

Preventing Torture in the UK: A report on the National Preventive Mechanism

Roger Grimshaw

Centre for Crime and
Justice Studies
2 Langley Lane
London SW8 1GB
info@crimeandjustice.org.uk
www.crimeandjustice.org.uk

© Centre for Crime and
Justice Studies
December 2016
ISBN: 978-1-906003-53-1

Registered charity No. 251588

A company limited by guarantee
Registered in England No. 496821

The views expressed and the data
used in this document are those
of the authors and not necessarily
those of the Centre for Crime and
Justice Studies.

Foreword

This report was originally completed in 2014, as part of the Centre's work as the UK representative of the European Prison Observatory (EPO). The EPO is a pan-European body composed of civil society organisations championing the adherence to international protocols against torture and mistreatment in detention. We are publishing the report now as a contribution to the current debate over how to address deteriorating conditions and escalating violence in the UK prison systems.

The report concerns the activities of the UK National Preventive Mechanism (NPM). Little known of outside specialist circles, the NPM works across the four UK nations and regions to strengthen the protection of people in detention, identify practices that could amount to ill-treatment, and ensure a consistent approach to inspection, in line with international standards. The UK NPM is one of over 50 NPMs that have been established in various United Nations member countries.

The UK NPM, the report points out, has made a positive contribution in some areas. These included recommendations in relation to immigration removal and to the detention of young people in police custody, as well as work highlighting the lessons of deaths in custody.

As is plain from the recent rise in prison suicide, important gains can quickly be undone. The report also documents a number of areas of ongoing concern. These include the use of restraint on children in custody that is intended to inflict deliberate pain, and the use of TASERS in prisons. The indefinite detention of asylum-seekers and the lack of mental health services for people in detention are areas of concern.

The United Nations Committee against Torture (CAT), which oversees the work of NPMs across the world, has called on the UK government to 'set concrete targets to reduce the high level of imprisonment and overcrowding'. Since the CAT made this call in 2013, the situation has deteriorated markedly.

People in custody are particularly vulnerable to mistreatment. While the work of inspection coordinated by the UK NPM cannot, of itself, prevent mistreatment, an independent inspection system can shine a light in the dark corners of places of detention and challenge governments and state institutions to hold to important international norms and standards.

Richard Garside, Director, Centre for Crime and Justice Studies

Introduction

Carver (2011; 2014) has commented on the relative absence of literature on effective mechanisms of torture prevention: the legal literature is mainly concerned with the nature and scope of state obligations; political science writing, on the other hand, examines background economic and political factors or, more immediately, the process of treaty ratification.

Over and above any inspection or treaty obligations, legal rights and judicial oversight play important parts in the system of prevention; however, the specific role of inspection is to provide access to protections that may be compromised to a greater or lesser extent by the conditions of detention (Carver, 2014).

There are inherent challenges in measuring the success of preventive mechanisms: if complaints rise, to what extent might the increases be due to the energy and scope of the mechanism? Similarly, if complaints drop in frequency, might this be due to other factors? The Ill-Treatment and Torture (ITT) scale which is based on allegations of torture, places the UK in a worse position than Belarus, but it is not clear whether that difference is a function of reporting, preventive measures or other factors (ibid; for a recent briefing on the latest research, see Association for the Prevention of Torture, 2016).

Given the difficulty of assessing incident frequency against expectations, the most significant methods of assessing the National Preventive Mechanism (NPM) are to consider its focus and activities and to examine its functioning as part of the UK's accountability to international scrutiny under treaty obligations.

How well is the UK doing?

Prepared in 2014, this report describes general activities of the UK NPM, and briefly characterises specific activities of members in the three jurisdictions of the UK, highlighting the scale of activity in relation to the task. It notes the comments of organisations such as the Committee against Torture (CAT) and the European Subcommittee on Prevention (CPT) on the subject of UK practices and discusses how the structure of the UK NPM – a membership collective – may influence, for better or worse,

the extent of progress in meeting international standards.

