

Memorandum of Understanding on
immigration detention between Home
Office (Immigration Enforcement) and the
Management Board of the Independent
Monitoring Boards.

This MOU sets out the roles and shared responsibilities of both the Independent Monitoring Boards and the Home Office (Immigration Enforcement). This agreement respects the independence and autonomy of both organisations whilst allowing both parties to function as effectively as possible.

1. Independent Monitoring Boards (Boards) in immigration removal centres (IRCs) and short-term holding facilities (STHFs) are appointed by the Secretary of State in accordance with Section 152 of the Immigration and Asylum Act 1999 and operate in accordance with Part VI of the Detention Centre Rules 2001, and Part VII of the Short Term Holding Facility Rules 2018. In addition, by agreement, the Charter Flight Monitoring Team (CFMT) monitors the removal from the UK of detained persons on charter flights.
2. Detention and Escorting Services (DES) within Home Office Immigration Enforcement (HOIE) is responsible for:
 - a) The operation of the immigration detention estate, consisting of holding rooms at ports of entry and reporting centres, residential short-term holding facilities, IRCs and the pre-departure accommodation facility at Gatwick.
 - b) In-country and overseas escorting.
3. Returns Logistics is responsible for: the practical arrangements for making enforced returns, including the facilitation of travel documentation and provision of appropriate means of departure from the UK (usually either scheduled commercial flights or chartered flights).

Accommodation

4. DES will make arrangements for Boards to be provided with:
 - a) A single designated office in each IRC which is equipped with a desk, chairs, computer, printer, telephone and lockable cabinet storage facilities.
 - b) Reasonable access to printing/black and white photocopying facilities.
 - c) A venue for monthly Board meetings within the detention facility, or an agreed alternative venue.
 - d) IRCs will provide tea, coffee and water for Board meetings.
 - e) Where possible, a suitable room for meetings with individuals who are detained to conduct private interviews.

- f) The office and equipment outlined above will be kept in good working order by the centre supplier.

Administrative support

- 5. DES will make arrangements for Boards to be provided with:
 - a) An administrator (IMB clerk) for up to 15 working hours per month to fulfil duties set out at paragraph 10; (including administration for the Immigration Detention Estate Chairs' Forum.) This will include support for the CFMT.
 - b) A deputy administrator to cover absences on the same terms as the administrator.
- 6. The Chair of the Board will give administrators at least 6 weeks' notice of Board meetings and Chairs' Forum meetings to enable rostering of suitable shifts.
- 7. Administrators will only be available to conduct administrative duties between the hours of 10.00 am and 7.30 pm on working days, (working days are: Monday-Friday only, excluding statutory Bank Holidays or other privilege days i.e. holidays 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.
- 8. Where a dedicated administrator is not available on a temporary basis, DES will ensure the responsibilities of the administrator are covered.
- 9. Duties of the administrator are to:
 - a) Complete an E-Learning course (IMB Clerks course) for administrators on appointment.
 - b) Agree the agenda for monthly Board meetings with the Chair at least seven days in advance and circulate to all members of the Board, the supplier Centre Manager and the Immigration Manager/Contract Monitor.
 - c) Attend Board and CFMT meetings (and where relevant, IDE Chairs' Forum) and provide minutes to the Chair within seven 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.
 - f) Maintain up to date manuals and filing systems.
 - g) Provide relevant statistics for Board meetings.
 - h) Maintain records of the Board to enable the compilation of the Annual Report

