



**Optional Protocol to the  
Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment**

**Visit to the United Kingdom of Great Britain and Northern  
Ireland undertaken from 9 to 18 September 2019:  
recommendations and observations addressed  
to the State party**

**Report of the Subcommittee\*, \*\***

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\* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 27 October 2020. On 21 May 2021, the State party requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.  
\*\* The annexes to the present document are being circulated in the language of submission only.



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## I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee on Prevention of Torture carried out its first visit to the United Kingdom of Great Britain and Northern Ireland from 9 to 18 September 2019.
2. The United Kingdom became a party to the Convention against Torture on 8 December 1988 and became a party to the Optional Protocol on 10 December 2003. In 2014, the State party extended the ratification of the Optional Protocol to the territory of the Isle of Man.<sup>1</sup>
3. The Subcommittee members conducting the visit were: Daniel Fink (head of delegation), Satyabhooshun Gupt Domah, Susanne Jabbour, Kosta Mitrovic, June Caridad Pagaduan Lopez and Zdenka Perović. The Subcommittee was assisted by three human rights officers and two security officers from the Office of the United Nations High Commissioner for Human Rights.
4. The objectives of the visit were to:
  - (a) Provide advice and technical assistance to the national preventive mechanism, along with the State party, on their treaty obligations under Optional Protocol, taking into account the Subcommittee's guidelines on national preventive mechanisms (CAT/OP/12/5);
  - (b) Visit a range of places of deprivation of liberty, in order to assist the State party in discharging effectively its obligations under the Optional Protocol to strengthen the protection of persons deprived of their liberty from the risk of torture and ill-treatment.
5. The planning of the visit took into account the exchange of letters in June 2018 between the Subcommittee and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which was aimed at enhancing the complementary nature of their respective mandates and work.<sup>2</sup> Bearing in mind the visits undertaken by the European Committee to the United Kingdom, especially its most recent visit,<sup>3</sup> the Subcommittee decided to focus its visit primarily on the functioning of the national preventive mechanism and to visit places of deprivation of liberty that had not recently been visited by the European Committee.
6. The Subcommittee conducted joint visits to places of deprivation of liberty with the national preventive mechanism (annex I), in order to observe the work of the mechanism in practice. The mechanism also chose the places visited. The visits were led by the representatives of the mechanism, with the members of the Subcommittee acting as observers. The Subcommittee also conducted visits to places of deprivation of liberty on its own (annex II). In addition, it met and interviewed persons deprived of their liberty, law enforcement and detention officers, medical personnel and others (annex III).
7. At the end of the visit, the delegation presented its confidential preliminary observations orally to government authorities and the national preventive mechanism.
8. In the present report, the Subcommittee sets out its observations, findings and recommendations relevant to the prevention of torture and ill-treatment of persons deprived of their liberty under the jurisdiction of the United Kingdom.
9. The Subcommittee reserves the right to comment further on any place visited, whether or not it is mentioned in the present report, in its discussions with the United Kingdom arising from the report. The absence of any comment in the present report relating to a specific facility or place of detention visited by the Subcommittee does not imply that it has a positive or negative opinion of it.

<sup>1</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-9-b&chapter=4&clang=\\_en#5](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9-b&chapter=4&clang=_en#5).

<sup>2</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23407&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23407&LangID=E).

<sup>3</sup> See [www.coe.int/en/web/cpt/united-kingdom](http://www.coe.int/en/web/cpt/united-kingdom).

10. **The Subcommittee recommends that the present report be distributed to all relevant authorities, departments and institutions, including but not limited to those to which it specifically refers.**

11. The present report will remain confidential until such time as the United Kingdom decides to make it public in accordance with article 16 (2) of the Optional Protocol. The Subcommittee firmly believes that the publication of the present report would contribute positively to the prevention of torture and ill-treatment in the United Kingdom.

12. **The Subcommittee recommends that the United Kingdom request the publication of the present report in accordance with article 16 (2) of the Optional Protocol.**

13. **In order to enhance effective regional cooperation and coherence in the prevention of torture and ill-treatment in Europe, the Subcommittee on Prevention of Torture strongly encourages the authorities of the United Kingdom to consider permitting the Subcommittee to exchange information contained in its report with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, or to give the Committee access to the report, irrespective of whether it is made public in accordance with article 16 (2), and to inform the Subcommittee that such access has been granted.**

14. The Subcommittee draws the attention of the United Kingdom and the national preventive mechanism to the Special Fund established under the Optional Protocol (art. 26). Only recommendations contained in those Subcommittee visit reports that have been made public can form the basis of applications to the Fund, in accordance with its published criteria.

15. The Subcommittee wishes to express its gratitude to the authorities and the liaison officer for their help and assistance relating to the planning and undertaking of the visit.

## **II. National preventive mechanism**

### **A. Background and structure of the national preventive mechanism**

16. On 31 March 2009, the United Kingdom designated, through a ministerial statement to Parliament, 18 existing oversight bodies as the national preventive mechanism. In the statement, the Minister of State (Ministry of Justice) indicated that the requirements of Optional Protocol would be fulfilled in the United Kingdom by the collective action of existing inspection bodies. In December 2013 and January 2017, three other institutions were added to the mechanism, bringing the membership to a total of 21 bodies.

17. The current composition of the national preventive mechanism is as follows:

(a) For England and Wales:

- Care Inspectorate Wales
- Care Quality Commission
- Children’s Commissioner for England
- Her Majesty’s Inspectorate of Prisons
- Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services
- Healthcare Inspectorate Wales
- Independent Monitoring Boards
- Independent Custody Visiting Association
- Lay observers
- Office for Standards in Education, Children’s Services and Skills

(b) For Northern Ireland:

- Criminal Justice Inspection Northern Ireland

- Independent Monitoring Boards (Northern Ireland)
  - Northern Ireland Policing Board (Independent Custody Visiting Scheme)
  - Regulation and Quality Improvement Authority
- (c) For Scotland:
- Care Inspectorate
  - Her Majesty’s Inspectorate of Constabulary in Scotland
  - Her Majesty’s Inspectorate of Prisons for Scotland
  - Mental Welfare Commission for Scotland
  - Scottish Human Rights Commission
  - Scottish Police Authority (Independent Custody Visiting Scheme)
- (d) For the whole of the United Kingdom:
- Independent Reviewer of Terrorism Legislation

18. Through the designation of numerous pre-existing bodies to form the national preventive mechanism, the Government of the United Kingdom wished to put to good use and continue an established tradition of independent inspection of places of detention. As a result, the mechanism, composed of 21 institutions, is unique and complex. Characterized by a great diversity of entities, the mechanism comprises bodies with explicit mandates in various detention settings and broad mandates in specific territorial jurisdictions of the United Kingdom. Another particularity of the mechanism is that it comprises lay and professional bodies.