Six major issues were identified by the NPM coordinator in 2012–2013:

- Sharing the lessons of deaths in custody and the implications for monitors and inspectors
- Monitoring restraint and use of force
- Rights standards applied to solitary confinement, segregation and isolation
- Protection from reprisals and sanctions for cooperation with the NPM
- Monitoring of *de facto* detention and abuse
- Ensuring treatment of children adheres to the Convention on the Rights of the Child

These issues were considered to be themes across the diversity of the NPM and the annual report highlights examples rather than enumerating activities (HM Government, 2014). The work of the NPM is performed by its members according to their missions and responsibilities for sites of detention.

As from April 2014, the constituent members were:

England and Wales:

- Her Majesty's Inspectorate of Prisons (HMIP)
- Independent Monitoring Boards (IMB)
- Independent Custody Visiting Association (ICVA)
- Her Majesty's Inspectorate of Constabulary (HMIC)
- Care Quality Commission (CQC)
- Healthcare Inspectorate of Wales (HIW)
- Children's Commissioner for England (CCE)
- Care and Social Services Inspectorate Wales (CSSIW)
- Office for Standards in Education (OFSTED)
- Lay Observers

Scotland:

- Her Majesty's Inspectorate of Prisons for Scotland (HMIPS)
- Her Majesty's Inspectorate of Constabulary for Scotland (HMICS)
- Scottish Human Rights Commission (SHRC)
- Mental Welfare Commission for Scotland (MWCS)
- The Care Commission (CC)
- Independent Custody Visitors Scotland (ICVS)
- Social Care and Social Work Improvement Scotland

Northern Ireland:

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

Isle of Man:

- Independent Monitoring Board for the Isle of Man Prison
- Independent Monitoring Board for the Isle of Man Secure Care Home
- The Mental Health Commission.

A table of these responsibilities revealed the complexity of the sites, the scope of national differences, and the overlaps that arise from joint inspections.

Table 1. NPM responsibilities for settings. Source: HM Government (2014)

DETENTION SETTING	England	Wales	Scotland	Northern Ireland
Prisons	HMIP with CQC & Ofsted IMB	HMIP with HIW IMB	HMIPS	CJINI & HMIP with RQIA IMBNI
Police custody	HMIC & HMIP ICVA	HMIC & HMIP ICVA	HMICS ICVS	CJINI with RQIA NIPBICVS
Court custody	HMIP	HMIP	HMIPS	CJINI
Children in secure accommodation	Ofsted (jointly with HMIP for secure training centres)	CSSIW	CI	RQIA CJINI
Detention under mental health law	CQC	HIW	MWCS	RQIA
Deprivation of liberty ¹ and other safeguards in health and social care	CQC	HIW CSSIW	CI and MWCS	RQIA
Immigration detention	HMIP IMB	HMIP IMB	HMIP IMB	HMIP IMB
Military detention	HMIP & IMB	HMIP & IMB	HMIP & IMB	HMIP & IMB
Customs custody facilities	HMIC and HMIP	HMIC and HMIP	HMIC and HMIP	HMIC and HMIP

The following account outlines how members are active in inspection, producing recommendations and comments on legislative proposals; it focuses on the reports of the three inspectorates responsible for the UK prison sector and briefly refers to other NPM sectors.

Themes in prison inspection

Human rights orientation

Her Majesty's Inspectorate of Prisons (HMIP) has devised an inspection manual of human rights-based 'Expectations' which schematically sets out minimum outcomes for prisoners. This was revised in 2012-2013, covering other detention settings (HMIP, 2012).

Lessons from deaths in custody

In England and Wales, with a small fall in the annual prison population, deaths in custody fell in 2012-2013, as did self-inflicted deaths and self-

harm incidents. Safety outcomes for adult males were considered not sufficiently good in eight (out of 37) prisons inspected. In one follow-up inspection of a women's prison, progress in improving safety was insufficient.