- i) Maintain a current list of addresses and contact details of all members and keep the Secretariat informed of resignations, sabbaticals and any change in members' contact details.
- j) Preside over the annual nominations for the election of Chair, Vice-chair and Board Development Officer.
- k) Meet with the Chair on a mutually agreed basis.
- l) Maintain Board confidentiality at all times in relation to the work of the IMB.
- m) Assist with all aspects of the recruitment process including arranging interviews, DBS/CTC processes ID cards and badges.
- n) Assist with the Triennial Review of Board Members by ensuring their attendance at the establishment is recorded.
- o) Give clerical support to arrange training courses.
- p) Verify security documents with applicants via a face-to-face meeting, usually at interview. DES will work with the IMB Secretariat to ensure that candidates are provided with online access to complete DBS and CTC vetting.
- q) Give clerical support to arrange training courses, and ensure attendance is recorded.
- r) Process members' expense claims within 7 days of receipt, in accordance with the Finance Manual.
- s) Process CFMT travel and subsistence expenses via Returns Logistics
- t) 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.
- u) Other administrative tasks, including stationery supplies, collation and distribution of the annual report, maintaining supplies of IMB application forms and envelopes within the establishment, collecting completed applications where required.

Matters of Security

Security Clearance

10. The Independent Monitoring Boards' Secretariat will:
 - a) Ensure all Board members undergo a standard Disclosure and Barring Service (DBS) check once every 5 years and a Counter Terrorism Check (CTC) every 10 years. The Certification Team, DES has responsibility for ensuring all Board members are security cleared to the necessary standards set by the Home Office's Departmental Security Unit before being allowed to take up their duties.
 - b) Provide the Chair to each Board with a list of contact details for all members of that Board.
 - c) Notify the HOIE Contract Monitor at their IRC or STHF immediately if any Board member:
 - i. Is suspended from their appointment,
 - ii. 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,
 - iii. Is unable to fulfil their duties, for example due to ill health,
 - iv. Resigns their position.

Security Passes for access to port holding rooms

11. The administrator for the STHFs will actively support the Chair and the CFMT Team Leader in obtaining the relevant security and airside passes from the port operator or proprietor of the facility being monitored, or will facilitate the arrangements being agreed under the IMB compliance authority status.
12. The Home Office will sponsor such applications, and DES will liaise with the relevant authorities issuing security passes and clearances to facilitate their prompt provision. The administrator will assist Board members in fulfilling any requirements for such passes (e.g. sitting tests).

Physical Security

13. Board members will:
 - a) Adhere to all Immigration Enforcement and its suppliers (suppliers include partners who deliver a service for the Home Office, such as HM Prison and Probation Service) policies and procedures relating to the safety and security of the establishment being monitored. This includes the handling of keys, Immigration Enforcement or suppliers' 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, including HOMES and SAFE training for the CFMT where necessary.
- c) Report to the supplier Centre Manager or the Contract Monitors without delay any breach or potential breach of security.
- d) Board members may retain their mobile telephones whilst visiting an IRC or STHF in accordance with DSO 05/2018¹ at the discretion of the Centre Manager. All mobile phones held by Board members should be declared at the entrance to the centre, and are liable for inspection both on arrival and on departure. CFMT members may retain their mobile telephones in accordance with DSO 8/2012
- e) DES will:
 - a) Where there are security concerns about any Board member, raise this in confidence with the Board Chair, who will consult the Head of Secretariat. The Head of Secretariat will inform the National Chair.
 - b) Provide appropriate access to IMB members at all times in order to fulfil statutory duties.
 - c) Ensure the health and safety of IMB members within the establishment so far as is reasonably practicable.
 - d) Invite the Board Chair, or their delegate, to attend the hot debrief after an HMIP inspection.

14. In respect of CFMT members:

- a) Immigration Enforcement will maintain insurance, with the equivalent level of cover to that provided for Home Office officials, for outgoing and return flights.

