

December 2019

Memorandum of Understanding

Between

Her Majesty's Prison and Probation Service

And

**The Management Board of the
Independent Monitoring Boards**

Memorandum of Understanding

1. This Memorandum of Understanding sets out the roles and shared responsibilities of both the Independent Monitoring Board (IMB) and the Her Majesty's Prison and Probation Service (HMPPS) establishment they monitor, allowing both parties to function as effectively as possible.

Accommodation

2. Each prison or Young Offender Institution (YOI) will make arrangements for Boards to be provided with:
 - a) A single dedicated office in each establishment which is equipped with a desk, chairs, Quantum computer, printer, telephone, consumable office supplies and private lockable cabinet storage facilities;
 - b) Reasonable access to printing, black and white photocopying, and scanning facilities;
 - c) A suitable venue for monthly Board meetings; and
 - d) A suitable room for meetings with prisoners to hear applications and conduct private interviews.
 - e) A sufficient number of secure IMB application boxes to allow prisoners to submit applications.

Clerking

3. Each prison or YOI will make arrangements either:
 - a) for Boards to be provided with a clerk with sufficient allocated time to fulfil the duties set out at Paragraph 6, and a deputy clerk to cover absences on the same terms as the clerk; or
 - b) for that same role to rotate between several named administrative staff on the same terms.
4. The Chairs of Boards will give clerks at least 6 weeks' notice of Board meetings to enable rostering of suitable shifts.

5. Clerks will only be available to conduct clerking duties during working hours on working days (working days are Monday-Friday, excluding statutory Bank Holidays or other privilege days granted to Government officials such as the Queen's Birthday), and will not be expected to be available outside of these hours or for longer than their rostered shift.
6. Duties of the clerk will be to:
 - a) Complete an e-learning course for clerks on appointment;
 - b) Agree the agenda for monthly Board meetings with the Chair at least 7 days in advance and circulate to all members of the Board, and the Governor;
 - c) Attend Board meetings and provide minutes to the Chair within 7 working days of the meeting for distribution within 14 working days;
 - d) Handle correspondence under the direction of the Board;
 - e) Circulate all relevant information to the Chair and applicable Board members as directed, including local policies or orders from the Governor/Director;
 - f) Provide the Board with redacted copies of contracts and agreements for outsourced services, and any variances;
 - g) Maintain up to date manuals and filing systems;
 - h) Provide relevant statistics for Board meetings;
 - i) Maintain records of the Board to enable the compilation of the Annual Report;
 - j) Maintain a current list of addresses and contact details of all members;
 - k) Manage the annual nominations for the election of Chair, Vice-chair and Board Development Officer;
 - l) Meet with the Chair on a mutually-agreed basis;
 - m) Maintain Board confidentiality at all times in relation to the work of the IMB;
 - n) Assist with all aspects of the recruitment and induction process, including arranging interviews, Disclosure and Barring Service (DBS) and Counter-Terrorist Clearance (CTC) processes, ID cards and badges;
 - o) Assist with the Triennial Review of Board Members by ensuring their attendance at the establishment is recorded;

- p) Give clerical support to arrange training courses, and ensure attendance is recorded;
- q) Keep the Secretariat informed of resignations, sabbaticals, and any change in members' contact details;
- r) Process members' expense claims within 7 days of receipt, in accordance with the Finance Manual;
- s) Maintain records and give support to the Chair in the administration of the Board's budget where requested and in accordance with the IMB Finance Manual; and
- t) Other administrative tasks including stationery supplies, collation and distribution of the annual report, maintaining supplies of IMB application forms and envelopes within the establishment, and collecting completed applications where required.

Matters of Security

Security Clearance

7. The IMBs' Secretariat will:

- a) Ensure all Board members undergo an enhanced DBS check once every 5 years and, where required, a CTC check.
- b) Provide the Chair of each Board with a list of contact details for all members of that Board.
- c) Notify the Governor/Director at the establishment immediately if any Board member:
 - i. Is suspended from duty;
 - ii. Has their security clearance suspended or revoked;
 - iii. Is subject to a disciplinary matter which impacts on the safety or security of the detention estate and those who live and work in them;
 - iv. Is unable to fulfil their duties, for example due to ill health; or
 - v. Resigns their position.

