Justice Committee

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

Written submission from HM Chief Inspector of Prisons for Scotland

1. Thank you for the invitation to provide a written submission to the Justice Committee in advance of the evidence session on 20 November 2013.

2. I fully support the purpose of the Order to introduce independent prison monitoring to prisons in Scotland. The arrangements outlined in the Order will fulfil the requirements which follow the signing of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), to create a National Preventive Mechanism (NPM). The current arrangements in Scotland do not meet the standards required by OPCAT.

3. The arrangements proposed by the Order provide a framework within which the two independent but complementary functions of inspection and monitoring can be fostered by the Chief Inspector of Prisons. Inspection comprises periodic, in-depth, formal, professional inspection, while monitoring is frequent monitoring by local members of society with relevant experience and expertise. The Order allows the Chief Inspector the opportunity to develop a two-pronged approach where the findings and expertise of each inform the work of the other.

4. Implementation of the Order will ensure greater co-ordination of monitoring across Scotland. There are clear benefits from providing prisons inspection and prison monitoring under the umbrella of HMCIPS. It provides an overseeing body for monitors who otherwise have to perform their function in isolation, dispersed across the country. It provides a common point of reference and allows for training and guidance to encourage consistency. Perhaps more importantly, it enables the two functions of inspection and monitoring to complement the work of the other. There will be a two-way flow of information which will be to the benefit of both functions.

5. Detailed arrangements for the management of independent prison monitoring are not included in the Order. Issues such as the number of monitors, guidance for their role, recruitment, training and public reporting requirements will require further detailed planning, subject to the decision of the Scottish Parliament.

6. One amendment to the Order I would like to see is the inclusion of a requirement to establish a Monitoring Advisory Group. In the Cabinet Secretary for Justice’s response to Professor Andrew Coyle’s Review of Proposals to Improvement Arrangements for Independent Monitoring of Prisons, in April 2013, Mr MacAskill stated that “In overseeing the monitoring function, HMCIPS will be supported by an Advisory Group which will be made up of key stakeholders from the Justice Sector. This Group will provide guidance on monitoring, appointments and training.” There is no reference to an advisory group in the Draft Order. The existence of a properly constituted advisory group will ensure the independence of the monitoring process and will provide essential advice to the Chief Inspector from an expert perspective informed by relevant experience and knowledge.
7. The Order provides an opportunity for the oversight of prisons by civil society to be exercised by people selected for their skills and relevant experience. The arrangements will allow a greater level of co-ordination and communication both between monitors of each of Scotland’s prisons and with the Prisons Inspectorate. The new structure will ensure that findings from the activity of monitors will inform inspection programmes, leading to more effective scrutiny of prisons overall.

8. I look forward to assisting the Justice Committee at its meeting on 20 November.

David Strang
HM Chief Inspector of Prisons for Scotland
12 November 2013