Communication and Information Assurance

15. Data sharing (DS) protocols for information provided centrally by Home Office officials is set out in a standalone DS MOU. Both the Home Office and IMB agree to the following data sharing principles:

- to comply with the requirements of the Data Protection legislation as set out in section 3(9) of the Data Protection Act 2018;
- to comply with the requirements of the Human Rights Act 1998 and other relevant legislation;
- to comply with the data protection principles as set out in the General Data Protection Regulations (GDPR);

¹ DSO 05/2018 Mobile Phones and Cameras

- to only share data in accordance with departmental guidance for data quality and security.
16. The Secretariat will issue Board members and establishments with a copy of the Information Assurance Policy on an annual basis, which protects the integrity of Home Office and Immigration Enforcement data and assures the safety and security of the estate and privacy of individuals who are detained, and staff alike. The Secretariat will require Board members to adhere to this policy.
 17. Board members should use secure e-mail (i.e. secure accounts and addresses which have been provided by the Secretariat) to communicate electronically (i.e. by e-mail) with Immigration Enforcement and to communicate with each other about any matter to do with the board, the centre, individuals in detention, or members of staff. Any deviance from these arrangements must be agreed by the IMB Secretariat.
 18. Board Chairs also agree to notify the Centre/STHF Management and the IMB Secretariat Data Protection Officer immediately where they believe there may have been a breach of data security, breach of the Information Assurance Policy or the loss of personal information relating to a board member, an individual in detention, or a member of staff.

Access to Records and Management Information

19. The Home Office will ensure access to all records and documents, CCTV and body worn video footage in accordance with Detention Centre Rule 63(3) or Short-term Holding Facility Rule 52(3) as applicable. This will include allow access to other records which may be reasonably required by them to exercise their duties.
20. Official Statistical Data covered by the Data Sharing MOU will be provided to the IMBs on an agreed regular basis and the content of these reports will be agreed mutually.
21. The Home Office may refuse access to records if information contained within 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 or the CFMT is unhappy with the explanation provided, they may appeal the matter to the Detention and Escorting Services Delivery Manager in the first instance, and thereafter through the Secretariat, to either the Head of Detention Operations or the Director of Detention and Escorting Services.
22. If the refusal is on data protection grounds, which is expected to be rare, the relevant provision of the legislation and its application to the request, must be provided in writing so the board may refer this to the IMB Data Protection Officer for advice.

23. DES will facilitate reasonable access to elements of individual contracts relating to matters for which they have monitoring responsibility which are not confidential or commercially sensitive.

24. Boards:

- a) Require the written permission of an individual detainee before being given access to medical records. Even then, 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 Centre Manager, or the Manager of the STHF.

25. DES will:

- a) Make arrangements for the relevant Board to review documentation which relates to services being tendered prior to publication to potential bidders.
- b) Consider carefully any comments made by the Board.
- c) Notify the Chair of the Board once a final decision has been made on contract award and the new supplier has been notified.
- d) Make arrangements for the Chair to meet the new Centre Manager/Contract Director designate (where applicable) once contracts have been signed between the contractor and Immigration Enforcement.

26. Boards agree:

- a) Not to make copies of any of the documentation in relation to contract tenders.
- b) Not to discuss the contents of any such documentation with any third party, including the incumbent contractor or potential suppliers both as part of the tender and the wider procurement process.

Special Notifications

27. DES will make arrangements to ensure the Chair or another designated member of the relevant Board is notified 48 hours in advance of:

- a) An IRC, STHF or PDA being used as a point of collection for chartered flights or other special operations such as a documentation exercise.
- b) The number and nationality of detainees to depart on the flight and the anticipated time of departure from the IRC, STHF or PDA.

c) A chartered flight where the Board monitors the airport from which the flight will be departing, including the details of when detainees are expected to arrive at the airport and the scheduled time of departure of the flight.