Physical Security

8. Board members will:

- a) Attend induction training that will brief them on all policies and procedures relating to the safety and security of the establishment, including conditioning and anti-

corruption training, the handling of keys, documents, and other physical security procedures;

- b) Attend relevant training in relation to security/personal protection and health and safety on appointment and reappointment or when required; and
- c) Report to the Head of Security without delay any breach, or potential breach, of security, or any matter that might affect the good order of the establishment.

9. Governors will :

- a) Provide details of relevant courses under 8a) and b) above when they are arranged;
- b) Follow the procedures set out in PSI 42/2014 should the withdrawal of keys from an IMB member be necessary, ensuring that a copy of the signed form is sent to the Secretariat;
- c) Raise any security concerns or serious allegations about any Board member in confidence with the Board Chair, as soon as possible, without prejudicing any ongoing investigation. The Chair will consult the Head of Secretariat immediately for further advice, and they will inform the National Chair;
- d) Provide appropriate access to IMB members at all times, including times when the prison is operating in night state, on the understanding that the Board Chair agrees and follows the entry protocol;
- e) Ensure the health and safety of IMB members within the establishment so far as is reasonably practicable; and
- f) Invite the Board Chair, or his/her delegate, to attend the hot debrief after an HMIP inspection.

Communication and Information Assurance

- 10. The Secretariat will issue Board members and establishments on an annual basis with a copy of the Information Assurance Policy, which protects the integrity of HMPPS data and assures the safety and security of the estate, and privacy of prisoners and staff. The Secretariat will require Board members to sign and acknowledge their adherence to this policy.
- 11. Board members will at all times act in compliance with the IMB Information Assurance Policy regarding the use of secure e-mail (i.e. secure accounts and addresses which have been provided by the Ministry of Justice) and agree to

communicate electronically with HMPPS and/or the prison/YOI, and to communicate with each other about any sensitive or confidential matter to do with the board, the establishment, individual prisoners or members of staff.

12. Board Chairs also agree to notify the Head of Security and the IMB Secretariat Data Protection Officer immediately where they believe there may have been a breach of data security, breach of the IMB Information Assurance Policy, or the loss of personal information relating to a board member, prisoner or member of staff.

Serious Incidents

13. The Board must be informed promptly, and within the hour, of the opening of the command suite for any of the following:
 - i. A death in custody (either in the establishment or in hospital);
 - ii. Concerted indiscipline (active or passive);
 - iii. Escape or attempted escape;
 - iv. Hostage taking;
 - v. Incident at height;
 - vi. Bomb threat or explosion;
 - vii. Find of a firearm, ammunition or explosive;
 - viii. Use of special accommodation;
 - ix. Key compromises or other serious security matters;
 - x. Breach, or attempted breach, of security or control by outsiders;
 - xi. Barricades;
 - xii. Serious fire;
 - xiii. Evacuations (other than other those conducted as part of a fire drill practice);
 - xiv. Industrial action taken by staff; or
 - xv. Outbreaks of any infectious disease as defined by Public Health England or Public Health Wales.

14. The Board will provide a list of names and telephone numbers for this purpose. Messages should not be left on an answerphone.
15. If any of the incidents listed above occurs but the command suite is not opened, the Chair should be informed via CJSM of the incident within 4 hours.

