

## NPM Scotland Subgroup terms of reference

Last updated: 4 March 2025

### Interpretive note

These terms of reference are intended to be interpreted in conjunction with the NPM constitution. Where any conflict arises between the two documents, the NPM constitution should take precedence as the governing document of the UK NPM.

### Purpose

The NPM Scotland Subgroup aims to work in Scotland to deliver against the NPM human rights mandate in relation to the [Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(OPCAT\)](#). The objective of OPCAT is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. OPCAT provides that the NPM should be able to:

- (a) regularly examine the treatment of the persons deprived of their liberty in places of detention;
- (b) make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty, taking into consideration the relevant norms of the United Nations;
- (c) submit proposals and observations concerning existing or draft legislation.

The guiding principles of the UK National Preventive Mechanism are:

- **Detainee Focussed:** The treatment and conditions of detainees will always be the core of our work.
- **Independence:** We are independent of government and external influence. We are impartial, balanced and without bias.
- **Human Rights:** We are a human rights organisation and human rights experts. Our parent treaty is the UN Convention against Torture, but we recognise human rights are interconnected and as such all human rights are relevant to our work.
- **Collaboration:** We work collaboratively with each other, sharing expertise and good practice. We work collaboratively with civil society and external partners to broaden our perspective and help fulfil our objectives.

In line with these obligations and guiding principles, the NPM Scotland Subgroup will coordinate NPM activities in Scotland, including:

- identifying common issues and interests;
- exploring possibilities for, and conducting, joint activity between members and with outside bodies;
- Advising and holding government and relevant authorities to account on ongoing and emerging issues, based on members' findings and research;
- sharing information on the work of the NPM bodies in Scotland;
- improving liaison with the Scottish Government and Scottish Parliament;
- working cooperatively with international inspection bodies;
- making use of self-assessment and peer evaluation tools to measure continued improvement;
- raising the profile of the work of the NPM.

## **Membership**

The NPM Scotland Subgroup is made up of six statutory bodies who have a lead role in monitoring and inspecting places of detention across Scotland. The six statutory bodies were designated by the UK government on 31 March 2009:

- Care Inspectorate
- HM Inspectorate of Constabulary for Scotland
- HM Inspectorate of Prisons for Scotland
- Independent Custody Visiting Scotland
- Mental Welfare Commission for Scotland
- Scottish Human Rights Commission

Other relevant bodies may also attend as associate members (non-voting) by invitation. The Head of UK NPM and the NPM Secretariat Officer (Scotland) will also attend NPM Scotland Subgroup meetings.

Each member body may appoint one designated representative to represent their organisation in the NPM Scotland Subgroup.

## **The Chair of the NPM Scotland Subgroup**

The NPM Scotland Subgroup Chair will be rotated every three years. The subgroup has an organisational Chair, whereby the Chair is held by a member organisation, represented by a senior person from that organisation. If the individual representing the Chair organisation is unable to continue as Chair, a new Chair from the same organisation will be put forward for the remainder of the tenure. Prior to the final the NPM Scotland Subgroup meeting before the rotation of the Chair, members interested in undertaking the role will express their interest to the Head of UK NPM, who will notify the NPM Scotland Subgroup in advance of the election. NPM Scotland Subgroup members will vote anonymously for the new Chair at the next scheduled meeting. The elected member will then be proposed as the new Chair of the NPM Scotland Subgroup at the next scheduled UK NPM Business Meeting.

The Chair of the NPM Scotland Subgroup will:

- represent the NPM Scotland Subgroup during meetings;
- support the work of the NPM Secretariat Officer (Scotland).

### **Role of the NPM Secretariat Officer (Scotland):**

The NPM Scotland Subgroup will be supported by a 0.5 FTE NPM Secretariat Officer (Scotland) who is accountable to the the NPM Scotland Subgroup Chair.

The NPM Secretariat Officer (Scotland) will:

- organise, minute and follow up actions from NPM Scotland Subgroup meetings;
- draft and present an annual plan for the NPM Scotland Subgroup to members for discussion;
- provide practical support to the Chair of the NPM Scotland Subgroup;
- support and link up the work of the different members of the NPM Scotland Subgroup on common themes which are relevant across all forms of detention;
- provide policy support to the NPM Scotland Subgroup including research, drafting briefing papers, consultation responses and responding to ad hoc requests;
- monitor and track policy and legislative processes to ensure the NPM Scotland Subgroup are briefed on relevant developments and to identify and develop opportunities to influence relevant policy and legislation in Scotland;
- contribute information about the Scottish experience to UK-wide NPM discussions and work.
- in conjunction with the NPM Secretariat, support and strengthen NPM governance and contribute to a broader, UK-wide approach to prevention of ill treatment.