19. Some members of the mechanism monitor places of detention as just one part of a much wider regulatory role, while others are dedicated to inspection functions only. For example, the Regulation and Quality Improvement Authority and the Care Quality Commission regulate and inspect the quality of all health and social care services in Northern Ireland and England, respectively. The Office for Standards in Education, Children’s Services and Skills inspects and regulates all services providing education and skills (e.g., schools and colleges, and education provision in prisons) as well as services that provide care for children and young people, including secure children’s centres and secure training centres. On the other hand, the key role of the Inspectorate of Prisons, the Independent Custody Visiting Association, the Independent Monitoring Board, the Inspectorates of Prisons and lay observers is to provide independent scrutiny of the conditions and treatment of persons deprived of liberty in a variety of detention settings.

20. The Subcommittee notes with great appreciation the extent of the collective work being done by the 21 members of the mechanism across the four nations of the United Kingdom. According to the figures provided by the mechanism, dedicated volunteers conducted at least 66,000 visits per year to prisons, young offender institutions, immigration detention facilities, and places of police and court custody, as well as to observe escorts. In addition, inspectors carried out 1,500 inspections annually across the United Kingdom.

21. The Government of the United Kingdom designated Her Majesty’s Inspectorate of Prisons (England and Wales) to coordinate the national preventive mechanism. The Inspectorate of Prisons is an independent entity whose role is to provide independent scrutiny of the conditions for and treatment of prisoners and other detainees.<sup>4</sup> A mechanism secretariat was created within the Inspectorate, taking into account its coordinating function.

22. In 2016, the members and bodies of the mechanism appointed by agreement an external independent Chair to advise and support it in fulfilling its mandate pursuant to the Optional Protocol. The term in office of the Chair was renewed in October 2017 for a period of four years.

<sup>4</sup> See [www.justiceinspectorates.gov.uk/hmiprison/about-hmi-prisons/](http://www.justiceinspectorates.gov.uk/hmiprison/about-hmi-prisons/).

23. The mechanism's annual report is presented to Parliament by the Lord Chancellor and Secretary of State for Justice.

## **B. Legislative basis**

24. While each of the 21 bodies has a legal basis of its own,<sup>5</sup> the national preventive mechanism as a collective entity does not have a separate legal basis in the United Kingdom. Indeed, no legislation or other formal document or process was created or enacted to establish the mechanism, and to date, the ministerial statements of 2009 to Parliament constitute the only basis for the mechanism's designation. Furthermore, only 2 of the 21 members of the mechanism have a specific reference to their mandate pursuant to the Optional Protocol written into legislation that created them.<sup>6</sup>

25. This lack of a formal legislative text establishing the national preventive mechanism has long been a matter of concern to the Subcommittee. The Subcommittee's unequivocal view is that the situation of the mechanism in United Kingdom remains precarious as it is not underpinned by a clear legislative basis. It is vital that the law specify the roles and responsibilities of the mechanism, in particular taking into account the complexity of the model chosen by the United Kingdom to fulfil the mechanism's mandate. In that context, the Subcommittee notes with appreciation the proactive pursuit of legislative changes by the mechanism itself.<sup>7</sup> Recently, the Committee against Torture also recommended that the United Kingdom set out in legislation the mandate and powers of the secretariat and members of the mechanism and guarantee their operational independence.<sup>8</sup>

26. The Subcommittee is also concerned that the statutes of the individual members of the national preventive mechanism do not specifically mention their mandates pursuant to the Optional Protocol. As a result, the specific mechanism-related activities are not necessarily given the proper importance when members are working within their statutory mandates. The Subcommittee welcomes the dialogue between the Ministry of Justice and the mechanism on the draft protocol that would include provisions for the mechanism to issue statutory guidance with regard to amendments of the statutes of the member organizations. The Subcommittee notes, however, that the elaboration of the Protocol cannot be a substitute for a proper legislative basis for the national preventive mechanism.

27. Given the scale and multibody complexity of the mechanism, the coordination function is essential to the implementation of the Optional Protocol. However, the lack of mechanism legislation also means that the Chair of the mechanism has no official legal status, job description, powers or immunities, and is thereby prevented from fully discharging the mechanism's obligations under the Optional Protocol. Similarly, the functions and crucial coordinating role of the secretariat also need to be recognized in legislation.

**28. The Subcommittee urges the United Kingdom to provide its national preventive mechanism with a formal legislative basis<sup>9</sup> containing a clear definition of its powers, functions, roles and responsibilities as soon as possible, in order for the State party to comply with its international obligations under the Optional Protocol. In addition, an explicit reference to the mechanism's mandate and responsibilities under the Optional Protocol should be incorporated into the statutes of its members, in order to comply with the provisions of the Optional Protocol and with the State party's international obligations.**

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<sup>5</sup> See [www.nationalpreventivemechanism.org.uk/members/](http://www.nationalpreventivemechanism.org.uk/members/).

<sup>6</sup> The Police and Fire Reform (Scotland) Act 2012 refers explicitly to the Subcommittee and the Optional Protocol (sects. 93–96). The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 introduces references to the Subcommittee and the Optional Protocol into the Prisons (Scotland) Act 1989.

<sup>7</sup> For instance, the Chair of the national preventive mechanism provided written and oral evidence to the Justice Committee's inquiry on prison reform in January 2017, noting that the failure to provide a legislative basis for the national preventive mechanism was in violation of the requirements of the Subcommittee.

<sup>8</sup> CAT/C/GBR/CO/6, para. 17.

<sup>9</sup> Guidelines on national preventive mechanisms, para. 7.

29. **The Subcommittee also recommends that the State party embed the functions of the mechanism’s independent Chair and the supporting and coordinating role of its independent secretariat in the legislative text to be adopted.**

**Access to military detention facilities and independent oversight in overseas territories and Crown dependencies**

30. The Subcommittee was informed that Her Majesty’s Inspectorate of Prisons inspects military facilities in the United Kingdom every two to three years. This includes the Military Corrective Training Centre and service custody facilities, which are cells where navy, air force and army police hold military personnel who have been arrested. However, the visits take place only upon agreement and by invitation from the military, which is incompatible with the purpose and objectives of the Optional Protocol.<sup>10</sup>

31. Moreover, no member of the national preventive mechanism has explicit powers to visit extraterritorial places of detention, including temporary detention facilities set up by the State party’s military abroad,<sup>11</sup> the overseas territories and Crown dependencies of the United Kingdom, which leaves a significant territorial gap in the State party’s obligation to protect persons deprived of their liberty from torture and ill-treatment.<sup>12</sup>

32. The Subcommittee notes the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regarding the role of the national preventive mechanism in overseas territories, ensuing from the Committee’s visits to the sovereign base areas on Cyprus. The Committee called on the authorities of the United Kingdom to adopt specific legislative powers for the mandate of the national preventive mechanism, which should include the automatic right to visit all places of deprivation in the United Kingdom, as well as in British overseas territories and the sovereign base areas.<sup>13</sup>

33. **The Subcommittee reiterates that, in order to meet the requirements of the Optional Protocol, the national preventive mechanism must have the ability to conduct unannounced visits to all places of detention, and have access to all information referring to the treatment of detainees and the conditions of their detention, and it recommends that the State party ensure that those conditions are met.**

34. **The Subcommittee echoes the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment<sup>14</sup> and urges the State party to take all the necessary measures to ensure the applicability of the Optional Protocol across all of the State party’s overseas territories and Crown dependencies, including through unannounced visits to military detention facilities. In that regard, the Subcommittee calls upon the authorities of the United Kingdom to consider using the existing national preventive mechanism structure, or designating or establishing new mechanism bodies to promptly ensure full compliance with the Optional Protocol – that is, that all places of deprivation of liberty under the de jure or de facto control of the State party are visited by an independent preventive body.**

<sup>10</sup> Optional Protocol, art. 20.

