

**UK NPM Submission to the Joint Committee on Human Rights Inquiry on the Government's  
Response to COVID-19: human rights implications**

1. The UK National Preventive Mechanism (NPM) was established in 2009 and is made up of 21 bodies who monitor and inspect places of detention in the UK to prevent torture and other ill-treatment for those deprived of their liberty (see Appendix I and II). NPM members work collectively to exercise the mandate of an NPM under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).
2. The objective of OPCAT is to establish a system of regular visits undertaken by the relevant international body, the Subcommittee for the Prevention of Torture, and national bodies to places where people are deprived of their liberty to prevent torture and other ill-treatment. The UK NPM's mandate is to:
  - i. regularly examine the treatment of persons deprived of their liberty in places of detention, with a view to strengthening the protection against torture and ill-treatment;
  - ii. make recommendations to relevant authorities with the aims of improving the treatment and conditions of persons deprived of their liberty and preventing torture and ill-treatment; and
  - iii. submit proposals and observations concerning existing or draft legislation.
3. Our response to this inquiry provides information that we hope will assist the Committee in its examination of the human rights implications of COVID-19. This submission draws from evidence gathered from NPM members since the outbreak of COVID-19.<sup>1</sup> NPM members have adapted their approaches to monitoring and inspecting places of detention and places where people are deprived of their liberty in the context of COVID-19 to ensure the NPM's ongoing role in preventing ill-treatment in detention is fulfilled. The information presented in this response is gathered from members on-site visits to places of detention and through remote monitoring methods.<sup>2</sup>

---

<sup>1</sup> NPM members sent in evidence collected through various monitoring methods to the NPM Secretariat, who collated their information to use in this submission. It should be noted that not all the evidence provided by NPM members and used in this submission has previously been published elsewhere.

<sup>2</sup> For more information on the work of the NPM during COVID-19, see our Factsheet: Preventing ill-treatment in the context of COVID-19, April 2020, <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/04/WEB-NPM-member-approaches-for-website-.pdf>

## What steps need to be taken to ensure that measures taken by the Government to address the COVID-19 pandemic are human rights compliant?

4. The outbreak of COVID-19 poses significant risks to people in detention and otherwise deprived of their liberty. The World Health Organisation (WHO) has stated that “people in prisons and other places of detention are not only likely to be more vulnerable to infection with COVID-19, they are also especially vulnerable to human rights violations”.<sup>3</sup>
5. The NPM welcomes guidance from international bodies regarding steps governments must take to reduce the risk of COVID-19 to people in places of detention and deprived of their liberty.
6. Recent international human rights guidance has reiterated the requirement for governments to ensure people in detention and deprived of their liberty receive the same standard of healthcare as people in the community. International bodies such as the WHO, the UN Subcommittee for the Prevention of Torture (SPT) and the European Committee for the Prevention of Torture (CPT) have emphasised the need to maintain equivalence of care in detention.<sup>4</sup> In their advice to State Parties and NPMs on measures to be taken in places of detention to protect detainees during COVID-19, the SPT state the need to ensure detainees are provided with sufficient facilities and resources for the same level of personal hygiene as the rest of the population. The CPT state that special attention must be paid to vulnerable and/or at-risk detainees. People in detention should also be offered additional psychological support during this time.
7. In relation to the need to reduce detained populations, recent international guidance on human rights and COVID-19 states that, where possible, authorities should make use of alternatives to deprivation of liberty. The use of immigration detention must be reviewed and populations reduced to their lowest possible level, in light of the impossibility of removing migrants. In a letter sent to the UK Secretary of State for Justice Robert Buckland QC MP, NPM members raised the need to reduce detained populations to mitigate the inherent risk of maintaining people in close confinement.<sup>5</sup> It is encouraging that there has been a significant decrease in the amount of people in immigration detention.<sup>6</sup> However, the NPM also notes that the early release scheme for prisoners in some parts of the UK has not worked effectively. NPM

---

<sup>3</sup> WHO Europe, Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance, 15 March 2020, [http://www.euro.who.int/\\_data/assets/pdf\\_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf](http://www.euro.who.int/_data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf)

<sup>4</sup> Council of Europe, Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, March 2020, <https://rm.coe.int/16809cfa4b>

