

## Summary of Recommendations

**Recommendation 1:** The Committee should consider how the functional, operational and financial independence of the Chief Inspector / Inspectorate of Places of Detention and the NPM coordinating body might be best guaranteed within the legislation.

**Recommendation 2:** The Committee should consider whether it is possible to reframe the language used in the Bill around “people in prison” as opposed to “prisoner”.

**Recommendation 3:** The Bill should ensure the independence of the appointments and removal procedures for the Chief Inspector of Places of Detention and consideration should be given to removing the relevant powers of appointment and removal from the Minister for Justice entirely.

**Recommendation 4:** The Committee should examine the proposed length of tenure for the Chief Inspector of Places of Detention and consider how long the term should be to ensure independence.

**Recommendation 5:** The Bill should ensure the independence of all personnel working for the Inspectorate of Places of Detention by:

- i. removing references to such staff being provided by the Minister for Justice;
- ii. removing references to the Minister for Justice having a role in the appointment or terms / conditions of employment of all such staff;
- iii. making explicit that no person may be seconded from the Department of Justice or other criminal justice agency into the Inspectorate; and
- iv. making clearer within the legislation the role of the Public Appointments Service in the appointment of staff.

**Recommendation 6:** The Bill should ensure the decision-making power for appointment of Senior Inspector(s) remains with the Chief Inspector but clarify the role of the Public Appointments Service in the recruitment and appointment process.

**Recommendation 7:** The Committee should consider whether this provision requires further detail on the role, duties and powers of Senior Inspector(s) within the new Inspectorate of Places of Detention.

**Recommendation 8:** Consideration should be given to amending Head 8(1) so as to specify the minimum number of inspections (whatever the type) of each prison required. The Committee should strongly consider inserting a minimum requirement of one visit per year for each prison.

**Recommendation 9:** Amend Head 8(2) to specify that all inspections conducted by the Chief Inspector must have regard to OPCAT.

**Recommendation 10:** Amend Head 8(5)(a) to specify that the Chief Inspector has the power to engage external experts and such external experts may accompany the Chief Inspector and Inspectorate staff on any visit to a place of detention.

**Recommendation 11:** Head 8(5) should be amended to:

- i. make explicit that the Chief Inspector is entitled to obtain all information relating to the management / operation of a prison as well as information relating to a specific person;
- ii. clarify the consent required for the Inspectorate to access the personal / medical records of living and deceased individuals; and
- iii. strengthen the entitlement of the Chief Inspector to information by clarifying that no other enactments restricting the sharing or disclosure of information will prevent a person providing the Chief Inspector with the information it needs to carry out its duties.

**Recommendation 12:** Amend Head 8(6) to make it (i) a criminal offence for a person to refuse to cooperate with the Chief Inspector in the exercise of their powers and (ii) a disciplinary offence for a prison officer or IPS staff member to refuse to cooperate.

**Recommendation 13:** The Committee should consider if Heads 8(7)-(8) require amendment in order to secure the independence of the Chief Inspector.

**Recommendation 14:** Consideration should be given to (i) including within the definition of ‘Serious Adverse Incident’ *per* Head 4 a significant breach of discipline by prison officers and (ii) stating explicitly within Head 4 that the list of ‘Serious Adverse Incidents’ is non-exhaustive.

**Recommendation 15:** Expand Head 9(1) to specify that (i) the Director General must notify the Chief Inspector of any ‘Serious Adverse Incident’ as soon as is reasonably possible and no later than 24 hours after the incident occurred and (ii) such notifications are to be made in the format dictated by the Inspectorate.

**Recommendation 16:** Expand Head 10(1) to specify that the Director General must notify the Chief Inspector of a death in custody etc as soon as is reasonably possible and no later than 24 hours after the death occurred.

**Recommendation 17:** Remove Head 11(10)(a) from the legislation on the basis that it significantly undermines the independence of the Chief Inspector and risks contravening Article 19(c) of OPCAT.

**Recommendation 18:** Amend Head 12 to make clear that the Chief Inspector also has the power to lay before the Oireachtas its general prison inspection reports.

**Recommendation 19:** Amend Heads 12(3)-(4) to explicitly state the Chief Inspector’s power to publish all its reports in such manner as it considers appropriate.