Routine Notifications

16. The prison/YOI will make arrangements to ensure that the Chair, or another designated member of the Board, is notified by email on CJSM and by a message left on the IMB office answerphone as soon as possible of:
 - a) Any prisoner transferred to the segregation unit or equivalent;
 - b) Any assault resulting in a prisoner or officer requiring hospital treatment;
 - c) Any full lock-down search;
 - d) Any review of a segregated prisoner under Rule 45, giving sufficient time to allow the member to attend;
 - e) Where possible, any planned removal under restraint; or
 - f) The commencement of an unannounced inspection by HM Inspectorate of Prisons or the Children's Commissioner.
17. The prison/YOI will make arrangements to ensure the Chair, or another designated member of the relevant Board, is notified within 24 hours by email on CJSM, and a message left on the IMB office answerphone, of:
 - a) Emergencies requiring a prisoner being admitted to hospital;
 - b) Serious assaults on prisoners requiring medical treatment;
 - c) Serious assaults on staff requiring medical treatment;
 - d) Prisoners who have refused official meals for 48 hours as a form of protest, where there is no evidence or reasonable grounds to assume they are eating or drinking from another source;
 - e) Prisoners about whom healthcare have a medical concern as a result of ongoing food or fluid refusal; and

- f) Prisoners who healthcare are satisfied have been refusing fluids as a form of protest for 24 hours or more, where there is no evidence that they are drinking from another source.
18. The prison/YOI will make arrangements to ensure the Chair, or another designated member of the relevant Board, is notified weekly of:
- a) Prisoners who have been subjected to close monitoring in accordance with suicide and self-harm prevention policies (Assessment Care in Custody Teamwork);
 - b) Prisoners who have been subject to mandatory drug or alcohol testing;
 - c) Any prisoner subject to a full search;
 - d) Prisoner-on-prisoner and prisoner-on-staff assaults; and
 - e) Any uses of force.
19. The prison/YOI will exercise discretion to decide when Boards should be notified of other incidents:
- a) Which constitute a serious threat to security;
 - b) Which are likely to raise public concerns; or
 - c) Where it would be desirable, in the interests of prisoners, to have an independent witness present.
20. Boards will:
- a) Notify immediately a member of staff and the duty governor of any prisoner, member of staff or visitor about whom they have concern with regard to their personal safety or security;
 - b) Complete a Security Information Report (IR) or advise the duty governor about any incident they witness, or another matter brought to their attention, about the safety and security of the establishment (e.g. escape attempts, drug dealing, etc.);
 - c) Notify the Governor of any matter which they feel requires their attention;
 - d) Seek to resolve minor issues at a local level first and, if necessary, then with the Prison Group Director, or via the Secretariat with the relevant senior official in HMPPS; and

- e) As a matter of courtesy, notify the Governor of any matter relating to their establishment they intend to bring to the attention of the Secretary of State or higher levels within HMPPS or MOJ.

Access to Records, Statistics and Management Information

Records

- 21. The prison/YOI will provide access to all records and documents, CCTV and body worn video footage. The establishment:
 - a) May refuse access to records if information contained within them is protected or classified to a level requiring a higher level of security clearance than that held by the individual Board member. Such instances are expected to be rare, and a full written explanation of why access is being refused will be provided. Where a Chair is unhappy with the explanation provided, he or she may appeal the matter to the Prison Group Director in the first instance, and thereafter through the Secretariat to the Director General for Prisons. If the refusal is on data protection grounds (or GDPR grounds), the relevant provision of the legislation must be provided in writing so the board may refer this to the IMB Data Protection Officer for advice.
 - b) Will facilitate reasonable access to elements of individual contracts relating to matters for which the Board has monitoring responsibility which are not confidential or commercially sensitive.
- 22. Boards:
 - a) Require the written permission of an individual prisoner before being given access to medical records - medical records may nonetheless be withheld in accordance with Section 5 of the Access to Health Records Act 1990;
 - b) Agree not to make copies of documents without the permission of the Governor;
and
 - c) Accept that they are not entitled to see information which is commercially confidential.

Meetings and Reports

Meetings

- 23. Boards agree to:
 - a) Invite the Governor to attend their monthly meetings (in part), normally providing at least 6 weeks' notice of meetings; and

- b) Provide the Governor with a copy of rota reports and any issues of concern at least two working days in advance of the meeting to allow them to prepare.