<sup>5</sup> NPM Chair John Wadham to Secretary of State for Justice Robert Buckland QC MP, March 2020, <https://s3-eu-west-2.amazonaws.com/hpm-prod-storage-19n0nag2nk8xk/uploads/2020/03/NPM-letter-to-Robert-Buckland-re-COVID19-300320.docx-WEB-2.pdf>

<sup>6</sup> According to Home Office statistics, at the start of May 2020 there were 313 people detained in the detention estate. This compares to 1,278 at the end of December 2019 and 555 at the end of March 2020. See Home Office, Official Statistics: Statistics relating to COVID-19 and the immigration system, May 2020, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/887808/statistics-relating-to-covid-19-and-the-immigration-system-may-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887808/statistics-relating-to-covid-19-and-the-immigration-system-may-2020.pdf)

members have also reported inconsistencies in the provision of accommodation for prisoners who are released.<sup>7</sup>

8. International human rights guidance highlights the need to ensure medical isolation is authorised by medical professionals. The CPT also state that people in medical isolation or quarantine should be provided with meaningful human contact every day. It is crucial that the use of isolation in places of detention to control the spread of COVID-19 is used proportionately and is subject to safeguards to prevent ill-treatment.
9. It is vital that people in detention are not cut off from the outside world and are kept informed of interventions taken to manage the spread of COVID-19 that may engage their human rights. The WHO are clear that detention authorities need to ensure people in their custody have access to relevant information. Given the suspension or reduction of visits to people in detention, international guidance reiterates the need for in-person visits to be compensated for by adequate access to alternatives, such as video call technology.
10. International human rights guidance reiterates that places of detention, including places of quarantine, must be subject to independent oversight and monitoring. The COVID-19 outbreak must not be used as justification for objecting to visits from the NPM and other independent visiting bodies. Indeed, the role of visiting bodies is crucial during COVID-19, as detainees are placed under more restrictions that may engage with their human rights. The NPM has undertaken significant efforts to continue monitoring places of detention. NPM members have adapted their monitoring methodologies to ensure we do no harm to those living and working in places of detention.

### **What will the impact of specific measures taken by Government to address the COVID-19 pandemic be on human rights in the UK?**

11. Government authorities across the UK have introduced restrictive measures that affect people in detention and otherwise deprived of their liberty to prevent and control the spread of COVID-19. NPM member evidence highlights the impact some of these measures have had on the human rights of people in detention.

#### *Isolation and solitary confinement*

12. Some NPM member evidence shows an increase in the use of isolation across places of detention in the UK to manage the spread of COVID-19. NPM members have identified concerning practice and, in some cases, poor treatment of detainees subject to isolation. While the need to manage the risk of COVID-19 to preserve life in places of detention is of crucial importance, the NPM has significant concerns around the ongoing proportionality of isolation.
13. The conditions for prisoners in isolation in England and Wales is of concern. Her Majesty's Inspectorate of Prisons' (HMI Prisons) findings from their Short Scrutiny Visit (SSV) to three

---

<sup>7</sup> Letter from National Chair of the Independent Monitoring Boards, Dame Anne Owers, to Sir Robert Neill, Justice Select Committee, June 2020, <https://committees.parliament.uk/publications/1416/documents/12925/default/>

Category C training prisons identified poor treatment of prisoners. Inspectors found that prisoners at HMP Ranby and HMP Portland were not let out of their cells for exercise during their isolation (which ranged from seven to 14 days, and could be extended by another seven days if symptoms persisted). While prisoners at HMP Ranby could shower every three days, prisoners at HMP Portland had no access to showers during their isolation.<sup>8</sup> The IMB have also raised concerns regarding the inadequacy of the regime for symptomatic prisoners in isolation in prisons in England and Wales. At one prison, healthcare staff visited only on the first and fifth day of isolation. Concerns were expressed through the IMB application line that prisoners were reluctant to reveal symptoms to avoid such extreme isolation.<sup>9</sup>

