



Human Rights Implementation Centre

Workshop for the organisations of the National Preventive Mechanism for the United Kingdom

Date: Monday, 9 May 2011

Venue: St Paul's and St George's Church, 10 Broughton Street, Edinburgh

http://www.pandgchurch.org.uk/Groups/97049/St_Pauls_and/About_Us/Find_us/Find_us.aspx

Agenda:

9:30- 10:00 Arrival, registration, tea and coffee

10:00- 10:05 Welcome and opening remarks (Nick Hardwick, HMIP and Prof Rachel Murray, HRIC, Bristol)

10:05- 10:20 General update and NPM member updates (Laura Paton, NPM Coordinator)

10:20- 11:20 Reflections on the first Annual Report of the UK NPM:

- Ms Audrey Olivier (APT, Geneva)
- Prof Rachel Murray and Dr Elina Steinerte (HRIC, Bristol)
- Discussion among the UK NPM members

11:20- 11:30 Introduction of the first topic of discussion (Prof Rachel Murray): the notion of independence in OPCAT (10mins)

There are references to independence as one of the core requirements for the NPMs and the work of the NPMs scattered throughout the text of OPCAT. Article 18 is most specific in requiring that NPMs enjoy both functional independence as well as independence of their personnel. How is this requirement achieved within the current composition of the UK NPM?

Points for discussion: self-evaluation of independence of the UK NPM institutions – independence of the government (functional and perceived); independence of funding and

ability to freely decide upon the use of funding; independence of personnel (selection criteria; operational independence; dismissal procedures); independence of the UK NPM as a whole.

11:30- 12:30 Discussion in groups (with coffee/tea)

12:30- 13:15 Lunch

13:15- 13:45 Feedback from groups

13:45- 14:00 Profile of an NPM member: Healthcare Inspectorate Wales

14:00- 14:10 Introduction of the second topic of the discussion: the concept of detention. Short briefing on the scope of Article 4 of OPCAT (Dr Elina Steinerte).

At previous meetings, the UK NPM members have expressed an interest in exploring the definition of detention. The mandate of the NPM is very firmly linked to the understanding of 'deprivation of liberty' as defined in Article 4 of OPCAT, which states:

'1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.'

In practice however questions often arise as to at which precise point in time a person can be considered to be deprived of liberty in the sense of OPCAT provisions and therefore 'under the jurisdiction' of the NPM. It is thus proposed to discuss the practical challenges linked to this in the work of the UK NPM organisations.

14:10- 15:00 Discussion among the member institutions of the UK NPM on issues arising from the practice of their organisations in relation to scope and meaning of Article 4 of OPCAT.

15:00- 15:15 Discussion on the future operation of the UK NPM. Nick Hardwick, HMIP and Laura Paton, UK NPM coordinator

15:15- 15:30 Coffee/tea break

15:30- 16:00 Feedback; concluding remarks; AOB and departure