

Date: 25/07/2019

# Protocol

Between

## **The Ministry of Justice**

as the Department

and

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

## **1. Introduction**

- 1.1** This protocol has been drawn up by the Ministry of Justice (MoJ) and the Management Board of the Independent Monitoring Boards (IMBs). It sets out at a high level the role of each body in relation to the other, and the responsibilities of the principal individuals in running, sponsoring and overseeing the IMB Secretariat.
- 1.2** The National Chair is appointed by the Secretary of State for Justice. The National Chair is a non-statutory public appointment.
- 1.3** The IMB Management Board is appointed by the National Chair. It sets the overall strategy and corporate and business plans for the IMBs, and develops policies and guidance that support their work and enhance their independence and impact, working within existing legislative and financial constraints.
- 1.4** The National Chair and Management Board work with and through a network of regional representatives, each with responsibility for support and guidance to the IMBs in their region or in the Immigration Detention Estate (IDE).
- 1.5** The IMB Secretariat is a team of MoJ civil servants that provides the IMBs with administrative and policy support. It is tasked by the National Chair and Management Board.
- 1.6** The National Chair and Management Board, together with the regional representatives, form the governance structure for the IMBs and are responsible for the operation of this protocol. This protocol does not confer any legal powers or responsibilities. It is approved by the Permanent Secretary of the MoJ and the sponsoring Minister, and signed and dated by the Permanent Secretary and the National Chair.
- 1.7** This protocol does not detail the monitoring role of IMBs. The [National Monitoring Framework](#)<sup>1</sup> and other guidance developed by the Management Board exists for this purpose.
- 1.8** This protocol remains in place until a new document has been agreed and replaces it. It must be reviewed at least every three years and, where appropriate, revised by agreement between the Management Board and the MoJ.
- 1.9** This protocol is published on the IMBs' website, and copies of the document are placed in the Libraries of both Houses of Parliament.

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<sup>1</sup> <http://www.imb.org.uk/app/uploads/2016/01/National-Monitoring-Framework.pdf>

## **2. Remit**

- 2.1** IMBs have been established by statute<sup>2</sup>. Neither the National Chair or the Management Board are statutory entities.
- 2.2** The IMBs' geographical remit covers prisons and young offender institutions (YOIs) in England and Wales, and the immigration detention estate (IDE) throughout the UK, including charter flight removals from the UK<sup>3</sup>.
- 2.3** IMB members are public appointees drawn from the local community, appointed by the Secretary of State for Justice under the Prison Act 1952, or the Home Secretary under Section 152 of the Immigration and Asylum Act 1999.
- 2.4** The IMBs' responsibilities in prisons are set out in section 6 of the Prison Act 1952, Prison Rules Part V 1999, and Young Offenders Institution Rules Part V 2000. They are to:
- pay frequent visits to the prison or immigration detention facility and hear any complaints which may be made by the prisoners or detainees;
  - satisfy themselves as to the humane and just treatment of those held in custody within its establishment and (for the prison estate) the range and adequacy of the programmes preparing them for release;
  - report to the Secretary of State for Justice or any official with delegated authority any matter which they consider it expedient to report; and
  - report annually to the Secretary of State for Justice on how well the establishment has met the standards and requirements placed on it and what impact these have on those in custody.
- 2.5** The IMBs have a responsibility to follow child protection processes, and the relevant sections of the Children Act 1989, in establishments holding under 18s. They should be aware of child protection arrangements in the establishment and have a responsibility to report child protection concerns in line with local processes.
- 2.6** The IMBs' responsibilities in the IDE are set out in section 152 of the Immigration and Asylum Act 1999, the Detention Centre Rules Part VI 2001 and the Short-term Holding Facility Rules Part 7 2018. The relationship with the Home Office is set out in Detention Services Order 01/14.

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<sup>2</sup> Section 6(2) *Prisons Act 1952*, Rule 75 of the *Prison Rules 1999* and section 152(1) *Immigration and Asylum Act 1999*.

<sup>3</sup> Pre-departure accommodation and charter flight monitoring are not on a statutory footing.

### **3. Independence**

- 3.1** The independence of the IMBs and their National Chair and Management Board is of paramount importance.
- 3.2** IMBs are part of the UK's National Preventive Mechanism (NPM), designated by the UK Government to meet the obligations of the United Nations Optional Protocol to the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The NPM, through its members, carries out a system of regular visits to all places of detention in the UK in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.
- 3.3** The independence of IMBs is a prerequisite for their inclusion in the NPM. OPCAT requires that NPMs are functionally and operationally independent, have the necessary resources to perform their functions, have access to information relevant to the treatment of detainees, have access to all places of detention, the liberty to determine where and when to visit, and to maintain contact with the UN Sub-committee on Prevention of Torture (SPT).
- 3.4** The IMBs are operationally independent of, though sponsored by, the MoJ.
- 3.5** The following paragraphs identify those elements of the relationship between the sponsoring Department (MoJ) and the IMBs that support the required independence of the IMBs. Further details on these elements are set out elsewhere in this framework.
- 3.6** The National Chair is a Ministerial appointment. Ministers cannot remove the National Chair except in the limited circumstances set out in the terms of appointment which are not subject to unilateral change. The National Chair appoints the Management Board and regional representatives through a process of open competition and selection.