<sup>11</sup> See CAT/C/GBR/CO/5, in particular para. 9. In addition, in the concluding observations on the sixth periodic report of the State party, and in reference to the State party’s military interventions in Afghanistan and Iraq, the Committee against Torture expressed concern at the findings contained in the 2018 reports of the Intelligence and Security Committee of Parliament, issued following its inquiry into the actions of the United Kingdom security and intelligence agencies in relation to the handling of detainees overseas and rendition (CAT/C/GBR/CO/6, paras. 32–35).

<sup>12</sup> Guidelines on national preventive mechanisms, para. 10.

<sup>13</sup> “Report to the Government of the United Kingdom on the visit to the United Kingdom sovereign base areas on Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 11 February 2017”, p. 10 (<https://rm.coe.int/pdf/168076e130>).

<sup>14</sup> Ibid., pp. 9–10.

### C. Independence

35. The independence of the national preventive mechanism and its members is a fundamental principle that enables mechanisms to effectively prevent torture and ill-treatment.<sup>15</sup> In this connection, the requirements under the Optional Protocol refer specifically to the responsibility of the State to ensure that it has a mechanism in place, and that the mechanism enjoys functional independence, independence of its personnel and financial autonomy.<sup>16</sup>

36. In order to guarantee functional independence, the national preventive mechanism must have a clear legislative basis that guarantees its structural autonomy from all government branches. In that context, the Subcommittee notes that, in January 2017, the mechanism's Chair wrote to the Ministry of Justice highlighting the lack of statutory guarantees of independence for the mechanism and its members. In its ninth annual report, the mechanism indicated that the lack of a clear legislative basis for the mechanism in the United Kingdom had resulted in the lack of statutory guarantees of independence.

37. It is worth mentioning that, in its letter to the national preventive mechanism dated 29 January 2018, the Subcommittee stated that in its experience, the situation of a mechanism remains precarious when it is not underpinned by a clear legislative basis. The Subcommittee noted having unfortunately seen too many examples of cases in which States had put pressure on national preventive mechanisms, directly or indirectly, which the mechanisms had not been able to challenge for the want of a clear basis on which to do so. It noted that practical effectiveness was dependent on functional independence, and that independence was threatened when the mechanism was vulnerable to political pressure or exigencies. Finally, the Subcommittee highlighted that its role in relation to national preventive mechanisms included ensuring that they were protected from such pressure.<sup>17</sup>

38. In addition, the national preventive mechanism and its secretariat lack an independent premises with offices, services and staff that are separate from those of Her Majesty's Inspectorate of Prisons.<sup>18</sup> This is a clear example of the material, logistical and financial dependence on a governmental structure that prevents the mechanism from being a fully independent preventive body and from being perceived as such.

**39. The Subcommittee recommends that the authorities of the United Kingdom ensure that the national preventive mechanism enjoys autonomy, independence, effectiveness and credibility as an independent preventive body,<sup>19</sup> in conformity with articles 17, 18 and 19 of the Optional Protocol. The independent functions of all the different members composing the structure of the mechanism must be legally guaranteed, and the State party must take all the necessary measures to that effect. In addition, its material, logistical and financial separation from governmental structure must be achieved in order to ensure its independence, including functional, as foreseen in the Optional Protocol.**

40. In addition to the lack of general national preventive mechanism legislation, the Subcommittee was informed that two members of the mechanism – the Independent Monitoring Boards and the lay observers – had raised concerns with the authorities of the United Kingdom regarding the lack of statutory underpinning for their national governance structures, which would support their independence. In January 2017, the Chair also expressed his concerns that the Independent Monitoring Boards secretariat continued to be

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<sup>15</sup> Optional Protocol, art. 18 (1), and the guidelines on national preventive mechanisms, paras. 8, 12, 16 and 18.

<sup>16</sup> Guidelines on national preventive mechanisms, para. 2.

<sup>17</sup> *Ninth Annual Report of the United Kingdom's National Preventive Mechanism, 1 April 2017–31 March 2018*, p. 56.

<sup>18</sup> For example, the current email addresses of staff members of the national preventive mechanism use the "hmiprisons.gov.uk" domain.

<sup>19</sup> See OHCHR, *Preventing Torture: The Role of National Preventive Mechanisms*, Professional Training Series No. 21 (New York and Geneva, 2018).



line managed by civil servants of the Ministry of Justice, which also had operational responsibility for most of the places monitored by the Independent Monitoring Boards.<sup>20</sup>

**41. The Subcommittee recommends that the authorities of the United Kingdom review the statutes of the Independent Monitoring Boards and the lay observers to ensure their full independence and to prevent actual or potential conflicts of interest in their roles within the national preventive mechanism.**

42. The Subcommittee reiterates that the independence of the national preventive mechanism, both actual and perceived, should be fostered by a transparent process of selection and appointment of members who are independent and do not hold a position that could raise questions of conflict of interest.<sup>21</sup> In that regard, the Subcommittee notes that the Chief Inspector of Her Majesty's Inspectorate of Prisons is appointed by the Secretary of State upon recommendation from the Ministry of Justice. Given that the Inspectorate functions as the coordinating body of the national preventive mechanism, the perceptions of State involvement could be detrimental to the credibility of the whole mechanism. In the view of the Subcommittee, this appointment by the executive branch creates a loophole that calls for further reflection and strengthening of safeguards for independence.

**43. The Subcommittee calls upon the authorities of the United Kingdom to ensure the functional independence of Her Majesty's Inspectorate of Prisons and the independence of its personnel through a transparent process of selection and appointment of the Chief Inspector of the Inspectorate. The Subcommittee also recommends that, in compliance with the Optional Protocol, the State party ensure that members of the national preventive mechanism are independent and do not hold a position that could raise questions of actual or perceived conflict of interest.**

#### **D. Human and financial resources**

44. The Subcommittee was informed that some members of the national preventive mechanism faced challenges with the budgets necessary to carry out their mechanism functions. This was the result of a range of factors, including recent budget cuts, and budgets for the mechanism's work within the 21 bodies not being ring-fenced to carry out preventive work and thus being allocated alongside competing priorities.

45. Bearing in mind that the Optional Protocol is unequivocal on the need for the State party to allocate specific resources to national preventive mechanism (art. 18 (1) and (3)), so as to guarantee the operational independence of the mechanism,<sup>22</sup> and that the Subcommittee guidelines on national preventive mechanisms indicate explicitly that the mechanism should enjoy complete financial and operational autonomy,<sup>23</sup> the Subcommittee recommends the specific earmarked allocation of funds to the function of the mechanism for each of its members.