Publication of Boards' Annual Reports

24. Boards agree:

- a) To provide the Governor with a draft copy of the Board's annual report before submitting it to the Secretariat, for any comment on factual accuracy;
- b) To provide HMPPS with a draft copy of the report for publication, via the Secretariat, providing a minimum of 10 days for comment on factual accuracy;
- c) The Board will consider carefully any representations that the Governor or HMPPS makes about the accuracy of a report or an intended publication date - if points of accuracy cannot be resolved at Board/Governor level, the Board Chair may escalate this to the National Chair, or the Governor to more senior colleagues in HMPPS; and
- d) To provide the Ministry of Justice with a copy of the report and a confirmed publication date, via the Secretariat, a minimum of 10 days before publication, and to provide the Prisons Minister with final version of the report, via the Secretariat, five days before publication.

25. The Prisons Minister will aim to provide a detailed response to any recommendations or areas for improvement within 6 weeks of publication of the report.

26. The Governor will provide Boards with updates at their monthly meetings on progress against those matters.

Other reports for publication

27. The National Chair and Boards agree

- a) to provide HMPPS with a draft copy of other reports, such as national annual reports or thematic reports, a minimum of three weeks before publication for any comment on factual accuracy;

- b) to consider carefully any representations made; and

- c) to provide the Ministry of Justice with a copy of the report and a confirmed publication date, via the Secretariat, at least 10 working days before publication, and to provide the Prisons Minister with a final version, via the Secretariat, at least five days before publication.

Public Relations

External Visits

28. From time to time, Boards may, as part of their duties, wish to make arrangements for external visitors to view the establishment, in particular prospective new Board members.
29. Boards should normally submit requests for such visits to the Governor/Director at least 2 weeks in advance of a proposed visit, although requests providing less notice will still be considered. Visit requests should be accompanied with:
 - a) Full details of the visitors, including their name, date of birth, nationality, the organisation they represent and their position in that organisation;
 - b) Objectives of the visit; and
 - c) Proposed date, time and duration of the visit.
30. While Governors/Directors will seek to facilitate such visits, the decision as to whether or not to permit such visits rests with them, in particular where there is concern about the safety and security of the establishment or a need to manage the number of visits a particular part of the estate is receiving.
31. Where permission for a visit is refused because of timing (e.g. to manage the number of visits to an establishment in a particular week), the Governor/Director will work with the Chair to agree an alternative date and time. Where permission for a visit is refused for another reason, a full written explanation will be provided to the Chair of the Board.

Media

32. Boards may wish to speak to or otherwise engage with the media from time to time, e.g. in relation to the publication of annual reports. In doing so, Boards agree:
 - a) As a matter of courtesy, to notify the Governor, where possible in advance, of an intention to engage with the media;
 - b) If taking and/or using photographs of the estate, facility, prisoners or staff, obtain security clearance from the establishment and prior permission from the Governor or delegated representative;
 - c) That photographs intended for publication will be subject to final clearance at the factual accuracy check of the production of the report;

- d) Not to comment to the media about anything that might jeopardise the safety or security of the estate, prisoners or staff; and
- e) Not to comment to the media whilst discussions are taking place in relation to an industrial dispute.

Disputes and Review

- 33. All issues relating to allegations and/or complaints about Board members will be dealt with in accordance with the IMB code of conduct and procedures and the attached security annex.
- 34. In the first instance, complaints by staff or prisoners about IMB members should be directed to the Board Chair. If the complaint is about the Board Chair, then it should be directed to the relevant IMB Regional Representative via the Secretariat.

P. Cople

Date: 9th December 2019

Phil Cople

Director General for Prisons

Her Majesty's Prison and Probation Service



Anne Owers

Date: 9th December 2019

Dame Anne Elizabeth Owers DBE

The National Chair on behalf of the

Management Board of the Independent
Monitoring Boards