#### *IMB Reports*

- 3.7** Each IMB reports annually in its own name. Outside of the IMB structure no clearance process for these reports is required, although drafts are provided to monitored bodies for the purposes of fact-checking only.

#### *Funding*

- 3.8** The IMBs receive funding from the MoJ, and the Home Office who provides support and funding for IMBs in the Immigration Detention Estate (IDE). The majority funder is the MoJ which is responsible for ensuring that the use of any such funds meets the standards of governance, decision-making and financial management, as set out in *Managing Public Money (MPM)* (see

paragraph 6 below). In making decisions on behalf of the IMBs, the Principal Accounting Officer will take into account the operational independence of the IMBs.

## **4. External communications**

### *General arrangements*

- 4.1** The IMBs may issue press notices to the media in their own names for published reports.
- 4.2** As independent bodies, the IMBs, the National Chair and the Management Board are free to speak publicly and to participate in debates and events.
- 4.3** The IMB Head of Policy and Communications is the principal national link with the media, providing media advice to IMBs and the National Chair and liaising with the MoJ or Home Office Press Office, where appropriate. They should ensure that the relevant press office is informed about any known or planned media activity and refer any enquiries to the appropriate press office. This liaison will at all times respect IMB independence.
- 4.4** The IMBs will maintain separate websites from any presence on GOV.UK.

### *Working with stakeholders*

- 4.5** Any IMB, the Management Board or the National Chair may elect to brief external organisations or individuals about IMB work, including but not limited to parliamentarians and voluntary bodies, in order to support the role and aims of IMBs.

## **GOVERNANCE AND ACCOUNTABILITY**

## **5. Ministerial responsibility**

- 5.1** The Secretary of State for Justice is accountable to Parliament for ‘the policies, decisions and actions of this Department,’<sup>4</sup> including matters relating to the performance of the IMBs.

## **6. The Principal Accounting Officer’s specific accountabilities and responsibilities**

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<sup>4</sup> 1.1, MoJ Account Officer System Statement, October 2017  
([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650540/moj-accounting-officer-system-statement-2017.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/650540/moj-accounting-officer-system-statement-2017.PDF) )

- 6.1** The Permanent Secretary of the MoJ is the Principal Accounting Officer. The IMB Secretariat does not have its own accounting officer to whom financial responsibility is delegated. The Head of the Secretariat accounts to the Principal Accounting Officer for the appropriate use of resources in accordance with budgetary delegation arrangements. The responsibilities of the Principal Accounting Officer are set out in Chapter 3 of *MPM*.
- 6.2** The Principal Accounting Officer is responsible for ensuring that the IMBs meet the standards set out in box 3.1 of *MPM*.
- 6.3** The Principal Accounting Officer is responsible to Parliament for the issue of any funding for the IMBs to operate effectively. The Principal Accounting Officer is also responsible for advising the Secretary of State for Justice:
- on an appropriate budget for the IMBs to operate effectively in light of the MoJ's overall public expenditure priorities; and
  - how well the IMBs are achieving their strategic objectives, and whether they are delivering value for money.
- 6.4** The Principal Accounting Officer is also responsible for ensuring arrangements (consistent with the overriding principle specified in section 3 on independence) are in place in order to:
- ensure the IMBs are fulfilling their statutory obligations;
  - review performance and delivery against the Management Board's corporate and business plans;
  - address significant problems relating to financial probity which may arise in relation to the IMBs, making interventions where judged necessary;
  - periodically carry out an assessment of the risks both to the MoJ and the Management Board's objectives and activities;
  - inform the National Chair of relevant Government policy in a timely manner; and
  - bring concerns about the activities of the IMBs to the National Chair and, as appropriate, to the MoJ Departmental Board.

## **7. Responsibilities of the MoJ as sponsor**

- 7.1** As the IMBs are operationally independent of MoJ but share accounting and a number of other functions (please see paragraph 15), the Department has

appointed a sponsorship team which applies the principles of sponsorship, usually reserved for bodies operating completely at arms' length.

- 7.2** The MoJ operates a proportionate risk-based approach to sponsorship which will be considerate of the independence of the IMBs as set out in paragraph 3 above, and in accordance with the Cabinet Office [Code of Good Practice on partnerships between Departments and ALBs](https://www.gov.uk/government/publications/partnerships-between-departments-and-albs)<sup>5</sup>. The sponsorship team is drawn from the Sponsorship of Independent Scrutiny Bodies Team in the MoJ's Policy, Communications and Analysis Group. The team has a dual policy and assurance sponsorship function, with guidance and best practice on assurance provided by the Arm's Length Bodies (ALB) Centre of Expertise.
- 7.3** The sponsorship team's policy responsibilities are to act as the policy interface for the IMBs and in particular to:
- support the IMBs' voice being heard across MoJ and Government where policy development will have an impact on custody, to include in cases where the views of the Management Board may be at variance with current Government policy;
  - inform the Management Board of relevant Government policy in a timely manner, determining how Ministerial policies in relation to the IMBs can best be delivered in terms of policy and strategy implementation;
  - advise and brief Ministers in respect of the IMBs' remit when requested by Ministers; and
  - lead the budget negotiation, in tandem with the MoJ Finance Business Partner, for each financial year.
- 7.4** The sponsorship team's assurance responsibilities are to act as a "critical friend" to the IMBs and in particular:
- support the development of positive and effective working relationships between the IMB Secretariat on behalf of the IMBs and all parts of the Department, ensuring that the sponsorship relationship is tailored and proportionate to the needs of both organisations where appropriate;
  - review IMBs' performance and delivery against the corporate and business plans on a continuing basis, ensuring that risks to both the IMBs and MoJ are assessed periodically and provide assurance to the Department's Executive Committee (ExCo) that appropriate governance arrangements are in place;