The management of violent incidents emerged as a strong feature in the prevention agenda. 'Some prisons we inspected had little idea of the trends or patterns of violence in their establishment and were doing too little to address the underlying causes, tackle perpetrators or support victims.' (HMIP, 2013)

Rights standards applied to solitary confinement, segregation and isolation

HMIP reported that too often prisoners at risk of self-harm or suicide were being unjustifiably held in segregation (ibid). Unjustifiable coercive measures to enforce regulations were exemplified.

'In one case at New Hall, a new arrival who refused to hand over open-toed sandals and a

¹ Deprivation of liberty legal safeguards apply only to England and Wales but organisations in Scotland and Northern Ireland visit and inspect health and social care facilities where people may be deprived of liberty.

strappy top (clothing allowed at her sending prison but not at New Hall) was restrained, put in the segregation unit and had her clothes cut off as she was forcibly strip searched.' (ibid)

In Northern Ireland fear of other prisoners was given as a reason for over-long stays in a unit.

'During the reporting year some prisoners who feared serious injury being inflicted upon them by fellow prisoners spent lengthy time in the CSU – in some cases amounting to months.' (Independent Monitoring Board, 2012-2013).

Overcrowding

In England and Wales no improvement in the rate of overcrowding was observed, with 60 per cent of prisons overcrowded. In Scotland four prisons were inspected by Her Majesty's Chief Inspector of Prisons for Scotland (HMCIPS) in 2012-2013. Positive developments were noted following an inspection at the women's prison, Cornton Vale, which had revealed 'massive overcrowding' and 'degrading' conditions:

Only with the publication of the Chief Inspector's Second Report was action taken with the convening of the Commission on Women Offenders and the transfer of 114 female prisoners to HMP Edinburgh. As a result of Dame Elish Angiolini's Commission significant recommendations were offered to improve the lot of female offenders, many of them mirroring recommendations of the Inspectorate.

(HM Chief Inspector of Prisons for Scotland, 2013).

Restraint and the use of force

Control and restraint have been matters of concern expressed by non-governmental organisations such as the Prison Reform Trust and the Howard League for Penal Reform (Prison Reform Trust, 2014; Howard League for Penal Reform, 2013). HMIP shared the concerns of the Justice Committee in 2013 about the rise in restraint use in youth custody settings. A new system of minimising and managing physical restraint has been rolled out in these settings (House of Commons Justice Committee, 2013). Discussions about common standards and training for the use of restraint, approved by the Joint Ministerial Board on Deaths in Custody,

have involved The National Council for Independent Monitoring Boards (2014).

In England and Wales the Prison Service set a target that 80 per cent of staff should receive training in control and restraint; the lowest published outcome in 2013-2014 was 88 per cent of target and most of the 126 prisons exceeded the target (Ministry of Justice, 2014). In Scotland, the maintenance of operational staff competence in control and restraint techniques was an issue noted by inspectors for attention (HMCIPS, 2013).

However the permissible techniques have been the subject of controversy and concern among officials and non-governmental bodies (Howard League for Penal Reform, 2013). HMIP was also critical of the approval of techniques designed to inflict pain.

Specific areas of controversy are the rate of strip-searching, described by HMIP as 'pointless', and the use of restraints for prisoners undergoing hospital stays (Prison Reform Trust, 2014; Howard League for Penal Reform, 2013).

In other developments

- Custody visitors in London monitored the use of force by police after the ending of standardised incident recording by police
- HMIP found disproportionate use of force and restraint during immigration removals
- Protection from reprisals and sanctions for cooperation with the NPM was addressed

As called for under the Optional Protocol to the Convention against Torture (OPCAT) Article 21, a protocol is to be developed which will help ensure that NPM members work together to protect detainees from sanctions or prejudice as a result of communicating with a member. HMIP inspection evidence indicated that there had been rare incidents when prisoners or detainees had received 'informal, unauthorised sanctions for engaging with inspection teams, or in an attempt to prevent such engagement' (HM Government, 2014).

