



Border Force

# Memorandum of Understanding on short-term holding facilities between Home Office (Border Force) 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 (Border Force). 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 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 VII of the Short-term Holding Facility Rules 2018.
2. Immigration Detention and Custody (IDC) within Border Force (BF) is responsible for:
  - a) The operation of Border Force directly managed short-term holding facilities.

## Accommodation

3. IDC will make arrangements for Boards to be provided with:
  - a) Reasonable access to printing/black and white photocopying facilities.
  - b) A venue for monthly Board meetings within the BF estate, or an agreed alternative venue.
  - c) BF will provide tea, coffee and water for Board meetings.
  - d) Where possible, a suitable room for meetings with individuals who are detained to conduct private interviews.

## Administrative support

4. IDC will make arrangements for Boards to be provided with:
  - a) An administrator (BF IMB clerk) for up to 15 working hours per month to fulfil duties set out at paragraph 8.
  - b) A deputy administrator to cover absences on the same terms as the administrator.
5. The Chair of the Board will give administrators at least 6 weeks' notice of Board meetings to enable rostering of suitable shifts.
6. Administrators will normally only be available to conduct administrative duties between the hours of 10:00-17:00 on working days, (working days are: Monday-Friday only, excluding statutory Bank Holidays or other privilege days i.e. holidays granted to be available outside of these hours or for longer than their rostered shift).
7. Where a dedicated administrator is not available on a temporary basis, IDC will ensure the responsibilities of the administrator are covered.

8. 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 and relevant regional colleagues.
- c) Attend, either in person or remotely, Board meetings and provide minutes to the Chair within seven working days of the meeting for distribution within 14 working days.
- d) Handle the 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.
- 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, and ensure attendance is recorded.
- p) Verify security documents with applicants via a face-to-face meeting, usually at interview. IDC will work with the IMB Secretariat to ensure that candidates are provided with online access to complete DBS and CTC vetting.
- q) Process members' expense claims within 7 days of receipt, in accordance with the Finance Manual.
- r) 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.

- s) 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

- 9. 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 has responsibility for ensuring all Board members are security cleared to the necessary standards set by the Home Office's Department 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 BF Regional Detention Lead, the administrator and IDC 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

- 10. The IMB will appoint an EO post, funded by BF, to obtain 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.
- 11. The IMB will sponsor such applications, and Home Office will support the IMB in liaising with the relevant authorities issuing security passes and clearances to facilitate their prompt provision. The EO post will assist Board members in fulfilling any requirements for such passes (e.g. sitting tests).

### Physical Security

- 12. Board members will:
  - a) Adhere to all Home Office 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, Home Office 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.
- c) Report to the supplier without delay any breach or potential breach of security.
- d) IDC will:
  - i. Where there are security concerns about any Board member, raise this in confidence with the Board Chair, who will consult the Head of the Secretariat. The Head of the Secretariat will inform the National Chair.
  - ii. Provide appropriate access to IMB members at all times in order to fulfil statutory duties.
  - iii. Ensure the health and safety of IMB members within the establishment so far as is reasonably practical.
  - iv. Invite the Board Chair, or their delegate, to attend the hot debrief after an HMIP inspection.

## Communication and Information Assurance

13. 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);
- to only share data in accordance with departmental guidance for data quality and security.

14. 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 the Home Office and Border Force 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.

15. 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 Border Force and to communicate with each other about any matter to do with the Board, individuals in detention, or members of staff. Any deviance from these arrangements must be agreed by the IMB Secretariat.

16. Board Chairs also agree to notify STHF Management, IDC 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

17. The Home Office will ensure access to all records and documents, CCTV and body worn video footage in accordance with Short-term Holding Facility Rule 52(3) as applicable. This will include allowing access to other records which may reasonably be required by them to exercise their duties.
18. 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 records will be agreed mutually.
19. 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.
20. 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.
21. IDC 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.
22. IDC will, where possible and within reason, share with the IMB information, such as operational guidance and safe systems of working, that is not restricted by confidential or commercially sensitive information.
23. Boards:
  - a) Require the written permission of an individual in detention 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 Duty Manager.