46. In addition, while noting that staffing for the national preventive mechanism secretariat recently increased from two part-time roles to one part-time Head of Secretariat and one full-time Assistant Coordinator, the Subcommittee believes that resources provided to the secretariat remain insufficient, the more so considering the complex institutional structure of the mechanism.

**47. The Subcommittee recommends that the State party increase the financial and human resources of the national preventive mechanism secretariat, in order to guarantee its independence, as per the Optional Protocol provisions.**

<sup>20</sup> *Eighth Annual Report of the United Kingdom's National Preventive Mechanism, 1 April 2016–31 March 2017*, p. 58.

<sup>21</sup> Guidelines on national preventive mechanisms, paras. 16 and 18.

<sup>22</sup> *Ibid.*, para. 8.

<sup>23</sup> *Ibid.*, para. 12.

## E. Visibility

48. While noting that the bodies composing the national preventive mechanism were well known and respected by key national actors, the Subcommittee observed that the mechanism was not always perceived as such when exercising its role. During its visits, the Subcommittee observed that persons deprived of their liberty often perceived the national preventive mechanism as an oversight body and not as a preventive body, which was detrimental to the visibility of the preventive nature of the work of the mechanism under the Optional Protocol.

49. **The Subcommittee recommends that the State party ensure that its national preventive mechanism is recognized as a key component in the country's system for the prevention of torture and ill-treatment and adopt an effective strategy to raise the mechanism's visibility and profile. In this regard, the Subcommittee recommends that the State party take all necessary measures, when establishing the formal legislative basis of the national preventive mechanism, to ensure that each of the mechanism's oversight bodies exercise their preventive mandate when acting in that capacity, in order to avoid any confusion with their other functions.**

### Annual report

50. The Subcommittee notes with appreciation the annual reports prepared by the national preventive mechanism bodies and the mechanism as a collective body. However, the Subcommittee notes that the Lord Chancellor and Secretary of State for Justice presents the mechanism's collective annual reports to Parliament. In this connection, the presentation of the mechanism's findings to Parliament by representatives of the executive branch is contrary to the mechanism's mandate, which is to assess independently and impartially how the Government complies with its domestic and international human rights obligation to prevent torture.

51. **The Subcommittee recommends that the State party adopt legislation enabling the national preventive mechanism to present its annual report to Parliament directly and to be accountable to Parliament for the implementation of its mandate.**

## F. Conclusion

52. The Subcommittee observes that the national preventive mechanism of the United Kingdom is composed of multiple pre-existing bodies, which represents an additional challenge for the State party in adhering to the principles enshrined in the Optional Protocol, in particular articles 17, 18 and 19. In this connection, the Subcommittee believes that a clear policy from the Government of the United Kingdom is required to ensure that the national preventive mechanism and its component bodies are compatible with the provisions of the Optional Protocol. Such a policy is needed to address the current deficiencies in the mechanism's statutory basis, ensuring the independence of each of its bodies when acting in their capacity as the mechanism. Sufficient resourcing of the mechanism is also needed. Moreover, given the scale and complexity of the mechanism's multibody structure, a robust independent coordination function is essential for the effective practical implementation of the objectives of the Protocol. In addition, in order to ensure the guarantees of independence and effectiveness in terms of prevention of torture, the independence of the mechanism's Chair and secretariat need to be recognized in law and supported in practice through the sufficient provision of resources.

53. The Subcommittee trusts that the present report will serve as a road map towards the State party's compliance with the Optional Protocol.

### III. Overarching issues

#### A. Legal and institutional framework

##### 1. Indefinite length of immigration detention

54. The Subcommittee notes with concern the lack of progress regarding the establishment of a maximum length of immigration detention, despite repeated recommendations of the Committee against Torture, in 2013<sup>24</sup> and 2019,<sup>25</sup> and the Human Rights Committee in 2015.<sup>26</sup> While the State party argues that immigration detention is being used sparsely and for the shortest period possible, the Subcommittee encountered several detainees in the Heathrow Immigration Removal Centre that had been detained there for more than 12 months in a prison-like environment and with little information on the progress of their cases and/or removal. Moreover, the national preventive mechanism has been reporting on hundreds of similar cases across the United Kingdom, including a person detained for nearly five years.<sup>27, 28</sup>

55. The Subcommittee is concerned that the absence of a time limit may lead to de facto indefinite detention, affecting the mental health of migrants deprived of their liberty and increasing the risk of torture and ill-treatment.

**56. The Subcommittee urges the State party to establish a reasonable time limit for administrative immigration detention and ensure that detention is a measure of last resort and is justified as reasonable, necessary and proportionate.**<sup>29</sup>

##### 2. Age of criminal responsibility

57. The Subcommittee notes with concern that, despite reiterated recommendations of the Committee on the Rights of the Child,<sup>30</sup> the Human Rights Committee<sup>31</sup> and the Committee against Torture,<sup>32</sup> the age of criminal responsibility remains at 10 years in England, Wales and Northern Ireland and at 12 years in Scotland.

**58. The Subcommittee urges the State party to raise the minimum age of criminal responsibility, in accordance with international standards.**<sup>33</sup>

##### 3. Separation of remand and sentenced persons

59. In all the prisons visited, the Subcommittee observed that remand and sentenced prisoners were kept together and were subject to the same regime. Remand prisoners have the presumption of innocence and their detention must not assume the characteristics of those serving a prison sentence.

<sup>24</sup> CAT/C/GBR/CO/5, para. 30.

<sup>25</sup> CAT/C/GBR/CO/6, paras. 54–55.

<sup>26</sup> CCPR/C/GBR/CO/7, para. 21.

<sup>27</sup> See, for example, the submission of the national preventive mechanism of the United Kingdom, on preventing ill-treatment in detention in the United Kingdom, to the sixty-sixth session of the Committee against Torture, p. 40. Available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFINP%2FPOL%2F35300&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FFINP%2FPOL%2F35300&Lang=en).

<sup>28</sup> A 2018 report by Her Majesty's Inspectorate of Prisons identified one man who had been detained for more than four and a half years (Her Majesty's Inspectorate of Prisons, *Report on an Unannounced Inspection of Heathrow Immigration Removal Centre Harmondsworth Site by HM Chief Inspector of Prisons: 2–20 October 2017* (2018), p. 5).

<sup>29</sup> CAT/C/63/4, paras. 48–51.

<sup>30</sup> CRC/C/GBR/CO/5, para. 78 (a).

<sup>31</sup> CCPR/C/GBR/CO/7, para. 23.

<sup>32</sup> CAT/C/GBR/CO/6, para. 23.

<sup>33</sup> See Committee on the Rights of the Child, general comment No. 24 (2019), and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).

60. In accordance with international standards,<sup>34</sup> the Subcommittee recommends that the State party ensure that persons who have been remanded in custody are segregated from convicted persons and are subject to separate treatment, in conformity with their status as unconvicted persons.