28. Immigration Enforcement will make arrangements to ensure that the Chair or another designated member of the relevant Board is notified without delay of:

a) Any individual in detention being removed from association in accordance with Rule 40 of the Detention Centre Rules 2001 (Rule 35 of the Short-term Holding Facility Rules 2018).

b) Any use of force in accordance with Rule 41 of the Detention Centre Rules 2001 or Rule 36 of the Short-term Holding Facility Rules 2018.

c) Any individual in detention being temporarily confined in accordance with Rule 42 of the Detention Centre Rules 2001 (Rule 37 of the Short-term Holding Facility Rules 2018).

d) The commencement of an unannounced inspection by HM Inspectorate of Prisons or the Children's Commissioner, or the CQC.

e) Any serious incident in accordance with DSO 05 2015 'reporting and communicating incidents in the immigration detention estate'; including:

i. Death or serious injury of a detainee or member of staff while on duty or as a direct result of an incident occurring at work

ii. Concerted indiscipline (active or passive)

iii. Escape or attempted escape from a Centre or STHF

iv. Abscond or attempted abscond by a detainee under escort by Centre or contracted staff

v. Hostage taking

vi. Roof climbing

vii. Bomb threat or explosion

viii. Find of a firearm, ammunition or explosive

ix. Full lock-down search

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.

29. DES will make arrangements to ensure the Chair or another designated member of the relevant Board is notified within 24 hours of:

a) Individuals in detention who have been subject to a full search.

b) Individuals in detention who have been subject to a compulsory drug or alcohol test.

c) Emergencies requiring a detainee being admitted to hospital.

d) assaults between two or more individuals in detention.

e) Key compromises or other serious security matters.

f) Individuals in detention who have refused official meals for 48 hours - where there is no evidence or reasonable grounds to assume they are eating or drinking from another source.

g) Individuals in detention about whom Healthcare have a medical concern as a result of ongoing food or fluid refusal.

h) Individuals in detention 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.

i) Outbreaks of any contagious disease.

j) incidents of serious allegations of staff misconduct being investigated by the Home Office Professional Standards Unit.

30. Immigration Enforcement will make arrangements to ensure the Chair or another designated member of the relevant Board is notified weekly of:

a) Individuals in detention who have been subjected to close monitoring in accordance with suicide and self-harm prevention policies (Assessment Care in Detention and Teamwork).

b) Incidents where individuals in detention have assaulted staff.

c) Individuals in detention who claim to be under 18 years of age and where a Merton compliant age assessment has not yet been conducted by the local authority.

31. DES and its suppliers will exercise their discretion to decide when Boards should be notified of other incidents:

- a) Which constitute a serious threat to security;
- b) Which are likely to attract public concern; or
- c) Where it would be desirable, in the interests of individuals in detention or staff, to have an independent witness present.

32. Boards will:

- a) Notify immediately a member of staff and the duty manager of any individual in detention, member of staff or visitor about whom they have concern with regard to security or their personal safety.
- b) Complete a Security Information Report (SIR) or advise the Duty Manager about any incident they witness, or another matter brought to their attention about the safety and security of the IRC or STHF (e.g. escape attempts, drug dealing, etc.).
- c) Notify the Contract Monitor 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 Detention and Escorting Services Area Manager, Delivery Manager and the Head of Detention Operations.
- e) As a matter of courtesy, notify the Contract Monitor, the IMB Secretariat and National Chair of any matter relating to their establishment they intend to bring to the attention of the Secretary of State.
- f) Bring any matter which they consider affects good order and discipline within the IRC or STHF to the attention of the Centre Manager/Contract Director and Contract Monitor.

In respect of the CFMT, the Team will:

- a) Monitor a maximum of 12 charter flights per year;
- b) Provide five days notice of their intention to monitor a flight to Immigration Enforcement and the escort provider.

33. Returns Logistics will provide the coordinator of the CFMT with advance notice of the collection timetable, locations and lead escorts for charter flights.

Meetings and Reports

Meetings

34. Boards agree to:

- a. Invite the supplier Centre Manager/Contract Director and Home Office DES and DET Managers to attend their monthly meetings (in full or in part), normally providing at least six weeks' notice of meetings.
- b. Provide the supplier Centre Manager/Contract Director and the Contract Monitor 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.
- c. Invite the relevant senior post-holder to the quarterly IDE Forum.
- d. CFMT members agree to invite representatives from Returns Logistics, Detention Operations and the escort provider to attend their biannual meetings (in full or in part), normally providing at least six weeks' notice of meetings.
- e. Provide Returns Logistics, Detention Operations and the escort provider with a copy of flight reports, highlighting any recommendations and issues of concern at least two working days in advance of the meeting to allow them to prepare.

