **police custody** in England and Wales and incidents of disproportionate force being used. Inspections found weaknesses in the governance and oversight of use of force in all forces inspected.

A disproportionate approach to risk management in some police custody suites is also a serious concern. NPM members have raised repeated concerns about the removal of clothing from detainees who are considered at risk of harm as a first resort, and reported incidents of detainees having their clothing forcibly removed, being left naked in cells or having clothing removed in the presence of an officer of the opposite gender. Similarly, NPM members have concerns about the assessment and management of detainee risk in **court custody**.

Not enough is being done in all police custody suites to meet the needs of women and girls. Girls are not always assigned a female member of staff to care for them and not enough attention has been paid to menstrual care of women in police custody. A number of children continue to spend the night in police custody when charged and refused bail due to a lack of available alternative accommodation.

I am greatly concerned by the conclusion of NPM member HMIP in February 2017 that there was not a single establishment that it had inspected in England and Wales in which it was safe to hold **children and young people**. Although there have been some subsequent early signs of improvements in safety, all three secure training centres (STCs) were assessed as requiring improvement in relation to safety at their most recent inspection.

The conditions and regime in segregation units in YOIs are generally poor and there are also concerns about the limited time that boys in residential units in YOIs spend out of their cells – in some instances only 30 minutes per day. The use of force and restraint in both YOIs and STCs continues to be of

concern, including the continued use of pain-inducing techniques, failures to de-escalate situations and weaknesses in governance and oversight.

Regarding **mental health and mental capacity**, since the Committee last reviewed the UK, there have been significant reforms to some areas of the legal framework, and others are envisaged. The use of detention under mental health legislation in England and Scotland appears to be increasing, in the context of severe pressures on acute psychiatric inpatient beds and community services. It has also been established that people from black or minority ethnic groups in England are much more likely to be detained than those in White British groups.

There has also been an increase in the use of Deprivation of Liberty Safeguards in England and Wales, which has led to delays in processing these orders.

The use of restraint in health and social care settings continues to be a concern to NPM members. Data on the use of restraint is not collected in Scotland and Wales and is incomplete in England. The NPM welcomes new legislation which will require detailed written records to be kept for any use of force in mental health settings. During its last periodic visit to the UK, in 2016, the CPT expressed concern that the impact on patients of long-term segregation as applied in two high secure hospitals amounted to inhuman and degrading treatment and called for an urgent review.

It is our view that a number of the concerns set out above – the regime and conditions experienced by some men in prisons in England and Wales, the experience of immigration detainees during removal, and the forcible removal of clothing, sometimes in the presence of an officer of the opposite gender, and/or being left naked in police cells – may amount to **ill treatment**. The NPM (following research for us by colleagues from Bristol University) believes that there is no official data (published or otherwise) across the UK which collates information about alleged or actual instances of torture or other ill-treatment, or of any place of detention which records incidents in this way.

All of the issues I have set out here and in our submission are subject to regular independent monitoring by the NPM. We make recommendations to government and engage in efforts to strengthen relevant policy and legislation, as required under OPCAT. It is of serious concern that a number of NPM members make **repeated findings and recommendations** to relevant government bodies in light of the failure of these bodies to sufficiently improve conditions and learn lessons from past incidents.

Finally, I would like to comment on the questions the Committee has asked of the government about the **resourcing and independence of the NPM**, which is understandably an issue of great concern to us. As we set out in our submission, we consider it essential for us to function more effectively that the NPM be placed on a statutory footing in order that it fulfil its proper role under OPCAT and do so in line with the clear expectations of the SPT. I am pleased to report that we are currently finalising a protocol between the NPM and Ministry of Justice that delineates our role and independence, and that we have recently been informed that the government are willing to discuss legislative options with us – a crucial development in my opinion. This marks a positive change in intent, and I wholeheartedly welcome it. There is, however, a long way to go before the NPM and all its members enjoy both the formal legal status and recognition of their preventive role that are required.

At the same time, we have raised our concerns for the inadequacy of the budget provided to coordinate the NPM and await a response to a bid – made for the second time – for a modest increase to our central resources. The NPM's secretariat is currently two part-time staff members and this cannot adequately coordinate and support the work of 21 members in exercising their OPCAT role.

We look forward to receiving the SPT on their first formal visit to the UK later this year, and will raise these issues with them during the visit.

I hope that the Committee's review will provide a catalyst to efforts to improve treatment and conditions across different types of detention in the UK, as well as to strengthen the NPM. We will use the Committee's concluding observations to inform and strengthen our work to prevent ill treatment in detention.

I thank the Committee for your time, and look forward to discussing these and other points in more detail.