#### 4. Impact of austerity measures

61. The Subcommittee received information that the austerity measures adopted by the Government of the United Kingdom since 2010 had resulted in severe cuts in the public sector, including in the penitentiary system, and had had a negative impact on the enjoyment of the rights of persons deprived of liberty. For example, the understaffing of prisons had hampered the delivery of health services and increased waiting times for prisoners to access treatments. Staff shortages had also been linked to extended lockdowns and a lack of prisoner access to purposeful activities. Moreover, material conditions of detention had deteriorated, owing to the cuts in public funds.

62. The Subcommittee notes the information provided by the authorities that important investments are being currently made, such as staff recruitment and improvement of prison infrastructure. While welcoming these measures, the Subcommittee notes that more needs to be done to reverse the negative effects caused by the long-standing austerity measures.

63. **The Subcommittee recommends that the State party analyse the consequences of the austerity measures on the right of persons deprived of their liberty, take steps to reverse the negative impact and ensure full compliance with international standards for the treatment of prisoners, including with regards to health services, regime and other rights at all times, in accordance with the Nelson Mandela Rules.**

## B. Overrepresentation of ethnic minorities in the criminal justice system

64. The Subcommittee is concerned at the overrepresentation of the ethnic minorities in the criminal justice system of the United Kingdom, as acknowledged by the authorities during meetings. The Subcommittee notes that overrepresentation of Black, Asian and minority ethnic groups is attributable to a broad range of factors requiring targeted responses, which go well beyond those currently provided by the criminal justice system.

65. In this connection, the Subcommittee is concerned about the numerous reports received that:

(a) Persons from Black, Asian and other minority ethnic groups were over four times more likely to be detained than people from White ethnic groups. Black Caribbean people experienced particularly high rates of detention;<sup>35</sup>

(b) Persons from ethnic minorities are more likely to be subject to restraint and other restrictive practices and to experience disproportionate numbers of deaths in custody and/or in mental health care;<sup>36, 37</sup>

(c) Persons from ethnic minorities, both male and female, are significantly overrepresented in prisons,<sup>38</sup> which has been attributed to a number of factors including discriminatory sentencing.<sup>39</sup> According to data collected between October and December

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<sup>34</sup> International Covenant on Civil and Political Rights, art. 10 (a); and United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rule 11.

<sup>35</sup> United Kingdom, Home Office, *Arrests (Ethnicity Facts and Figures)*, 2019.

<sup>36</sup> United Kingdom, Home Office, *Modernising the Mental Health Act – Increasing Choice, Reducing Compulsion: Final Report of the Independent Review of the Mental Health Act* (December 2018).

<sup>37</sup> United Kingdom, Home Office, *Detentions Under the Mental Health Act (Ethnicity Facts and Figures)*, 2019.

<sup>38</sup> *Modernising the Mental Health Act – Increasing Choice, Reducing Compulsion: Final Report of the Independent Review of the Mental Health Act*.

<sup>39</sup> David Lammy, *The Lammy Review: An Independent Review into the Treatment of, and Outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System*, September 2017.

2018, a total of 27 per cent of the prison population identified as an ethnic minority, compared with 13 per cent of the general population in the United Kingdom;<sup>40</sup>

(d) The proportion of the youth custody population from Black, Asian and minority ethnic groups doubled from the period 2005–2006 to the period 2017–2018, while the number of children in custody decreased overall.<sup>41</sup>

**66. The Subcommittee recommends that the State party take urgent measures to tackle the causes of racial disproportionality in the criminal justice system and ensure the protection of minority ethnic groups from torture and ill-treatment. The Subcommittee further recommends that the State party take necessary steps to:**

(a) **Ensure that the use of detention does not discriminate against certain groups of people and that arrests, stops and searches are not based on appearance, colour or membership of national and ethnic groups;**

(b) **Tackle the disproportionate use of restraint on individuals from ethnic minorities;**

(c) **Implement programmes for persons from ethnic minority backgrounds in prisons that are aimed at supporting reintegration, producing tangible outcomes and preventing recidivism;**

(d) **Reduce the overrepresentation of children from ethnic minorities in youth custody, including through the adoption of alternatives to detention;**

(e) **Intensify the training and awareness-raising of prosecutors, judges, lawyers and police officers in the criminal justice system.**

## **C. Health care in places of deprivation of liberty**

### **1. Medical safeguards**

67. The delegation is concerned that compliance with medical screening and physical examination, which are required by the Nelson Mandela Rules as a fundamental safeguard against torture, is lacking. Detainees are only examined on referral by the officer in charge or upon the request of detainees themselves.

68. In addition, poor documentation of injuries was observed, as health-care staff did not recognize an ethical responsibility to report their findings other than to submit them to their superiors. No follow-up was done with regard to the information submitted, even when further investigation was necessary.

69. The delegation is also concerned about the inadequate forensic training of medical staff, as none of the personnel interviewed was aware of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) or the Nelson Mandela Rules.

70. Accuracy of data records varied among the different places visited. The delegation noted the recurrent absence of inputs in the prisoner record forms regarding important information related to risk assessment. For example, the delegation encountered an undocumented case of a mentally ill detainee, with multiple head injuries allegedly sustained at the hands of prison guards.

**71. The Subcommittee recommends that the State party integrate the Nelson Mandela Rules and the Istanbul Protocol into the training curriculum, including in continuous training activities for police and health-care professionals. Medical personnel must be able to examine alleged victims of torture and ill-treatment, and to detect and report such cases in line with the provisions of the Istanbul Protocol.**

<sup>40</sup> Georgina Sturge, “UK prison population statistics”, briefing paper No. CBP-04334, 3 July 2020.

<sup>41</sup> United Kingdom, Home Office, *Young People in Custody (Ethnicity Facts and Figures)*, 2019.

## 2. Mental health in prisons

72. The Subcommittee notes with concern the high rates of chronic and acute mental disorders in detention, in particular within the prison population. The Subcommittee is concerned at the high prevalence of self-harm and self-inflicted deaths in prisons, including among juvenile offenders.<sup>42</sup>

73. The Subcommittee is concerned that prisons and police stations are being used as a “safe environment” for preventing self-harm or harm to others, while awaiting placement in a specialized psychiatric facility. The Subcommittee received ample information from civil society, the national human rights institution and the national preventive mechanism, indicating that prison personnel were not adequately trained to deal with prisoners with mental health problems and psychosocial disabilities. Delays in transfers of persons, including young offenders, from prisons to psychiatric hospitals were noted to sometimes last for several months. Such delays were caused by difficulties in retrieving data for the proper disposition and management of mentally ill detainees or by the lack of psychiatric beds, and they exacerbated mental health problems and increased the risk of ill-treatment.