14. NPM members found a similarly concerning picture in Scottish prisons, where prisoners with confirmed or suspected COVID-19 were isolated without access to: time out of their cell; time in the fresh air; phone calls to their families or legal professionals; or showers. Both Her Majesty's Inspectorate of Prisons in Scotland (HMIPS) and the Scottish Human Rights Commission (SHRC) raised these concerns with the Cabinet Secretary for Justice, and have since seen improvements for prisoners who were subject to enforced isolation (including access to showers, phone calls and time in the fresh air). In addition, HMIPS welcomes the introduction of in-cell telephony and virtual visits to increase meaningful contact, recently approved by Scottish Parliament.<sup>10</sup>
15. There is concern over the isolation periods for children in Secure Children's Homes (SCH) in England and Wales. In accordance with public health guidance, children leaving an SCH facility (to attend a court appearance, for example) are subject to 14 days in isolation on their return to the SCH. In two SCHs monitored by Ofsted, children were 'locked down' in specific units within the homes for a 14-day period, due to an outbreak of COVID-19 and the need to take action to control the spread of the disease. Ofsted have concerns around the potential negative impact such periods of isolation may have on children's mental health and social well-being.
16. The Mental Welfare Commission for Scotland (MWCS) are aware of increased day time confinement at the state run secure hospital in Scotland. The Care Quality Commission (CQC) have noted that some hospitals in England have established cohort wards that allow for physical separation without complete isolation. The NPM notes with concern that, in this Committee's most recent report, there is evidence that the use of restraint and seclusion has increased for some young people in detention with learning disabilities and/or autism.<sup>11</sup>

---

<sup>8</sup> HMI Prisons, *Report on short scrutiny visits to Category C training prisons by HM Chief Inspector of Prisons*, May 2020, <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2020/05/Cat-C-training-prisons-web-SSV-2020.pdf>

<sup>9</sup> Letter from National Chair of the Independent Monitoring Boards, Dame Anne Owers, to Sir Robert Neill, Justice Select Committee, June 2020, <https://committees.parliament.uk/publications/1416/documents/12925/default/>

<sup>10</sup> The Prisons and Young Offenders Institutions (Coronavirus) (Scotland) Amendment Rules 2020, June 2020, <http://www.legislation.gov.uk/ssi/2020/175/made/data.pdf>

<sup>11</sup> Joint Committee on Human Rights, *Human Rights and the Government's response to COVID-19: The detention of young people who are autistic and/or have learning disabilities*, June 2020, <https://publications.parliament.uk/pa/jt5801/jtselect/jtrights/395/39502.htm>

## Regime

17. Regimes in places of detention have become more restricted since the outbreak of COVID-19.
18. The conditions and regime for some prisoners in Scotland in the early stages of COVID-19 was of concern. HMIPS findings identified variations in prison regimes, but also showed that many prisoners in the early lockdown phase were confined to their cell for at least 22 hours a day. This situation has recently been relaxed to allow greater access to time out of cell and an expanded regime. SHRC wrote to the Scottish Parliament Justice Committee to highlight the fact that prisoners locked in their cells had extremely limited contact to their family or lawyers. HMIPS discussed their concerns with the Cabinet Secretary for Justice and the Scottish Prison Service and have since received assurance that the above issues have been resolved.
19. SHRC and HMIPS also raised concerns that the new Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2020 introduced significant changes to the regimes in prisons and YOIs. The amended rules relax requirements to meet some basic needs including nutritious food, clean socks and underwear, access to bathing or showers, family contact, reading material, and purposeful activity. SHRC have expressed concerns that some of these changes, and associated Scottish Prison Service requirements of governors, may create conditions where some prisoners' fundamental rights are not respected.<sup>12</sup> SHRC efforts to access data to confirm this have not been agreed by the Scottish Prison Service or the Scottish Government. However, HMIPS have so far found no evidence that these extreme powers available to the Scottish Prison Service are being used in a concerning way.
20. NPM member evidence suggests that regimes in prisons and Young Offender Institutions (YOIs) in England and Wales vary considerably. IMB reports highlight that some prisons are providing as little as 30 minutes a day out of cell, or exercise only every other day.<sup>13</sup> HMI Prisons report disparities in the regimes offered for children at the YOIs they visited during COVID-19. Inspectors found that while children had three hours of time out of their cell at Parc, children were only given one hour out at Wetherby and around 40 minutes at Cookham Wood. Parc were able to offer children limited face-to-face education, while children at Cookham Wood and Wetherby were given in-cell workbooks.<sup>14</sup> In their briefing on children in custody, the Children's Commissioner for England (CCE) found that in establishments where in-person education is still being delivered (albeit to a lesser degree than under business as usual arrangements) children have access to much more time out of cell.<sup>15</sup> CCE state that more emphasis needs to be placed on ensuring access to education for children in custody.