Northern Ireland

Criminal Justice Inspection Northern Ireland (CJINI) continued to assess progress in implementing recommendations by the Northern Ireland Prison Reform Team. As part of its NPM functions, CJINI cited its inspections on: the

management of life and indeterminate sentenced prisoners; Maghaberry Prison; a follow-up review of police custody arrangements with the Regulation and Quality Improvement Authority; and ongoing monitoring visits to the Juvenile Justice Centre. The follow-up review found mixed progress in implementing improvements. Maghaberry was found to have an insufficient level of safety and respectful treatment, and 93 recommendations for improvement were made. The inspection of long-sentenced prisoner management produced several recommendations, in particular regarding psychology services and Offending Behaviour Programmes.

Care and welfare settings

Recent events emphasised that inspection is needed to prevent abuse and deprivation of liberty in settings where people are supposed to be cared for. Failings at Winterbourne View Hospital led the Care Quality Commission (CQC) to dedicate special attention to services caring for people with learning disabilities. As part of its NPM commitment, the CQC continued to evolve its approach to monitoring deprivation of liberty safeguards (DoLS) in care homes and hospitals. It emerged that supported living arrangements were outside the remit of the CQC's monitoring, creating a gap in OPCAT coverage. That said, the CQC carried out over 35,000 inspections in 2012-2013. The Care and Social Services Inspectorate Wales (CSSIW) initiated a new enforcement process, which included measures for strengthening responses to urgent and/or serious failings (HM Government, 2014; CQC, 2013).

According to a recent study:

In England the CQC, which forms part of the UK NPM aims to visit every psychiatric ward where patients are detained at no more than 18-month intervals and many wards are visited more frequently than this, according to perceived need. In Northern Ireland, the Regulation and Quality Improvement Authority (RQIA), which also is part of the UK NPM and is the authority regulating residential and care homes, children's homes, children's secure accommodation and mental health and learning disability sites, carries out two visits per year per institution on average. (Steinerte et al., 2012)

During the year, the Mental Welfare Commission for Scotland visited almost 500 individuals receiving care and treatment in acute adult wards. 'Our unannounced visits found that over 20% of people who cannot consent are being given medical treatment without proper lawful documentation.' (Mental Welfare Commission for Scotland, 2013). The Mental Welfare Commission for Scotland is coordinating a UK-wide project to report on action taken to safeguard individuals who appear to be *de facto* detained.

Adherence to the Convention on the Rights of the Child

An NPM subgroup on children and young people was established in 2013. The Office of the Children's Commissioner began visits to medium secure units for children and the Care Inspectorate began to monitor secure homes for children in Scotland.

Inspection frequency and staffing

Because there is no ring-fenced budget for the UK NPM, the question of resources sufficient for the task is significant. In England and Wales, the Prisons Inspectorate has outlined the frequency of inspections that it expects to fulfil.

Expected frequency of HM Prisons inspections

- Secure Training Centres and Young Offender Establishments – annually
 - Prisons - normally every five years
 - Immigration Removal Centres - every four years
 - Non-residential short-term holding facilities - every six years. Residential short-term holding facilities - every four years
 - Border Force facilities - every two years
 - Two to three inspections of immigration removal escort - every year
 - Police custody suites - at least once every six years
 - Military facility inspections are carried out every two to three years by agreement and invitation from the military
 - Each court can be expected to be visited once every six years
- (See HMIP, 2012-2013)

In order to fulfil its expectations, HMIP employed 69 staff compared with HMCIPS (21 staff, including 'guest' and 'specialist' inspectors) and CJINI (14 staff).

Reviewing these frequencies leads to a number of conclusions. Given the throughput of prisons, a great many prisoners and detainees will never see an inspector and a large proportion of staff will rarely encounter an inspection. With higher budgets and greater staff resources more frequent inspections could be completed. It would seem that their major avenue of influence on practice is through the signalling and exemplary functions of reports which regularly reach the attention of managers. They are a reminder of what counts in management and a moving indicator of compliance with standards including human rights considerations. In addition the role of independent bodies, such as IMBs, is very important in providing continual oversight. Each prison and immigration detention centre must have an IMB. Most, if not all, establishments are visited at least once a week by at least one member of the Board (See UK NPM Database).