74. Furthermore, the Subcommittee is alarmed at the placement of some prisoners with acute mental health conditions in segregation units. The Subcommittee is concerned that some persons, as a result of the mental health conditions they suffer, may present violent behaviour and that the response of staff in these cases is largely punitive. The Subcommittee interviewed several persons in segregation units in Her Majesty’s Prisons in Risley and Manchester and concludes that the current capacity of the system to properly address the mental health of persons in detention does not match the actual needs. It is of note that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment found in 2016 that the use of segregation for inmates at serious risk of attempting self-harm or suicide was unsuitable and unacceptable.<sup>43</sup>

**75. The Subcommittee recommends that the State party develop a comprehensive national policy and strategy to ensure appropriate access to health-care and mental health-care services across the criminal justice system, with particular attention to juvenile offenders. It also recommends that the State party immediately transfer persons with acute mental health problems, especially children with acute mental health problems, to an appropriate psychiatric facility, and abstain from using police cells and prisons as a “safe environment”. In this connection, high priority should be given to increasing the number of beds in psychiatric hospitals.**

**76. The Subcommittee echoes the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment that prisoners with severe mental health conditions should not be placed in segregation units as an alternative to normal accommodation. Instead, such prisoners should be treated in a closed hospital environment, suitably equipped and with sufficient qualified staff to provide them with the necessary assistance.<sup>44</sup>**

**77. The Subcommittee also recommends that all prison staff be trained to recognize the possible symptoms of mental health problems and apply prompt and appropriate referral procedures to medical personnel.**

## IV. Situation of persons deprived of their liberty

78. The Subcommittee wishes to record that it did not come across any cases of torture in the places of detention visited.

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<sup>42</sup> Prison Reform Trust, *Prison: The Facts – Bromley Briefings Summer 2019* (2019).

<sup>43</sup> “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 30 March to 12 April 2016”.

<sup>44</sup> *Ibid.*, paras. 66 and 68.

## A. Police detention

79. The Subcommittee wishes to put on record that the material conditions of the custody cells in the police establishments visited were generally very good. The Subcommittee commends in particular the cleanliness of the installations, sufficient size of the cells and the adequate provision of food, water and hygiene items.

80. However, the Subcommittee observed a lack of access to natural light in the cells at Bishopsgate Police Station in London and the Central Park North Police Station in Greater Manchester. Moreover, the cells at Liverpool Merseyside Police Station did not have windows.

81. The Subcommittee also notes with concern that access to showers, phone calls and other rights were only provided to detainees upon their request and not as a right. The enjoyment or denial of these rights depended on the availability of staff. While noting that the length of police detention rarely surpasses 24 hours, the Subcommittee notes with concern that most establishments visited were not equipped with exercise yards; where they did exist, they were obviously not used.

82. **The Subcommittee recommends that appropriate steps be taken to remedy the inadequacies in police stations and cells, including by improving natural light.<sup>45</sup> The Subcommittee also recommends ensuring the enjoyment of the rights to shower,<sup>46</sup> make phone calls and exercise, on a regular basis.<sup>47</sup>**

83. The Subcommittee notes with appreciation that all police stations visited had closed-circuit television (CCTV) monitoring and that records checked were kept in an accurate manner.

84. The Subcommittee also notes that, in general, persons deprived of their liberty by the police were afforded the safeguards laid down in the code of practice for the detention, treatment and questioning of persons by police officers of the Police and Criminal Evidence Act 1984 (PACE Code C).

85. The Subcommittee welcomes the regular presence of paramedical staff in police custody. However, it also notes the concerns of both paramedical staff and police officers, with regard to the fact that they have not been trained on how to treat detainees with mental health problems.

## B. Penitentiary institutions

### 1. Prolonged use of segregation

86. The Subcommittee is seriously concerned about numerous reports of the prolonged use of segregation in prisons in the United Kingdom.<sup>48, 49</sup> In Her Majesty's Prison Manchester, for instance, the Subcommittee observed first hand that several persons had been segregated for periods of up to two months. The Subcommittee reminds the State party that the Nelson Mandela Rules prohibit the use of prolonged solitary confinement, which refers to a time period in excess of 15 consecutive days.<sup>50</sup>

87. It further notes that oversight of the use of segregation and safeguards to prevent long-term segregation of prisoners with mental health issues appear to be insufficient. Furthermore,

<sup>45</sup> The Nelson Mandela Rules, rule 14.

<sup>46</sup> *Ibid.*, rules 15–16.

<sup>47</sup> *Ibid.*, rules 23 and 42.

<sup>48</sup> For example, Her Majesty's Inspectorate of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2016–17*, pp. 25–26; and Her Majesty's Inspectorate of Prisons, *HM Chief Inspector of Prisons for England and Wales: Annual Report 2017–18*, p. 26.

<sup>49</sup> Independent Monitoring Boards, *Annual Report of the Independent Monitoring Board at HMP Whitemoor for the Reporting Year 1 June 2017 to 31 May 2018 (October 2018)*, p. 13, in particular the reference to prisoners who were segregated for over 100 days and one prisoner who was segregated for 200 days.

<sup>50</sup> The Nelson Mandela Rules, rule 44.

the Subcommittee is concerned about the long lockdowns in segregation units and about reports that persons in such units get an average of 30 minutes per day outside of the cell.

88. The Subcommittee found a particularly dramatic case of alleged excessive use of force and prolonged segregation at Her Majesty's Prison Risley. On that occasion, the Subcommittee interviewed a person who had fresh wounds in his head, a broken nose and bruises on his body. He alleged that he had been severely beaten by five prison guards the night before. The person also alleged that he suffered from diagnosed mental health problems. However, it appeared from the records that no medical help had been provided that night; no incident report had been made, including on the use of force; and none of the body cameras from the five guards had been working that night. The records also confirmed that on the day of the Subcommittee's visit, the detainee had already spent 80 days in the segregation cell. The Subcommittee communicated this case to the authorities in compliance with the principle of due diligence.

89. Subsequently, the Ministry of Justice kept the Subcommittee informed of the ongoing steps taken by the relevant authorities, including the investigation by Her Majesty's Prison and Probation Service and the investigation by the Prison and Probation Ombudsman. The Subcommittee was also invited to review video material of the incident (CCTV) at the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations Office and other international organizations in Geneva, which a member of the Subcommittee did on 10 December 2019.

90. On the basis of the results of the investigations and the video material reviewed, the Subcommittee is unable to corroborate the detainee's version of events, and considers the matter adequately investigated. The Subcommittee notes and commends the proactive approach and seriousness of the authorities regarding this matter, including keeping the Subcommittee informed of the ongoing investigations as they progressed.