---

<sup>12</sup> Scottish Human Rights Commission to Margaret Mitchell MSP, Scottish Parliament Justice Committee, May 2020, [https://www.scottishhumanrights.com/media/2027/20\\_05\\_letter-to-justice-committee-prisons-covid-vfinal2.pdf](https://www.scottishhumanrights.com/media/2027/20_05_letter-to-justice-committee-prisons-covid-vfinal2.pdf)

<sup>13</sup> Letter from National Chair of the Independent Monitoring Boards, Dame Anne Owers, to Sir Robert Neill, Justice Select Committee, June 2020 <https://committees.parliament.uk/publications/1416/documents/12925/default/>

<sup>14</sup> HMI Prisons, *Report on short scrutiny visits to Young offender institutions holding children*, April 2020, <https://www.justiceinspectorates.gov.uk/hmiprison/wp-content/uploads/sites/4/2020/05/YOIs-SSV-Web-2020-1.pdf>

<sup>15</sup> Children's Commissioner for England, *Briefing: Children in Custody*, May 2020, <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/05/cco-children-in-custody.pdf>

21. CCE also raised concerns about the changes to the YOI rules for children in England. Changes – introduced through regulations enabled by the Coronavirus Act 2020 – were made to the rights and entitlements of children in YOIs. CCE are concerned about the impact the Prison and Young Offender Institution (Coronavirus) (Amendment) Rules 2020 may have on a child's right to visits and their access to education. Moreover, the regulations allow these restrictions to be extended for 6 months longer than any COVID-19-related restrictions in place in the rest of the country.<sup>16</sup>
22. It is of significant concern that some IMBs have reported that PAVA is being introduced 'by the back door' in prisons in England and Wales. It has since been confirmed by Her Majesty's Prison and Probation Service (HMPPS) that new guidance permits PAVA to be used in any prison by any staff who have been trained, without the previously agreed preconditions of an effective key worker scheme and the need for at least 50% of staff to be trained in its use. It is understood that PAVA was introduced to manage predicted widespread indiscipline and even violence. However, the IMB report that violence has in fact decreased. The IMB have urged HMPPS to review this change, and in the meantime, publish monthly statistics on the use of PAVA and the circumstances which led to its use.<sup>17</sup>
23. Findings from Criminal Justice Inspection Northern Ireland (CJINI) and the Independent Monitoring Boards Northern Ireland (IMBNI) show that prisoners have time out of their cell for exercise and use of the telephone. Despite being made aware of a 'full lockdown' at Maghaberry prison in the early days of the COVID-19 outbreak, the IMB at the prison have since stated that this lockdown was 'partial'. CJINI report that on-site education provision in the Juvenile Justice Centre (JJC) was withdrawn for several weeks and has now recommenced on a phased basis. JJC staff provided activities during this period.
24. MWCS findings show regime restrictions for people detained with learning disabilities in Scotland, who are often not allowed out of their ward. MWCS also report increased suspension to hospital grounds.

#### *Access to services*

25. NPM member findings show that people in detention have restricted access to crucial services due to COVID-19. HMIPS findings show a general reduction in progression and rehabilitative programmes in prisons, such as addiction services. In Maghaberry prison in Northern Ireland, the IMBNI state that healthcare consultations are now done through telephone calls, although healthcare staff are providing an on-site service in the rest of the estate. In cases where prisoners in Northern Ireland need to go to the community for an appointment, they are then required to move into different accommodation on their return.

---

<sup>16</sup> Letter from National Chair of the Independent Monitoring Boards, Dame Anne Owers, to Sir Robert Neill, Justice Select Committee, June 2020, <https://committees.parliament.uk/publications/1416/documents/12925/default/>

<sup>17</sup> Letter from National Chair of the Independent Monitoring Boards, Dame Anne Owers, to Sir Robert Neill, Justice Select Committee, June 2020, <https://committees.parliament.uk/publications/1416/documents/12925/default/>