As discussed in a later section concerning NPM structure and OPCAT compliance, this question of resourcing has been raised by the Committee Against Torture in relation to the NPM as a whole.

Policy dialogue

In carrying out its duties under OPCAT Article 19(c), the NPM collectively or individually made representations to various policy bodies on the subject of legislation (HM Government, 2014). The topics included: mental health monitoring, older prisoners, female offenders, youth justice and deaths following police contact; the operation of Frontex; proposals on prison monitoring and health care, mental health tribunals and detention appeals, court structure and community justice in Scotland; social care user rights in Wales; and mental capacity proposals in Northern Ireland.

The NPM subgroup for children and young people submitted a response to the government consultation on the creation of 'secure colleges' for young people in custody.

Evidence was presented by HMCIPS to the Scottish Parliament Justice Committee. In alliance

with the NPM, independent monitoring was supported in the face of questionable government proposals.

When the Scottish Government announced that VCs (Visiting Committees) would be replaced by an advocacy service I joined the NPM in calling for regular and independent prison monitoring and I have been heartened by the Government's positive response to that.

(HM Chief Inspector of Prisons for Scotland, 2013).

As a result of the consultations, the Scottish Government has accepted proposals for independent monitoring of prisons overseen by HMCIPS.

Accountability under the Convention

The ultimate system of accountability for NPMs is international. Given that the NPM is set up to comply with international obligations the recent comments and recommendations of the Committees on the situation in the UK are highly relevant.

The focus will be on:

- The issues raised by the international committees and the manner in which the UK engaged with them
- Any comments relating to the NPM

From an account of the UK's interactions with the committees it should be possible to develop the elements of a judgement about OPCAT compliance.

The more the UK is seen to engage with the issues, and the fewer the reported obstacles to the activity and potential impact of the NPM, the more effective the NPM will appear as an instrument for upholding international standards. International studies which make specific comparisons of NPMs will be drawn upon (Driegen, 2012).

Visits, reports and recommendations

In 2013, the Subcommittee on Torture met the NPM and visited the UK to see a place of detention and attend an event (Committee against Torture, 2014).

The European Committee (CPT) in a report on a visit to the UK in 2012 welcomed three operations by HMIP to monitor immigration removal, and it noted that the recommendations made by HMIP were almost all accepted by the UK Border Agency (UKBA) (European CPT, 2013).

The Committee against Torture (2013a) welcomed several developments in the UK including systems for the prevention of suicide and self-harm in places of detention. However the legislative framework for the prevention of torture was criticised for containing ambiguities and prevarications that called into question the state's commitments, for example, in regard to the infliction of pain and to the state's extra-territorial jurisdiction. The recent judgement of the European Court in the case of the Iraqi national Tarek Hassan has reaffirmed the obligation of military authorities to prevent torture in detention facilities overseas and in times of conflict (Association for the Prevention of Torture (APT), 2014).

The Committee against Torture has made recommendations to the UK about several topics of concern which echo aspects of the NPM's work:

- Restraint techniques that aim to inflict pain
- Electrical discharge weapons
- Prison overcrowding
- Indefinite and inappropriate detention of asylum-seekers
- A lack of mental health services for people in detention
- The use of police cells for young people with mental disabilities

It has criticised the UK for using restraint techniques that aim to inflict pain on children.

28. The Committee is concerned that the State party is still using techniques of restraint that aim to inflict deliberate pain on children in Young Offender Institutions, including to maintain good order and discipline (Articles 2 and 16).

The Committee reiterates the recommendation of the Committee on the Rights of the Child to ensure that restraint against children is used only as a last resort and exclusively to prevent harm to the child or others and that all methods of physical restraint for disciplinary purposes be abolished (CRC/C/GBR/CO/4). The Committee also recommends that the State

party ban the use of any technique designed to inflict pain on children.