**Recommendation 20:** Insert within Head 12 (or elsewhere within the Bill) a provision setting out the privileges and immunities applicable to NPMs and their staff, as required by Article 35 of OPCAT.

**Recommendation 21:** The Committee should consider whether Prison Visiting Committees should be placed under the remit of the Chief Inspector and, if such an approach is to be taken, the impact that this will have on the Chief Inspector’s functions and resources.

**Recommendation 22:** The Bill should clarify if the intention is for Prison Visiting Committees to be a designated NPM within the multi-institution model and, if that is the intention, consider carefully whether such an approach is appropriate.

**Recommendation 23:** Amend Head 13(5) to require the Chief Inspector to consult with IHREC, relevant civil society organisations and individuals with experience of imprisonment in deciding on the criteria for appointment to a Prison Visiting Committee. The Committee should also consider whether it is appropriate for the Chief Inspector to be required to consult with the Minister for Justice, IPS and Probation Service on these criteria.

**Recommendation 24:** Amend Head 13(6) to avoid any chilling effect on people with experience of imprisonment applying for appointment to a Prison Visiting Committee.

**Recommendation 25:** The Committee should closely examine Heads 13(12)-(13). These provisions should be amended to (i) ensure that Prison Visiting Committee annual reports in respect of each prison are published (either in the place of, or in addition to, a composite report) and (ii) provide the Chief Inspector, if their remit includes responsibility for the Prison Visiting Committees, with the power to publish all Prison Visiting Committee reports and specify the deadline for submission of Prison Visiting Committee annual reports as well as the timeline for publication.

**Recommendation 26:** Amend Head 14 to include a more extensive definition of “place of definition” that reflects Article 4 and the broad intention of OPCAT.

**Recommendation 27:** Amend Head 16 to make explicit the distinct nature of the NPM coordinating role within IHREC.

**Recommendation 28:** The Committee should consider the resource implications for IHREC in taking on this new NPM coordinating function and whether this will require any legislative amendments.

**Recommendation 29:** Amend Head 16 to clarify:

- i. the independence of IHREC in its new NPM coordinating role and the safeguards and powers it is guaranteed as NPM coordinator;
- ii. whether IHREC, in its NPM coordinating role, is to have any power of inspection of places of detention; and

- iii. the power IHREC will have, as NPM coordinator, to produce and publish its own annual report.

**Recommendation 30:** The Committee should examine Head 17 closely to ensure it complies with the requirements of OPCAT and recommend amending the Bill to strengthen provisions relating to:

- i. the publication of NPM reports;
- ii. the power of NPMs to make submissions on draft and existing legislation, and the duty of the State to consider such submissions;
- iii. the power of NPMs to decide where they wish to visit within their remit; and
- iv. the duty of Ministers to respond to NPM recommendations within a specified period of time.

**Recommendation 31:** Amend Head 18 to explicitly set out (i) the requirement that designated NPMs must establish a distinct unit or department that is responsible for carrying out the OPCAT mandate and (ii) the need for all designated NPMs to be sufficiently resourced to do this.

**Recommendation 32:** Amend Head 18 to make explicit that the relevant Minister is responsible for ensuring (i) all experts on the NPM have the necessary capabilities and professional knowledge to carry out the OPCAT mandate and (ii) the NPM has an appropriate gender balance and adequate representation of ethnic and minority groups.

**Recommendation 33:** Amend Head 18 (or other provisions in the Bill) to include a clear statutory basis for relevant civil society organisations' involvement in designating NPMs and their ongoing engagement with NPMs once established.

**Recommendation 34:** The Committee should examine Head 19 very carefully and consider:

- i. the implications of extending the Inspector of Prisons' remit to all places of detention in the criminal justice sector;
- ii. how the legislation can best clarify and establish the distinct roles of the new Inspectorate in regards both its investigative and preventive functions; and

iii. how existing duties of the Inspector of Prisons that are not currently referenced in this Bill are to be incorporated and managed going forward.

Recommendation 35: Amend Head 20 to reflect Article 21(2) of OPCAT and make explicit the principle that confidential information collected by an NPM is privileged.

Recommendation 36: Consideration should be given on whether a provision should be included in the Bill under this Head setting out the privileges and immunities that apply to the SPT and designated NPMs. If so, careful consideration should be given to the wording of this provision.