26. The IMB for England and Wales have reported that the highest proportion of calls made to their new freephone line are related to healthcare, specifically the inability to access medication and treatment. As in the community, there is a risk that the combination of a focus on COVID-19 and restricted access to normal healthcare provision will exacerbate health issues in a population with known high morbidity rates.<sup>18</sup>
27. A number of IMBs have also reported that mental health support in prisons in England and Wales is less available since the outbreak of COVID-19. In some cases, mental health support is only available in a crisis. The IMBs have raised their concerns over the cumulative impact the lockdown measures will have on prisoners' mental health. It is of great concern that some prisons are reporting an increase in self-harm and self-inflicted deaths to the IMBs.<sup>19</sup>
28. There have been issues related to access to services for children in SCHs. The Care Inspectorate Wales (CIW) report that while education is being provided virtually, mental health and well-being meetings for children in SCHs in Wales have been cancelled. Ofsted's discussions with managers of SCHs indicates that health professionals initially withdrew from some SCHs in order to provide front-line NHS support.
29. Across the UK, COVID-19 is having a considerable impact on care pathways for patients in high secure psychiatric hospitals. COVID-19 poses a risk of increased admissions to hospital in two ways: community services such as respite care may become unavailable, and the changes of routine resulting from lockdown may lead to crisis situations where placements break down. CQC are aware of a patient kept in long-term segregation because their community placement is on hold. Similarly, MWCS have identified delays in transferring patients between low, medium and high-secure settings in Scotland, which is having a knock-on effect on patients who were due to be discharged to the community.
30. CQC report that advocacy services in psychiatric hospitals are now available remotely, through video and telephone link. CQC state that this poses problems of access for patients. Advocates operate an 'opt-in' service, however, the lack of physical presence makes it more difficult for advocates to introduce themselves to patients.
31. CCE have also identified issues relating to access to services for children sectioned under the Mental Health Act in England. CCE have spoken to children who have suffered from limited access to therapy. Some children have also reported difficulties in using new technologies for therapy sessions.
32. RQIA have reported that some mental health inpatient services have changed their category of care due to contingency planning for COVID-19, meaning that some wards have been re-purposed. This has reduced the number of beds available for admission. RQIA have also found

---

<sup>18</sup> Ibid

<sup>19</sup> Letter from National Chair of the Independent Monitoring Boards, Dame Anne Owers, to Sir Robert Neill, Justice Select Committee, June 2020, <https://committees.parliament.uk/publications/1416/documents/12925/default/>

that works on the physical environment planned to reduce ligature risks in one mental health hospital in Northern Ireland have been temporarily postponed due to COVID-19.

33. NPM members who monitor short term places of detention, such as police and court custody, have reported their concerns around poor access to crucial services. Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) have identified restricted access to solicitors for detainees in police custody in Scotland. Lay Observers (LO) report poor access to legal representation for detainees in court custody in the Midlands. LO are also concerned over the increase in video remand hearings, which make it difficult for LOs to monitor whether basic needs – such as a detainees' ability to travel home safely – are met. They fear a lack of consistency.
34. Video remand hearings and virtual courts are also having an impact on the time detainees spend in police custody. The Northern Ireland Policing Board Independent Custody Visiting Scheme (NIPBICVS) have reported an increased length of stay for some detainees. The Independent Custody Visiting Association (ICVA) report the same issue in police custody in England and Wales. ICVA were also concerned that detainees did not have adequate access to legal representation or Appropriate Adults where needed, although they report that these issues have now been addressed.<sup>20</sup> A further issue reported from ICVA which has yet to be resolved is that of detainees giving informed consent for video link legal advice. ICVA is receiving reports of ongoing concerns in this area, with a specific concern regarding the ability of Appropriate Adults to be present to support effective informed consent for vulnerable detainees.<sup>21</sup>

### Visits

35. Prisons, YOIs and immigration removal centres (IRCs) across the UK have suspended visits from family and friends. This is having a significant impact on people in detention. NPM members in Scotland expressed concern that alternatives to family contact such as virtual visiting technology had not been implemented in a timely manner. HMIPS have reported that this has now been resolved. CJINI, however, note the successful implementation of video technology to replace family visits in prisons and the JJC in Northern Ireland and increased access to telephone calls.
36. HMI Prisons' inspectors found that some people detained in the four IRCs they visited during COVID-19 were suffering considerable negative impacts due to the loss of social visits, however inspectors did find that other forms of contact with family and friends were easily accessible.<sup>22</sup> In contrast, HMI Prisons have reported on delays in implementing video-call technology to help mitigate the acute impact of the suspension of social visits in women's

---

<sup>20</sup> ICVA, Scheme Feedback Summary, April 2020, see <https://icva.org.uk/media-centre/>

<sup>21</sup> ICVA, Scheme Feedback Summary, May 2020, see <https://icva.org.uk/media-centre/>

<sup>22</sup> HMI Prisons, *Report on short scrutiny visits to Immigration Removal Centres by HM Chief Inspector of Prisons*, May 2020, <https://www.justiceinspectorates.gov.uk/hmiprison/inspections/immigration-removal-centres-short-scrutiny-visit/>

prisons.<sup>23</sup> At the time of HMI Prisons' visit, some women had not seen their children for two months.