(Committee against Torture, 2013a)

The Committee against Torture was concerned that the use of electrical discharge weapons (TASERS) has increased and called for them to be banned from custodial settings.

26. While taking note of the guidance for England and Wales, which seeks to limit the use of electrical discharge weapons to situations where there is a serious threat of violence, the Committee expresses concern that the use of electrical discharge weapons almost doubled in 2011 and that the State party intends to further extend their use in the Metropolitan Police area. In addition, it is deeply concerned at instances where electrical discharge weapons were used on children, persons with disabilities and in recent policing operations where the serious threat of violence was questioned (Articles 2 and 16).

The State party should ensure that electrical discharge weapons are used exclusively in extreme and limited situations where there is a real and immediate threat to life or risk of serious injury, as a substitute for lethal weapons, and by trained law enforcement personnel only. The State party should revise the regulations governing the use of such weapons, with a view to establishing a high threshold for their use, and expressly prohibiting their use on children and pregnant women. The Committee is of the view that the use of electrical discharge weapons should be subject to the principles of necessity and proportionality and should be inadmissible in the equipment of custodial staff in prisons or any other place of deprivation of liberty. The Committee urges the State party to provide detailed instructions and adequate training to law enforcement personnel entitled to use electric discharge weapons and to strictly monitor and supervise their use.
(ibid)

The Committee against Torture was concerned about indefinite and inappropriate detention of asylum-seekers, a lack of mental health services for people in detention, and the use of police cells for young people with mental disabilities.

The Committee was concerned about the consequences of prison overcrowding and has

endorsed the specific concerns raised by the UK NPM about inappropriate placement of children, and about the need for mental health care and accommodation to be provided to detainees.

Detention conditions

31. The Committee is concerned about the steady increase in the prison population throughout the past decade and the problem of overcrowding, and its impact on suicide rate, cases of self-injuries, prisoner violence and access to recreational activities. The Committee echoes the concerns raised by the UK National Preventive Mechanism in 2010 concerning deficiencies in the access to appropriate mental health care and treatment and inappropriate placements of children. It is deeply concerned that children with mental disabilities can sometimes be placed in police custody in England for its 'own interest or for the protection of others' (Articles 11 and 16).

The Committee urges the State party to strengthen its efforts and set concrete targets to reduce the high level of imprisonment and overcrowding, in particular through the wider use of non-custodial measures as an alternative to imprisonment, in the light of the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules). It further recommends to speedily implement the reforms undertaken with a view to reducing reoffending rate. The State party should ensure that children with mental disabilities shall in no case be detained in police custody but directed to appropriate health institutions. Detainees who require psychiatric supervision and treatment should be provided with adequate accommodation and psychosocial support care. The Committee also recommends that the State party step up its efforts to prevent violence and self-harm in places of detention.

(Committee against Torture, 2013a)

The UK responded to these comments in a further evidence session, emphasising among other points, its commitment to reducing overcrowding, the training given to prison staff regarding physical intervention, the use of pain only in order to protect against harm, the procedures for safeguarding prisoners, and making clear the type of propellant substance used to control prisoners (Committee against Torture, 2013b).

NPM structure and OPCAT compliance

The preceding sections have shown that the strength of international accountability, through the CAT and the Subcommittee on Prevention of Torture (SPT), and the quality and scope of NPM activities are vital features of the prevention system.

...the quality of NPMs, both in terms of their constituent features as well as the effectiveness of their work, is paramount to the success of the whole torture prevention system that OPCAT attempts to establish.

(Steinerte, 2014)

NPMs are designed to fit with the circumstances and needs to be found within each state and the specific design of each NPM has been left to each state. The existence of different national jurisdictions and forms of government in the UK has been regarded as a valid reason for developing a multiform, rather than a single, NPM (APT, 2011).

The UK NPM is a constellation of existing agencies and as such its status and potential effectiveness can be regarded from two contrasting perspectives. On the positive aspect, there is the argument that the 'quasi-state' nature of an NPM gives it a status that exceeds that of a civil society body.

