

Justice Committee

Public Services Reform (Prison Visiting Committees) (Scotland) Order 2014

Written submission from the Howard League for Penal Reform Scotland

1. We welcome the opportunity to comment upon the Public Services Reform (Prison Visiting Committees) (Scotland) Order 2014.
2. Howard League Scotland was concerned about the Cabinet Secretary for Justice's announcement in December 2011 in which he stated the Scottish Government's intention to abolish prison visiting committees and replace them with an advocacy service. We therefore welcome the Scottish Government's renewed commitment to the continuation of independent monitoring of penal establishments in Scotland.
3. The monitoring of prisons is a vital function that provides real time, regular scrutiny of our prisons and constitutes an essential element of our obligations as signatories to the UN Optional Protocol to the Convention Against Torture (OPCAT).
4. It seems likely that the new arrangements will meet the minimum requirements of OPCAT. However, we believe it should be possible to improve upon the proposed arrangements as set out in the parliamentary order.
5. Howard League Scotland was not an advocate of according oversight of the monitoring function to Her Majesty's Inspectorate of Prisons in Scotland (HMIPS). Our main objections to this oversight option were two-fold. Firstly, we were concerned about the blurring of the distinction between the inspection and monitoring functions. Secondly, we were concerned that this arrangement did not adhere to the ideal of 'layered monitoring' recommended by the National Preventative Mechanism (NPM).
6. However, we accept that there are potential benefits to according oversight to HMIPS in terms of consistency of approach and the ability of the inspection and monitoring functions to inform each other.
7. There is no question that HMIPS must be provided with extra resource to carry out this oversight function. **However, we consider that it may well be confusing and unhelpful if this function were to be carried out as proposed.** We see no need for the three 'paid monitors'. Indeed, the creation of two types of independent monitor (referred to as 'paid monitors' and 'lay monitors' in the order) did not form part of Professor Coyle's recommendations.
8. The vision for independent monitoring as conceived in the parliamentary order is one of a more hierarchical structure than exists at present. This is evident in the language used regarding the relationship between the 'paid monitors' and 'lay monitors'. For example, the order states that the 'lay monitors' must "*assist*" the paid monitors and "*comply with any instructions*" issued by the 'paid monitor'.

9. The benefits of this extra layer of bureaucracy are far from clear and are also likely to be confusing for prisoners, given that the duties of the two types of monitor differ as set out in the order. For instance, the order states that only 'lay monitors' can investigate a prisoner's complaint.

10. Howard League Scotland therefore proposes that the extra resource accorded to HMIPS would be better utilised to employ one or two members of staff to oversee and support the work of the lay monitors, rather than direct them in their monitoring duties.

11. There must, of course, be sufficient numbers of 'lay monitors' to be able to carry out their monitoring duties. No minimum number of 'lay monitors' is specified within the order, nor is there any reference to the expected frequency of their visits.

We would be happy to provide any further information at the oral evidence session scheduled for 20 November.

Howard League Scotland
8 November 2013