91. Similar records checked by the Subcommittee indicated that several persons had spent over two months in the segregation unit at Her Majesty's Prison Risley. While there is a formal requirement of a regular review every two weeks, several interviewed prisoners were of the view that the review was merely a box-ticking exercise.<sup>51</sup>

92. **The Subcommittee recommends that the State party ensure that segregation of prisoners is a last resort; that its use is for as short a time as possible, and never longer than 15 consecutive days; and that segregated prisoners are provided with a purposeful activity and meaningful human contact each day, in line with the Nelson Mandela Rules.**

## 2. Violence and excessive use of force

93. The Subcommittee is also seriously concerned at the reports made by the national preventive mechanism of the United Kingdom of increasing levels of violence and of use of force and restraint in a number of prisons.<sup>52</sup> Both Her Majesty's Inspectorate of Prisons and the Independent Monitoring Board noted that low staffing levels, inexperienced staff, the use of illicit substances, mental health issues, poor prison conditions and not enough time outside of the cells appear to have contributed to the increase.<sup>53</sup>

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<sup>51</sup> See Her Majesty's Inspectorate of Prisons, *Report on an Unannounced Inspection of HMP Whitemoor by HM Chief Inspector of Prisons: 13–23 March 2017*; and Independent Monitoring Boards, *Annual Report of the Independent Monitoring Board at HMP Whitemoor for the Reporting Year 1 June 2017 to 31 May 2018 (October 2018)*, sect. 6.2. See also, for example, Her Majesty's Inspectorate of Prisons, *Report on an Unannounced Inspection of HMP Bedford by HM Chief Inspector of Prisons: 28 August–6 September 2018*; and Independent Monitoring Boards, *Annual Report of the Independent Monitoring Board at HMP Bedford for the Reporting Year 1 July 2017 to 30 June 2018 (17 October 2018)*, sect. 7.1.

<sup>52</sup> The submission of the national preventive mechanism of the United Kingdom, on preventing ill-treatment in detention in the United Kingdom, to the sixty-sixth session of the Committee against Torture, p. 2. Available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fINP%2fGBR%2f34430&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fINP%2fGBR%2f34430&Lang=en).

<sup>53</sup> *Ibid.*, p. 34.



94. **The Subcommittee recommends that the State party:**

(a) **Strengthen the oversight of the use of force in all detention settings to ensure that force is only used in accordance with the law and is strictly necessary and proportionate;**

(b) **Review behaviour management policies across prisons with the aim of identifying and reducing the underlying causes of violence and use of force;**

(c) **Provide mental health care that meets the needs of all detainees and consider introducing a statutory time limit on transfers of detainees to mental health inpatient facilities.**

### 3. Material conditions

95. The Subcommittee wishes to put on record that there were generally good material conditions in the prisons visited. There were some exceptions, however, such as Her Majesty's Prison Manchester. The prison is over 150 years old and despite ongoing refurbishment works, the Subcommittee found several cells in residential units with mould on the walls, dirty floors, broken windows, bed bugs, cockroaches and mice.

96. **The Subcommittee recommends that the State party ensure that all detainees are held in clean and sanitary conditions, and address promptly the inadequate detention conditions at Her Majesty's Prison Manchester.**

## C. Institutions for juvenile offenders

97. The Subcommittee shadowed the visit made by Her Majesty's Inspectorate of Prisons and the national preventive mechanism to Her Majesty's Young Offender Institution of Cookham Wood. While the role of the Subcommittee was that of observer, it managed to gain experience relating to a grasp on a number of systemic issues pertaining to its mandate.

98. Based on the interviews observed and records consulted, the Subcommittee is concerned that children in the Bridge Section and in the Induction Unit spent long periods – up to 23.5 hours a day – locked in their cells; that the use of force had increased; and that responses to complaints did not fully address the issue or involve the child.

99. **The Subcommittee calls upon the authorities to implement fully the recommendations contained in the last visit report of Her Majesty's Inspectorate of Prisons on Her Majesty's Young Offender Institution of Cookham Wood.**

## D. Immigration detention

100. The Subcommittee observed the work of the Independent Monitoring Board at the Heathrow Immigration Removal Centre and visited Dungavel House Removal Centre in Scotland. Based on these visits, the Subcommittee heard reports from several persons deprived of their liberty that criticized the quality of health care provided in these immigration detention centres, including the availability of mental health services. The Subcommittee is concerned about reports of a significant increase in deaths, especially self-inflicted deaths, in immigration detention over recent years.

101. In addition to the lack of time limit on immigration detention already addressed in paragraphs 54 to 56 of the present report, the Subcommittee spoke to individuals whose mental health was affected by the short notice of removals. The detainee's distress was greatly exacerbated by the fact that the Home Office provides detainees with notice of a removal window (usually a three-month period) rather than the specific day. At the Heathrow Immigration Removal Centre, several persons approached the Subcommittee to express their anxiety about not knowing if they would be woken up and removed the next night.

102. Furthermore, the Subcommittee endorses the concern expressed by the national preventive mechanism that the access of immigration detainees to legal aid at Heathrow Immigration Detention Centre and the quality of the legal aid available are suboptimal.<sup>54</sup>

103. **The Subcommittee recommends that the State party:**

(a) **Ensure that immigration detainees are detained only as a last resort and for the shortest possible time, consider replacing the current practice of removals and implement a time limit on immigration detention;**<sup>55</sup>

(b) **Ensure that all immigration detainees (including those in short-term holding facilities) have access to good quality, free legal advice, and ensure that all detainees have effective access to fair and accessible procedures to challenge the decision to detain and/or deport;**

(c) **Provide effective oversight, monitoring and complaints policies and procedures in the immigration detention estate to ensure that any ill-treatment is immediately identified and guarantee the effectiveness of investigations into allegations of ill-treatment;**

(d) **Introduce independent processes, both when a decision to detain is made and during detention, for the identification of people who may face a particular risk of harm in detention.**

## E. Court custody

104. The Subcommittee shadowed a visit of lay observers to a temporary detention facility of the Westminster Magistrates Court in London. In its role as an observer, the Subcommittee was able to assess the situation at this facility and shared key concerns identified by the national preventive mechanism.

105. For example, the Subcommittee observed that the person escort records were incomplete. The purpose of the person escort record is to ensure that all staff transporting and receiving detainees are provided with all necessary information about them, including any risks or vulnerabilities. The lay observers identified and showed to the Subcommittee a number of person escort records that were lacking the name of the receiving officer, information on detainee's risk of self-harm and information on medication that the person was taking. Another issue brought to the attention of the Subcommittee referred to the lack of an interface between the three computer systems used by the police, the prisons and the courts, which led to inconsistent and incomplete information that could put at risk both the person deprived of liberty and the escorting officer, in cases involving previous assaults on staff. Reportedly, the escort staff treat any person in their custody as a possible risk, which often leads to the unnecessary use of means of restraint.<sup>56</sup> For example, the Subcommittee observed during the visit that a child was being handcuffed and escorted by three officers. The custody officer explained that this was a standard procedure for all, which meant that children and adults were treated in the same way.

106. **The Subcommittee calls on the State party to implement the recommendations of the reports of the national preventive mechanism member (lay observers) and to ensure that:**

(a) **Accurate and complete records, in particular of person escort records, are maintained;**

<sup>54</sup> Independent Monitoring Boards, *Annual Report of the Independent Monitoring Board at Heathrow Immigration Removal Centre for the Reporting Year January to December 2019* (April 2020).

<sup>55</sup> CAT/C/63/4, paras. 47–51.

<sup>56</sup> Her Majesty's Inspectorate of Prisons, *Report on an inspection visit to court custody facilities in North and West Yorkshire by HM Chief Inspector of Prisons: 6–16 August 2018*. See also Her Majesty's Inspectorate of Prisons, *HM Chief Inspector of Prisons for England and Wales Annual Report 2017–18*, p. 88; and Her Majesty's Inspectorate of Prisons, *HM Chief Inspector of Prisons for England and Wales Annual Report 2016–17*, p. 86.