After all, one must not forget that part of an NPM's strength comes from it being such a quasi-state body, designated by state authorities, which means it has a status beyond that of civil society which in turns lends it more potency in its interactions with government.

(Steinerte, 2014)

On the negative side, there have been concerns that the independence of the NPM is compromised by a dependence on state funding and subsidy, and, in particular, that the secondment of staff from institutions of detention creates an interpenetration of interests that is ultimately subversive of independence.

In the case of the UK, the Committee against Torture has questioned the resources available to the NPM (Committee against Torture, 2013c).

It also made specific criticism of the seconding to the National Preventive Mechanism of state officials working in places of deprivation of liberty.

14. The Committee, fully cognizant of the State party's willingness to promote experience sharing, notes that the practice of seconding State officials working in places of deprivation of liberty to National Preventive Mechanism' bodies raises concerns as to the guarantee of full independence to be expected from such body (Article2).

The Committee recommends that the State party end the practice of seconding individuals working in places of deprivation of liberty to National Preventive Mechanism' bodies. It recommends that the State party continue to provide bodies constituting the National Preventive Mechanism with sufficient human, material and financial resources to discharge their prevention mandate independently and effectively.'

(Committee against Torture, 2013a)

It was claimed that the independence of the NPM has been less robust than it might have appeared. However the UK representatives have defended secondments arguing that '...it helped to meet the requirement for quality and expert input and raised State officials' awareness of the NPM.' Committee against Torture (2013b).

They also maintained that there were no plans to cut funds from the UK NPM.

The UK NPM has adopted a policy which seeks, albeit without a definite timescale, to address the concerns of the CAT.

'Noting the recommendation of the CAT Committee and the unique composition of the UK NPM, NPM members have agreed to work progressively towards a reduction in their reliance on seconded staff for NPM work.' (UK NPM, 2014).

Human rights, pragmatism and the UK approach to torture prevention

Considerations of reputation have played a part in the responses of states to human rights questions. It has been argued that historically the UK has been sensitive to accusations that its human rights protections have been weakened by a lack of rights-based law and it has therefore acted promptly to address failings identified in international court rulings (Zartner and Ramos, 2011). However the notion that, in relation to certain categories of state detainee, exceptions to human rights can be legitimate is being advocated in the UK, to the consternation of the Committee against Torture (2013a).

Hence the NPM in the UK can be said to reflect an approach which is primarily pragmatic, adapting existing institutions to an international framework. Whereas existing institutions have the advantages of being in place and capable of extension, they are vulnerable to strains that may exist in their relationships with organisations that parented them prior to the creation of the NPM. The potential merits of efficiency and effectiveness in preventive fieldwork have to be set against potential threats to autonomy (Driegen, 2012). In this context the CAT's questions about NPM resources remain pertinent. The failure to develop an independent method of budgeting and auditing the NPM means that members are vulnerable to the effects of austerity. Without an Office of the NPM, there will be doubts about the sufficiency of a management capacity needed to steer a complex set of different organisations.

The future of torture prevention in the UK will therefore be influenced by the degree to which the extensive activity of NPM members is matched by a willingness, on the part of all concerned, to guard and foster their collective independence and resources in the face of tendencies to dilute the state's attachment to rights.