DES agrees to:

Ensure the regular attendance of appropriate Home Office managers and where appropriate the head of Return Logistics, in respect of both Board Meetings and the IDE Forum.

Ensure the regular attendance of a representative from Returns Logistics and Detention Operations or if not possible provides a written response to issues raised by the Board.

Publication of Annual Reports

35. Boards and the CFMT agree:

- a) To provide the supplier Centre Manager/Contract Director and the Contract Monitor (in the case of CFMT, DES) with a draft copy of any reports intended for publication, providing a minimum of three weeks for comment with regard to factual accuracy.
- b) To consider carefully any representations that DES makes about the factual accuracy of a report or an intended publication date. However, any decision to accept the representations remains for the Board/CFMT alone. Boards/CFMT will respond to any factual accuracy checks within a further two weeks.

- c) To provide the Minister for Immigration with a final version of the report at least 15 days prior to publication and to provide a confirmed publication date.
- d) Boards may issue a press release concerning publication of the report. The IMB Secretariat will endeavour to circulate the text of the draft press release two days before publication.

DES will:

- a) Provide details of any factual inaccuracies within three weeks of receipt of the draft report by relevant body.
- b) Within six weeks of publication of an annual report, the Home Office will submit an action plan to the Board/CFMT specifying what recommendations are accepted, what progress has been made and what action is to be taken by when. These plans will be cleared by Ministers.
- c) Provide Boards/CFMT with updates at their regular meetings on progress against any recommendations which have been accepted.

Public Relations

External Visits

- 36. Immigration Enforcement accepts that from time to time, Boards may, as part of their duties, wish to make arrangements for external visitors to view the detention estate, in particular prospective new Board members.
- 37. Individuals or organisation who do not have a statutory right of access and who wish to view an IRC or residential STHF are required under the Rule 56 of the Detention Centre Rules 2001 or Rule 47 of the Short-term Holding Facility Rules 2018 (as applicable) to obtain the permission of the Secretary of State via DES.
- 38. Boards should normally submit requests for such visits to the Contract Monitor at least two weeks in advance of a proposed visit, although urgent requests will still be considered. Visit requests should be accompanied with:
 - a) Full details of the visitors, including their name, date of birth, the organisation they represent and position
 - b) Objectives of the visit
 - c) Proposed date, time and duration of the visit

39. Where permission for a visit is refused because of timing (e.g. to manage the number of visits to a IRC or STHF in a particular week), Immigration Enforcement and its suppliers will work with the Chair to agree an alternative date and time. Where permission for a visit is refused for another reason, a full explanation will be provided to the Chair of the Board.

Media

40. 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 Immigration Manager in advance of an intention to engage with the media where this is known in advance.
- b) Not to use photographs of the estate, facility, detainees or staff without prior permission of the local Immigration Manager and the individuals concerned.
- c) To be mindful of security and safety considerations
- d) Not to comment to the media about an industrial dispute whilst discussions between the parties involved are taking place.
- e) To ensure that the requirements of the Data Protection Act 2018 and the General Data Protection Regulation are maintained in the event that the issue concerned relates to individuals in detention

Disputes and Review

41. All issues relating to allegations and/or complaints about Board members will be dealt with in accordance with the IMB complaints and discipline procedures.

42. In the first instance complaints by staff or individuals in detention 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.


Reviewing the MOU

45. The MOU will be reviewed annually or sooner if considered appropriate by the National IMB Chair and the Director General of Immigration Enforcement.

Signed on behalf of Immigration Enforcement

Tyson Hepple Director General Immigration Enforcement Home Office	
Date	03 June 2020

Signed on behalf of IMB Management Board

Dame Anne Owers National Chair Independent Monitoring Boards	
Date	03 June 2020