37. CCE have documented the negative impact the lack of visits is having on children and young people in detention in England.<sup>24</sup> Ofsted have stated that visits have gone ahead in one SCH in England and other SCHs are reviewing how they can move towards visits restarting. Face-to-face visits have not yet been re-instated in the SCH in Wales.
38. Although visits are largely suspended for people in mental health and social care detention, NPM members who monitor these establishments report that there should not be a blanket ban, rather assessments should be made as to whether visiting is suitable on a case by case basis. RQIA report that the lack of visits for patients in inpatient settings in Northern Ireland has been challenging and upsetting for some families.
39. The Care Inspectorate (CI), who monitor secure accommodation for children in Scotland, have found that the main restrictive practice in place for children has been the suspension of visits from family and others in the community. However, CI have also reported that services have increased access to mobile phones and tablets to ensure contact and meetings can take place digitally. This has included meetings with children's rights officers, advocates, and legal representatives as well as family and friends.
40. It is crucial that the right to family and private life is maintained for people in detention during this difficult period. The NPM calls for greater clarity and consistency in the use of alternative methods to facilitate contact between people in detention and their loved ones.

### **Which groups will be disproportionately affected by measures taken by the Government to address the COVID-19 pandemic?**

41. People in detention and deprived of their liberty are disproportionately affected by measures taken by the Government to address COVID-19. Persons deprived of their liberty are wholly reliant on governments for support and care, and are affected by the restrictive measures introduced in places of detention to manage and control COVID-19 (see above). There are also inherent risks of COVID-19 in places of detention.
42. A key risk in places of detention relates to the challenge of effectively implementing physical distancing. This is particularly important for detainees with underlying health conditions and those in other vulnerable categories, including children, as well as in areas of the detention estate that are already overcrowded.
43. As discussed above, prisons have introduced extremely restrictive regimes to allow for physical distancing. There are serious concerns about the public health impact of some of these

---

<sup>23</sup> HMI Prisons, *Report on short scrutiny visits to Prisons holding women* by HM Chief Inspector of Prisons, June 2020, <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/06/Womens-prisons-SSV-2020.pdf>

<sup>24</sup> Children's Commissioner for England, May 2020, *Briefing: Children in Custody*, <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2020/05/cco-children-in-custody.pdf>

restrictions. At HMP Coldingley, for example, HMI Prisons found that the lack of in-cell toilets for around two-thirds of the population, and the lack of time out of cell, meant prisoners faced an unacceptable wait to use communal toilets. Prisoners were forced to urinate and defecate in buckets in their cells. At the time of HMI Prisons' visit, prisoners were not provided with hand sanitiser. Personal supplies of hand sanitiser for prisoners were only ordered as a result of HMI Prisons' visit.<sup>25</sup>

44. MWCS monitoring has found that physical distancing has been challenging to implement in care settings for people with dementia and learning disabilities in Scotland. RQIA have also reported concerns around implementing physical distancing in settings in Northern Ireland. In particular, RQIA state that settings have found it difficult to make the importance of physical distancing understood by some patients.
45. Issues around effectively implementing public health guidance is particularly acute in areas of short term detention. ICVA reported a lack of handwashing facilities and access to showers in police custody in the initial stages of COVID-19.<sup>26</sup> LO have reported that court custody units sometimes struggle to maintain an adequate physical distance, especially when the number of detainees in a unit is high: according to LO reports around 50% of staff are unable to physically distance from one another. LO have expressed concerns that incomplete Person Escort Records (PERs) have made the task of managing and risk-assessing potential COVID-19 detainees difficult.<sup>27</sup>
46. NPM members have reported a lack of PPE in some facilities. Ofsted found that many SCHs struggled to get PPE and testing in the early days of the outbreak. Ofsted also reported depletion in staffing numbers in SCHs. There was also a limited supply of PPE for independent custody visitors going in to police stations, causing delays in detainees' access to independent scrutiny. ICVA report that this issue has now been addressed.<sup>28</sup>
47. The NPM has written to UK Secretary of State for Justice Robert Buckland QC MP,<sup>29</sup> the Scottish Cabinet Secretary Humza Yousaf MSP,<sup>30</sup> and Northern Ireland Justice Minister Naomi Long MLA<sup>31</sup> to put forward the need for governments to take urgent action to protect the rights of people living and working in detention. We also reminded government of the state's duty to