About the author

Dr Roger Grimshaw is Research Director,
The Centre for Crime and Justice Studies

References

- Association for the Prevention of Torture (2011), *Implementation of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Federal and other Decentralised States*, March., Geneva.
- Association for the Prevention of Torture (2014), 'European Court dismisses allegations of torture against the UK', 19 September, Geneva.
- Association for the Prevention of Torture (2016), "Yes, Torture Prevention Works" *Insights from a global research study on 30 years of torture prevention*, Geneva.
- Care Quality Commission (2013), *Annual report and accounts 2012/13*, London: The Stationery Office.
- Carver, R. (2011), *Torture, international law and the enigma of prevention*, presented at the conference 'Instituciones Nacionales de Derechos Humanos (INDDHH) y la Implementación de las Recomendaciones del EPU Relacionadas a la Prevención de la Tortura', Universidad de Palermo, Buenos Aires, December 2011 (co-organiser: School of Advanced Studies, University of London).
- Carver, R. (2014), *Does torture prevention work? Research project commissioned by the Association for the Prevention of Torture. Report of exploratory phase*, Association for the Prevention of Torture.
- Committee against Torture (2013a), *Concluding observations on the fifth periodic report of the United Kingdom, adopted by the Committee at its fiftieth session (6-31 May 2013)*, Advance Unedited Version.
- Committee against Torture (2013b), *Fiftieth session. Summary record of the 1139th meeting*, CAT/C/SR.1139.
- Committee against Torture (2013c), *Fiftieth session. Summary record of the first part (public) of the 1136th meeting*.
- Committee against Torture (2014), *Seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Fifty-second session, 28 April–23 May.
- Driegen, N. (2012), *Between international ideals and national practices. On the Autonomy, Effectiveness and Efficiency of National Preventive Mechanisms established under UN Law*, Research Thesis, Utrecht University: School of Governance.
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2013), *Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 to 24 October 2012*.
- HM Government (2014), *Monitoring places of detention, Fourth annual report of the United Kingdom's National Preventive Mechanism 1 April 2012-31 March 2013*.
- HM Inspectorate of Prisons (2012), *Expectations: Inspection criteria*.
- HM Inspectorate of Prisons (2013), *Annual report 2012-13*.
- HM Chief Inspector of Prisons for Scotland (2013), *Annual Report 2012-2013*, Scottish Government Directorate for Justice.
- House of Commons Justice Committee (2013) *Youth Justice. Seventh Report of Session 2012-13*, London: The Stationery Office Ltd.

Howard League for Penal Reform (2013), 'Statement submitted to the UN Committee against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment: 5th Periodic Review of the United Kingdom of Great Britain and Northern Ireland', London: The Howard League for Penal Reform.

Independent Monitoring Board (2013), *Annual Report 2012-13 HMP Magilligan*, [www.imb-ni.org.uk/publications/Magilligan%202012%2013%20\[final\].PDF](http://www.imb-ni.org.uk/publications/Magilligan%202012%2013%20[final].PDF)

Mental Welfare Commission for Scotland (2013), *Annual Report 2012-13*, Edinburgh.

Ministry of Justice (2014), *Prison rating system dataset, 2013-14, Prison and probation trusts performance statistics: 2013 to 2014*, London: Ministry of Justice.

National Council for Independent Monitoring Boards (2014), *Behind closed doors 2013. The sixth annual report of the National Council for Independent Monitoring Boards*, www.imb.org.uk/wp-content/uploads/2015/03/behind-closed-doors-2013.pdf

Prison Reform Trust (2014), *Prison: the facts*, Bromley Briefings, Summer 2014, London: Prison Reform Trust.

Steinerte, E. (2014), 'The Jewel in the Crown and Its Three Guardians: Independence of National Preventive Mechanisms Under the Optional Protocol to the UN Torture Convention', *Human Rights Law Review*, 14(1): pp. 1-29.

Steinerte, E., Murray, R. and Laing, J. (2012), 'Monitoring those deprived of their liberty in psychiatric and social care institutions and national practice in the UK', *The International Journal of Human Rights*, 16:6, pp. 865-882.

UK NPM (2014), *Ensuring the independence of NPM personnel. Guidance for members of the UK National Preventive Mechanism*.

UK NPM Database *The Database on the Mandates and Functioning of the Institutions Comprising the National Preventive Mechanism (NPM) for the United Kingdom as per requirements of the Optional Protocol to the United Nations Convention against Torture (OPCAT)*, Bristol: Human Rights Implementation Centre, University of Bristol Law School.

The Centre for Crime and Justice Studies is an independent educational charity that advances public understanding of crime, criminal justice and social harm. Through partnership and coalition-building, advocacy and research, we work to inspire social justice solutions to the problems society faces, so that many responses that criminalise and punish are no longer required.