### **Meetings**

- Meetings will be organised by the NPM Secretariat Officer (Scotland).
- Four ordinary meetings will be held each year and will be scheduled approximately one month prior to planned UK NPM Business Meetings.
- Additional meetings will be organised on an ad hoc basis where necessary, on matters that require special attention or have a timescale that does not fit in with scheduled NPM Scotland Subgroup meetings. Any member can call for an extraordinary meeting to be held.
- The location of the meetings will be at the discretion of the Chair.
- Meetings will be chaired by the Chair of the NPM Scotland Subgroup.
- The Chair, the Head of the NPM and the NPM Secretariat Officer (Scotland) will meet between each subgroup meeting for strategic planning purposes.

- Meeting agendas will be generated by members of the group to reflect the UK NPM strategic plan and particular Scottish issues. The agenda will include a small group discussion to share experiences and learning.
- Agenda papers will be circulated a week in advance by the NPM Secretariat Officer (Scotland).
- Meeting minutes will be taken by the NPM Secretariat Officer (Scotland) and circulated among all NPM Scotland Subgroup members. Minutes will be amended where needed and agreed to at the next meeting.
- Organisations outside the NPM Scotland Subgroup membership may be invited to attend all regular meetings as an associate or visiting member where appropriate.
- Individuals and organisations outside the NPM Scotland Subgroup membership may be invited to attend specific meetings on a one-off basis where appropriate.

### **Decision making**

- The quorum for NPM Scotland Subgroup meetings shall be 50% of voting subgroup members (three out of six, at time of writing).
- Collective action is agreed unanimously by the members of the NPM Scotland Subgroup in the NPM Scotland Subgroup meetings and, in between those meetings, by email and conference calls. It is recognised by all the members that agreement for collective action should ordinarily be by consensus and that drafts should be amended to find mutually acceptable language where at all possible.
- If unanimous agreement on decision-making is not possible, decisions can be made by a qualified majority of members, with caveat to note that the final text does not necessarily reflect the views of all individual members. In all instances the NPM Scotland Subgroup should respect their views of its members and the NPM Scotland Subgroup Chair will encourage dialogue to identify and support the views of its members in accordance with OPCAT and good practice.
- If this process is not considered sufficient for decision making on a particular issue, the members and/or Chair may propose following the decision making process outlined in the Member Decisions section of the UK NPM constitution (see Appendix A).
- Specific pieces of work and draft letters or publications will be circulated to all members for comment ahead of publication.

### **Communication**

- Information regarding the NPM Scotland Subgroup will be communicated by the NPM Central Team, primarily the NPM Secretariat Officer (Scotland).
- Information will be shared at NPM Scotland Subgroup meetings and via email.
- It is each member's responsibility to make clear where a matter shall remain confidential and not for discussion outside the group.

- When sharing documents, members should make clear if there is a restriction to circulation and/or use of documents.
- As a general rule, the Chair of the NPM Scotland Subgroup will represent the Subgroup on external communications.

## **Reporting**

- The Chair of the NPM Scotland Subgroup will be responsible for providing updates on the work of the group to the UK NPM at least twice yearly.
- Where actions are recommended by the NPM Scotland Subgroup, these will be recorded and submitted to the UK NPM for inclusion in the UK business plan/annual report, where relevant.
- An annual plan for the NPM Scotland Subgroup will be drafted and presented to the members by the NPM Secretariat Officer (Scotland) for discussion.

## **Review of Terms of Reference**

This will be undertaken on a yearly basis by the NPM Scotland Subgroup. The next review is due in March 2026.

## **Appendix A – Excerpt from UK Constitution**

### ***Member Decisions***

*24 Members shall use reasonable endeavours to reach any required decisions by consensus, meaning the absence of active dissent (subject to contrary express provision in this constitution).*

*25 In the event that the Members are unable to reach a decision by consensus they shall determine by a first resolution by a simple majority vote of those attending the meeting whether it is of sufficient importance that it should proceed to a substantive vote.*

*26 If a first resolution under Clause 25 is passed the Members may determine the matter by a 75% majority vote of those attending the meeting, although any published statement or decision shall reflect it has been passed by a majority of Members only and dissenting Members may, if they so wish, be explicitly noted as dissenting Members. (p. 4)*