



MEMORANDUM OF UNDERSTANDING BETWEEN HM INSPECTORATE OF PRISONS AND THE IMB MANAGEMENT BOARD ON BEHALF OF INDEPENDENT MONITORING BOARDS IN ENGLAND AND WALES

1. Introduction

This Memorandum of Understanding (MoU) has been agreed between His Majesty's Inspectorate of Prisons (HMIP) and the IMB Management Board (MB) on behalf of individual Independent Monitoring Boards (IMBs). The agreement becomes effective when signed by the IMB National Chair and the Chief Inspector of Prisons. The agreement:

- Acknowledges the independence of IMBs and HMIP and the importance of that independence in fulfilling their respective responsibilities;
- Supports the work of ensuring the effective scrutiny of treatment and conditions for detained people in custody;
- Commits to the importance of promoting the improvement of places of custody; and
- Outlines information sharing responsibilities between all parties referenced in the MoU.

Nothing in this MOU will supersede the obligations of parties to ensure the safety and security of individuals and establishments as set out in their existing policies and procedures.

2. Aims

The aim of this MoU is to promote a clearer understanding of the respective roles of each party, to promote an effective relationship between IMBs and HMIP and to facilitate partnership working as appropriate.

3. His Majesty's Inspectorate of Prisons

HM Inspectorate of Prisons (HMI Prisons) is an independent inspectorate whose Chief Inspector is a Crown appointment. HM Chief Inspector of Prisons' responsibilities are set out in sections 5A and 43 of the Prison Act 1952 (as amended). The Chief Inspector reports to the Secretary of State on the treatment of and conditions for those in prison, young offender institutions, court custody facilities in England and Wales and immigration detention facilities in the United Kingdom. HMI Prisons also inspects secure training centres (jointly with Ofsted and the Care Quality Commission). By invitation, HMI Prisons inspects some military detention facilities as well as prisons in Northern Ireland and in other jurisdictions with links to the UK such as the Isle of Man. HMI Prisons promotes the concept of "healthy

establishments” in which staff work effectively to support prisoners and detained people to reduce reoffending and achieve positive outcomes for those detained and for the public.

Details of HMIP’s framework, approach and general methodology can be found at: <http://www.justiceinspectrates.gov.uk/hmiprisons/about-our-inspections/>

4. Independent Monitoring Boards

The role of IMBs is to monitor day-to-day life in their local prison in England & Wales and immigration detention in England, Wales, Scotland & Northern Ireland.

The Prison Rules, Detention Centre Rules and Short-Term Holding Facility Rules, define the principal duties of the IMB which are to:

- satisfy itself as to the humane and just treatment of those held in custody within its establishment and the range and adequacy of the programmes preparing them for release;
- inform the Secretary of State, or any official to whom he has delegated authority as it judges appropriate, of any concern it has; and
- report annually to the Secretary of State on how well the establishment has met the standards and requirements placed on it and what impact these have on those in its custody.

IMB members are independent unpaid public appointees. Members have unrestricted access to their local prison or immigration detention facility. They can talk to any prisoner or detained person, out of sight and hearing of a member of staff if necessary, and have right of access to records held at the establishment. They also take applications through which they can support prisoners or detained people with individual issues that have not been resolved through the usual internal channels.

The role of the IMB National Chair and Management Board is to provide leadership, oversight, direction and guidance to boards to help them fulfil their statutory duties and protect their independence from those they monitor. In addition to making an annual report to the Secretary of State, boards will raise concerns directly with managers of prisons or places of immigration detention.

5. The IMB National Chair and HM Chief Inspector of Prisons

The IMB National Chair and HM Chief Inspector of Prisons will meet at least quarterly to discuss issues of common concern and mutual interest.

6. The IMB Management Board

The IMB Management Board with support from the Secretariat will:

- consider and conduct joint work with HMIP on issues relevant to both parties;
- ask local IMBs to provide an update either written or verbal to HMIP as part of their inspection process;
- promptly provide any relevant information to HMIP that informs them of concerns in particular establishments;
- promote an awareness of the vital role of HMIP to Board members; and
- meet with HMIP to review the MoU on an annual basis.

7. The IMB Secretariat

The IMB Secretariat will:

- provide updated contact details of Chairs of Boards;
- pass to HMIP as appropriate correspondence and other intelligence relevant to an establishment or a specific inspection in line with IMB/HMIP data sharing protocols; and
- pass to the relevant IMB as appropriate correspondence and other intelligence received from HMIP in line with IMB/HMIP data sharing protocols.

8. HMI Prisons

HMIP will:

- consider and conduct joint work with the IMB on issues relevant to both parties;
- inform the IMB Secretariat that an inspection is taking place once the establishment has been notified and seek information from IMBs on issues of concern;
- confirm with the prison liaison officer via the inspection co-ordinator that they have informed the IMB that an inspection is taking place;
- meet with the Chair/Vice Chair of the IMB as soon as possible after the commencement of an inspection to establish the views of the local IMB;
- alert the IMB and/or the National Chair as appropriate to any serious issues about an establishment, either based on intelligence or arising from an inspection;
- send a copy of the report of the inspection to the IMB;
- forward correspondence or other intelligence that may require or benefit from action to the National Chair for them to pass on as appropriate to a relevant IMB in line with IMB/HMIP data sharing protocols;
- ensure inspectorate staff are aware of the independence, work and vital role of IMBs; and
- meet with the IMB Secretariat to review the MoU on an annual basis.