- (b) An individualized risk assessment is made for each person in court custody;
- (c) Staff receives training to meet the individual needs of detainees, particularly children.

## V. Next steps

107. The Subcommittee requests that a reply to the present report be provided within six months of the date of its transmittal to the Permanent Mission of the United Kingdom. The reply should respond directly to all the recommendations and requests for further information made in the report, giving a full account of action that has already been taken or is planned (including timescales) in order to implement the recommendations. It should include details concerning the implementation of institution-specific recommendations and concerning general policy and practice.<sup>57</sup>

108. Article 15 of the Optional Protocol prohibits all forms of sanction or reprisal, from all sources, against anyone who has been, or who has sought to be, in contact with the Subcommittee. The Subcommittee reminds the United Kingdom of its obligation to ensure that no such sanctions or reprisals take place and requests that it provide in its reply detailed information concerning the steps that it has taken to ensure that it has fulfilled that obligation.<sup>58</sup>

109. The Subcommittee recalls that prevention of torture and ill-treatment is a continuing and wide-ranging obligation.<sup>59</sup> It therefore requests that the United Kingdom inform it of any legislative, regulatory, policy or other relevant developments relating to the treatment of persons deprived of their liberty and regarding the work of the national preventive mechanism.

110. The Subcommittee considers both its visit and the present report to form part of an ongoing process of dialogue. The Subcommittee looks forward to assisting the United Kingdom in fulfilling its obligations under the Optional Protocol by providing further advice and technical assistance, in order to achieve the common goal of prevention of torture and ill-treatment in places of deprivation of liberty. The Subcommittee believes that the most efficient and effective way of developing the dialogue would be for it to meet with the national authorities responsible for the implementation of the Subcommittee's recommendations within six months of receiving the reply to the present report.

111. The Subcommittee recommends that, in accordance with article 12 (d) of the Optional Protocol, the national authorities of the United Kingdom enter into dialogue with the Subcommittee on the implementation of the Subcommittee's recommendations, within six months of the Subcommittee's receipt of the reply to the present report. The Subcommittee also recommends that the United Kingdom initiate discussions with the Subcommittee on the arrangements for such a dialogue at the time of the submission of its reply to the present report.<sup>60</sup>

<sup>57</sup> The reply should also conform to the guidelines concerning documentation to be submitted to the United Nations human rights treaty bodies established by the General Assembly. See letters sent to permanent missions on 8 May 2014.

<sup>58</sup> The manner in which the Subcommittee addresses the issue of reprisals and sanctions is set out in CAT/OP/6/Rev.1.

<sup>59</sup> See CAT/OP/12/6 and the Committee's general comment No. 2 (2007).

<sup>60</sup> The United Kingdom is encouraged to consider approaching the OHCHR treaty body capacity-building programme ([registry@ohchr.org](mailto:registry@ohchr.org)), which may be able to facilitate the dialogue. The contact details of the Special Fund are available at [www.ohchr.org/EN/HRBodies/OPCAT/Fund/Pages/SpecialFund.aspx](http://www.ohchr.org/EN/HRBodies/OPCAT/Fund/Pages/SpecialFund.aspx).

## **Annex I**

### **List of places of deprivation of liberty jointly visited by the national preventive mechanism and the Subcommittee**

- Visit with the Independent Custody Visiting Association, Charing Cross Police Station, Agar Street, Charing Cross, London WC2N 4JP
- Visit with the lay observers to Westminster Magistrates' Court, 181 Marylebone Road, Marylebone, London NW1 5BR
- Visit with Mental Health Act reviewers to Bracton Centre (multi-ward hospital), Leyton Cross Road, Dartford, Kent DA2 7AF
- Visit with Independent Monitoring Board members and the National Chair of Independent Monitoring Boards to Heathrow Immigration Removal Centre
- Visit with Her Majesty's Inspectorate of Constabulary in Scotland to St. Leonard's Police Station, 14 St. Leonard's Street, Edinburgh EH8 9QW
- Visit with Her Majesty's Inspectorate of Prisons to Cookham Wood Young Offender Institution, Sir Evelyn Road, Rochester, Kent ME1 3LU

## **Annex II**

### **List of places of deprivation of liberty visited by the Subcommittee**

- Livingston Police Station, West Lothian Civic Centre, Howden South Road, Livingston EH54 6FF
- Dalkeith Police Station, Newbattle Road, Dalkeith EH22 3AX
- Bishopsgate Police Station, 182 Bishopsgate, London EC2M 4NP
- Dungavel House Removal Centre, Strathaven, South Lanarkshire ML10 6RF
- St. Anne Police Station, St. Anne Street, Liverpool L3 3HJ
- Central Park North Police Station, Manchester M40 5BQ
- Merseyside Police Station, 43A Ganworth Road, Speke, Liverpool L24 2XG
- Her Majesty's Prison Risley, Warrington Road, Risley, Warrington WA3 6BP
- Her Majesty's Prison Manchester, Southall Street, Manchester M60 9AH
- Her Majesty's Prison Altcourse, Brookfield Drive, Fazakerley, Liverpool L9 7LH

## **Annex III**

### **List of government officials and other interlocutors with whom the Subcommittee met<sup>1</sup>**

#### **Government of the United Kingdom of Great Britain and Northern Ireland**

- Parliamentary Under Secretary of State for Justice
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Defence
- Ministry of Health
- Ministry of Education

#### **Scottish Government**

- Cabinet Secretary for Justice
- Human Rights Division
- Prison Policy Division
- Police Division
- Mental Health Division
- Police Scotland, Criminal Justice Service Division
- Scottish Prison Service
- Health & Social Care in Prisons Programme Board

#### **Chair and secretariat of the national preventive mechanism**

- Members of the national preventive mechanism
- Scottish Human Rights Commission
- Her Majesty's Inspectorate of Prisons for Scotland
- Care Inspectorate (Scotland)
- Her Majesty's Inspectorate of Constabulary in Scotland
- Independent Reviewer of Terrorism Legislation (representative)
- Care Quality Commission
- Scottish Police Authority (Independent Custody Visiting Scheme)
- Independent Custody Visiting Association
- Independent Monitoring Boards
- Her Majesty's Inspectorate of Prisons
- Care Inspectorate Wales
- Regulation and Quality Improvement Authority
- Lay observers

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<sup>1</sup> As requested during the visit, interlocutors are listed only by their respective institutions and/or organizations.

- Children’s Commissioner for England (representative)
- Chief Executive of the Mental Welfare Commission for Scotland

**Equality and Human Rights Commission**

- Representatives of the Commission

**Civil society representatives**

The delegation met with representatives from various non-governmental organizations active in the field of deprivation of liberty, including:

- Bristol University
  - Howard League for Penal Reform
  - Children’s Rights Alliance for England
  - Association of Visitors to Immigration Detainees
  - INQUEST
-