## Special Notifications

24. Border Force will make arrangements to ensure that the Chair or another designated member of the relevant Board is notified without delay of:
  - a) Any use of force that has resulted in injury and/or use of force beyond compliant handcuffing in accordance with Rule 36 of the Short-term Holding Facility Rules 2018.
  - b) Any serious incident including:
    - i. Death or serious injury of an individual in detention 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 STHF
- iv. Abscond or attempted abscond by a detainee
- 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 those conducted as part of a fire drill practice)
- xiv. Industrial action taken by staff.

25. IDC 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 as defined by The Short-term Holding Facility Rules 2018.
- 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 about whom BF officers or medical practitioners have a medical concern as a result of ongoing food or fluid refusal.
- g) Individuals in detention who BF Officers or medical practitioners 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.
- h) Outbreaks of any contagious disease.
- i) Incidents of serious allegations of staff misconduct being investigated by the Home Office Professional Standards Unit.

26. Border Force 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.
- 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.

27. IDC 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.

28. Boards will:

- a) Notify immediately a member of staff and the duty manager or 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 STHF (e.g. escape attempts, drug dealing, ect.).
- c) Seek to resolve minor issues at a local level first, and if necessary then with the IDC Senior Management Team.
- d) As a matter of courtesy, notify the IDC Team, 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.
- e) Bring any matter which they consider affects good order and discipline within the STHF to the attention of the IDC Team.

## Meetings and Reports

### Meetings

29. Boards agree to:

- a) Attend their monthly meetings (in full or in part), normally providing at least six weeks' notice of meetings.

- b) Provide the administrator 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 IDC post-holder to the quarterly IDE Forum.
- d) Invite appropriate IDC Managers to attend their monthly meetings (in full or in part), normally providing at least six weeks' notice of meetings.

30. IDC agrees to:

- a) Ensure the regular attendance of appropriate Home Office managers and where appropriate the national lead for immigration detention.

## **Publication of Annual Reports**

31. Boards and the IDC agree:

- a) To provide the IDC team with a draft copy of any reports intended for publication, providing a minimum of three weeks for comment and file references with regard to factual accuracy.
- b) To consider carefully any representations that IDC make about the factual accuracy of a report or an intended publication date. However, any decision to accept the representations remains for the Board alone. Boards 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.

32. IDC 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 specifying what recommendations are accepted, what progress has been made and what action is to be taken when. These plans will be cleared by Ministers.
- c) Provide Boards with updates at their regular meetings on progress against any recommendations.

## **Public Relations**

### **External Visits**

33. Border Force 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.
34. Individuals or organisations who do not have a statutory right of access and who wish to view a STHF are required under Rule 47 of the Short-term Holding Facility Rules 2018 (as applicable) to obtain the permission of the Secretary of State via IDC.
35. Boards should normally submit requests for such visits to the administrator 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 visit.
  - c) Proposed date, time and duration of the visit.
36. Where permission for a visit is refused because of timing (e.g. to manage the number of visits to a STHF in a particular week), Border Force 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

37. 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 BF IMB Clerk 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 2019 and the General Data Protection Regulation are maintained in the event that the issue concerned relates to individuals in detention.


## Disputes and Review

38. All issues relating to allegations and/or complaints about Board members will be dealt with in accordance with the IMB complaints and discipline procedures.
39. 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

40. The MOU will be reviewed annually or sooner if considered appropriate by the National IMB Chair and the Director General of Border Force.

### Signed on behalf of Border Force

<b>Steve Dann</b> Chief Operating Officer Border Force Home Office	
Date	21 January 2022

### Signed on behalf of IMB Management Board

<b>Dame Anne Owers</b> National Chair Independent Monitoring Boards	
Date	25 January 2022