9. Individual IMBs

Individual Boards will:

- on inspections, inform HMIP of issues of concern either before or at the first meeting with the HMIP team leader or team;
- notify the Governor that the IMB should attend the debrief meeting held by the Governor with HMIP at the end of the inspection;
- use, as appropriate, the findings of HMIP inspection reports to support and inform their own monitoring role;
- in the first instance discuss with the Regional Representative, National Chair and HMIP any concerns arising from the report; and
- follow-up, as appropriate, correspondence or other intelligence received from HMIP via the National Chair and inform the National Chair and HMIP of the outcome.

10. Sanctions

- Both parties to this MoU are committed to work jointly and with the Prisons and Probation Ombudsman (PPO) to ensure the delivery of our agreed protocol on the issue of sanctions¹.
- The purpose of the protocol is to ensure prisoners or detained people are protected from any victimisation/sanctions which might take place for communicating or trying to communicate with HMIP, IMB members or the PPO.

11. Reconciliation of Disagreements

- Any disagreement between the parties, will normally be resolved at working level, for example between a Board Chair and Inspection team leader. If this is not possible, issues should be referred to HM Chief Inspector of Prisons and/or the National Chair. They will be responsible for ensuring a satisfactory resolution.

12. Information sharing agreement:

Both parties agree to comply with:

- Data protection legislation
- HM Government's Security Policy Framework:
<https://www.gov.uk/government/publications/security-policy-framework>
- The Information Commissioner's Office (ICO) Framework Code of Practice for sharing personal information:
http://ico.org.uk/for_organisations/data_protection/topic_guides/data_sharing

In particular, this includes:

- Preserving the integrity, confidentiality, and availability of shared data and preventing the corruption or loss of such data
- Processing the data only to the extent, and in such a manner, as is necessary for the effective functioning of the justice system or as required by law or any regulatory body
- Conducting, if necessary, a Data Protection Impact Assessment (DPIA) when changes are made to the processing of data

Specific measures to protect personal information:

- We shall at all times aim to protect personal data, the release or loss of which could cause harm or distress to individuals by compromising its confidentiality, integrity, or availability
- We shall handle all information that meets the definition as set out in the Government Security Classification System definitions for OFFICIAL, including any marked OFFICIAL-SENSITIVE, according to the prescribed standards including the specific measures set out in this agreement
- When OFFICIAL or OFFICIAL-SENSITIVE marked information is held on paper, it will be locked away when not in use
- When shared information is held and accessed on IT systems, we shall ensure the mandatory security outcomes described in the Security Policy Framework are met
- When shared information is moved between locations, we will securely transfer the information and it will be held and accessed in secure premises

¹ <http://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/02/hmip-imb-ppo-protocol.pdf>

- Any IT system is assessed as secure to the appropriate level
- We agree to avoid the use of removable media for storage to personal data wherever possible, and when removable media must be used then:
 - the information transferred will be the minimum necessary to achieve the business purpose
 - the media will be encrypted to the standards specified by the MoJ
 - user rights to transfer data to removable media will be carefully considered and strictly limited only to those absolutely necessary for business purposes.
- All material that has been used as shared data will be subject to controlled disposal (if and when it is agreed that the material cannot be returned to the source party):
 - Paper records will be destroyed by incineration, pulping, or shredding so that reconstruction is unlikely
 - Digital/electronic media will be disposed of through secure destruction, overwriting, or erasure for re-use.
- We will ensure that all data users that handle personal information are aware of the sensitivity of the data, the handling requirements, and successfully undertake information assurance risk awareness training on appointment and thereafter regularly throughout the length of their service
- We shall maintain, at all times, the 'need to know' principle and limit access to information to the minimum possible
- We shall maintain business continuity and incident recovery frameworks that cover the protection of shared data to maintain its integrity, availability, and confidentiality
- We shall not process personal data provided by the other party with countries who do not have adequacy arrangements in compliance with the UK GDPR, unless there is prior written consent and, where consent to a transfer is provided, the processing will comply with:
 - the obligations of a Data Controller under data protection legislation by providing the adequate level of protection to any personal data that is transferred, and any reasonable instructions as notified by the party that owns the data.
- If at any time we suspect or have reason to believe that shared data has or may become corrupted or lost, then we shall notify the other immediately, reporting any losses to MoJ Security as necessary
- All personal data shared will be held, and destroyed, according to the retention schedules defined by the originating organisation

Signed:



Charlie Taylor
HM Chief Inspector of Prisons

Date: 29th August 2023

Signed:



.....
Elisabeth Davies
IMB National Chair, on behalf of IMBs

Date: 29 August 2023