

Independent Custody Visiting Association
Briefing for Independent Custody Visitors
OPCAT and the UKNPM
September 2021



What is OPCAT?

OPCAT is The Optional Protocol for the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. OPCAT is an international human rights treaty. For these international standards to apply, countries need to ratify the treaty. This means that the UK government needed to agree and sign up to the treaty and its contents. OPCAT was [ratified in the UK in 2003](#) with the UK being an early adopter.

At the heart of OPCAT is that States must have a system of regular, independent visits to places of detention. OPCAT notes that these visits can serve as an important safeguard against abuses and prevent torture and ill-treatment in places that by their very nature fall outside the public gaze. The treaty sets out both an international and a national framework for monitoring detention.

OPCAT has a preamble setting out the basis of the treaty and a number of articles grouped into the following parts:

- Part 1 – General Principles
- Part 2 – Subcommittee on Prevention
- Part 3 – Mandate for the Subcommittee on Prevention
- Part 4 - National Preventive Mechanisms
- Part 5 – Declaration
- Part 6 – Financial Provisions
- Part 7 – Final Provisions



You can find the full articles of OPCAT [here](#). This briefing will give a little more detail on the general principles of OPCAT and the UK National Preventive Mechanism. There is also a note on the Subcommittee for the Prevention of Torture (SPT).

General Principles of OPCAT

The first principle governs the overarching aim of the Protocol and states:

Article 1

The objective of the present Protocol 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.

The general principles also set out rights of access to places where people are deprived of their liberty and define this as *'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'

The general principles then explain that to carry out the State duties under OPCAT, the establishment of national preventive mechanisms is necessary:

Article 3

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

The general principles also lay out in brief the role of the SPT, more on which below.

What is the NPM?



The picture in the UK is a complex one. Unlike some other countries, there were already a wealth of monitoring bodies for places of detention in England and Wales prior to OPCAT being ratified. Therefore, in recognition of the work these bodies were already undertaking, the NPM was established in 2009 as a member body with the NPM secretariat performing

central co-ordination functions across all bodies and all four nations of the UK.

At the time of the NPM being formed, there were 18 bodies included, which has increased to the current 21 bodies at the time of writing. You can see a full list of all NPM members including ICVA [here](#).

The NPM meets collectively and also has specific subgroups for Scotland, mental health and policing.

The NPM must have, as a minimum, the powers to:

- regularly examine the treatment of persons deprived of their liberty in all places of detention under the UK's jurisdiction and control;
- make recommendations to relevant authorities with the aim of improving the treatment and conditions of persons deprived of their liberty;
- submit proposals and observations on existing or draft legislation

In the context of the UKNPM, the listed bodies directly undertake the visits and monitoring.

The NPM secretariat, in consultation with members, writes collective responses to government and international monitoring visit reports, annual reports detailing the monitoring feedback on detention settings and more. You can access more information about the NPM [here](#), and NPM publications [here](#). You can also follow the UKNPM on Twitter @UKNPM.

What does OPCAT and the UKNPM mean for independent custody visiting?

ICVA are a member of the UK NPM to represent the schemes who monitor police custody in the England and Wales (Scotland and Northern Ireland have their own representation at the NPM).

Independent custody visiting is an important part of monitoring police detention and represents the most frequent oversight into police custody in the UK. ICVA is an active member of the UKNPM on behalf of schemes, feeding into reports, meeting with international monitoring bodies such as the SPT and sharing good practice with other police monitoring bodies such as the inspectorates. ICVA currently chairs the NPM subgroup for policing.

ICVA has raised issues with other NPM members such as menstrual care, request culture and other ICV/scheme reported concerns. This cross NPM approach helps ICVA to attain further evidence to add to an evidence base. This wide, multibody, evidence base can then assist in ICVA pressing for positive change where necessary such as in the case of menstrual care.

Who are the Subcommittee for the Prevention of Torture (SPT)?

The SPT are international monitors who can visit any country that has ratified OPCAT to check on the progress and work of the NPM in that country. The SPT will undertake scrutiny of the NPM itself and its functions and visit places of detention across the jurisdiction, both alongside monitoring bodies and independently.

The members of the SPT come from all over the world and some work with NPMs in their own countries. The SPT have the powers and credentials to enter any detention setting in the UK.

The SPT visited the UK in 2019, accompanying ICVs on a custody visit. You can read ICVA's blog on the visit and the resultant report [here](#).

Briefing Ends