---

<sup>25</sup> HMI Prisons, *Report on short scrutiny visits to Category C training prisons by HM Chief Inspector of Prisons*, May 2020, <https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2020/05/Cat-C-training-prisons-web-SSV-2020.pdf>

<sup>26</sup> ICVA, April 2020, Scheme Feedback Summary, see <https://icva.org.uk/media-centre/>

<sup>27</sup> Lay Observers, Court custody watchdog praises staff dedication during covid-19 outbreak, April 2020, <https://layobservers.org/court-custody-watchdog-praises-staff-dedication-during-covid-19-outbreak/>

<sup>28</sup> ICVA, April 2020, Scheme Feedback Summary, see <https://icva.org.uk/media-centre/>

<sup>29</sup> NPM Chair John Wadham to Secretary of State for Justice Robert Buckland QC MP, March 2020, <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/03/NPM-letter-to-Robert-Buckland-re-COVID19-300320.docx-WEB-2.pdf>

<sup>30</sup> NPM Chair John Wadham and Scottish Subgroup to Cabinet Secretary for Justice Humza Yousaf MSP, April 2020, <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/04/NPM-letter-to-Cabinet-Secretary-for-Justice-re.-COVID-19.pdf>

<sup>31</sup> NPM Chair John Wadham to Justice Minister Naomi Long MLA, April 2020, <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/04/NPM-letter-to-Naomi-Long-re-COVID-160420.pdf>

protect the physical and mental health and well-being of people deprived of their liberty, as set out by the UN Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”).

## **Appendix I: List of UK NPM members and the types of setting they monitor**

The 21 bodies who make up the NPM are:

### England and Wales

Care Inspectorate Wales (CIW); Care Quality Commission (CQC); The Children's Commissioner for England (CCE); Her Majesty's Inspectorate of Prisons (HMI Prisons); Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS); Healthcare Inspectorate Wales (HIW); Independent Monitoring Boards (IMB); Independent Custody Visiting Association (ICVA); Lay Observers (LO); Ofsted (Office for Standards in Education, Children's Service and Skills)

### Northern Ireland

Criminal Justice Inspection Northern Ireland (CJINI); Independent Monitoring Boards (Northern Ireland) (IMBNI); Northern Ireland Policing Board Independent Custody Visiting Scheme (NIPBICVS); The Regulation and Quality Improvement Authority (RQIA)

### Scotland

Care Inspectorate (CI); Her Majesty's Inspectorate of Constabulary in Scotland (HMICS); Her Majesty's Inspectorate of Prisons for Scotland (HMIPS); Independent Custody Visiting Scotland (ICVS); Mental Welfare Commission for Scotland (MWCS); Scottish Human Rights Commission (SHRC);

### United Kingdom

Independent Reviewer of Terrorism Legislation (IRTL)

## **Appendix II: NPM members, by monitored settings**

### Prisons and YOIs

- HMI Prisons (with CQC and Ofsted), and IMB (England)
- HMI Prisons (with HIW) and IMB (Wales)
- HMIPS, CI, SHRC and MWCS (Scotland)
- CIJNI and HMI Prisons with RQIA, IMBNI (Northern Ireland)

### Police Custody

- HMICFRS and HMI Prisons, ICVA (England and Wales)
- HMICS, ICVS (Scotland)
- CIJNI with RQIA, NIPBICVS (Northern Ireland)

### Escort and Court Custody

- Lay Observers and HMI Prisons (England and Wales)
- HMIPS (Scotland)
- CIJNI (Northern Ireland)

### Detention under the Terrorism Act

- IRTL (United Kingdom)
- ICVA (England and Wales)
- ICVS (Scotland)
- NIPBICVS (Northern Ireland)

### Children in Secure Accommodation

- Ofsted (jointly with HMI Prisons and CQC in secure training centres) (England)
- CIW (Wales)
- CI (Scotland)
- RQIA, CIJNI (Northern Ireland)

### Children (all detention settings)

- CCE (England)

### Detention under Mental health legislation

- CQC (England)
- HIW (Wales)
- MWCS (Scotland)
- RQIA (Northern Ireland)

### Deprivation of liberty and other safeguards in health and social care

- CQC (England)