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<sup>5</sup> <https://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice>

- address any significant problems in the governance or management of the IMBs by raising them with the National Chair in the first instance, and, if necessary, drawing them to the attention of the Principal Accounting Officer;
- assist the National Chair and Secretariat in liaising with relevant leads in MoJ, for example, in respect of Human Resources policy, accommodation provision and IT strategy as necessary; and
- in liaison with the National Chair and the ALB Centre of Expertise, complete the annual Impact Support and Analysis process when required, which assists in providing assurance to the MoJ ExCo that the appropriate assurance and partnership arrangements are in place, reflecting both the needs of the IMBs and the Department.

**7.5** The sponsorship team will work with the Secretariat and the National Chair to ensure that requests for advice or information are dealt with expeditiously, and, in the event of delays, that a revised timetable is mutually agreed.

#### *Accountability and sponsorship meetings*

**7.6** The Director General of the Policy, Communications and Analysis Group is responsible for the IMBs' budget allocation.

**7.7** The responsible Deputy Director, or members of the sponsorship team on behalf of the Deputy Director, will meet the Head of the Secretariat for quarterly sponsorship meetings to consider: issues, risks, financial performance, progress against business planning documents and corporate updates.

**7.8** The sponsorship team will also maintain regular contact with the Head of the Secretariat and the National Chair to ensure there is ongoing dialogue.

**7.9** The National Chair will meet the sponsoring MoJ Director to consider strategic issues, organisational performance and consideration of opportunities arising from the quarterly sponsorship meetings, and any other pertinent issues. These strategic meetings will be held at least twice a year but may be called at any mutually agreed time.

**7.10** The Head of the Secretariat will meet with the responsible Deputy Director to consider issues arising from the quarterly sponsorship meetings, and any other pertinent issues. These meetings will be held at least twice a year but may be called at any mutually agreed time.

#### *Escalation of issues*



**7.11** Any potential conflict between MoJ and the IMBs should be attempted to be resolved through ongoing dialogue and/or at the quarterly sponsorship meetings. There may, however, be a need for intervention outside of this monitoring framework, in circumstances where:

- either party considers that the other does not comply with this framework or that there is a real risk to the operational independence of the IMBs;
- there are early indications that a risk of material failure may occur in the operation of the IMBs, and the judgement of the Management Board or MoJ is that additional input is needed to prevent the risk materialising;
- the financial performance of the IMBs is deteriorating and there are significant concerns within MoJ Finance over financial control; and
- broadly, an adverse situation arises which the National Audit Office, on behalf of Parliament, may, in the public interest, be asked to investigate. This could include a situation beyond poor financial control, poor performance, or issues relating to regularity or propriety.

**7.12** In such circumstances, the issue should be raised with the sponsoring Director and the National Chair and, if necessary, escalated further as either party sees fit.

## **8. Responsibilities of the Management Board and the Head of the Secretariat**

### *General*

**8.1** The Principal Accounting Officer must assure himself that the Head of the Secretariat has adequate systems in place to meet the standards in Box 3.1 of *MPM* (in line with his responsibilities in *MPM* paragraph 3.3.1). The Head of the Secretariat is responsible for assisting the Principal Accounting Officer in fulfilling these responsibilities by:

- accounting to the Principal Accounting Officer for the appropriate use of resources in accordance with budgetary delegation and spending control arrangements;
- ensuring that effective procedures for handling complaints about the Head of the Secretariat are established and made widely known within the scrutiny bodies;

- acting in accordance with the terms of this document, *MPM* and other instructions and guidance (in so far as they concern matters of financial probity, procurement and Human Resources) issued from time to time by the Department, Her Majesty's Treasury (HMT) and the Cabinet Office;
- giving evidence on the Head of the Secretariat's stewardship of public funds, normally with the Principal Accounting Officer, when requested by the Public Accounts Committee; and
- providing assurance to the MoJ in preparing its Governance Statement to Parliament covering human resources, corporate governance, risk management, finance and commercial processes, key business processes and oversight of any local responsibilities, for inclusion in the MoJ annual report and accounts.

#### *Responsibilities to the MoJ*

**8.2** The Management Board's particular responsibilities to the MoJ include:

- developing, consulting on and externally publishing the Management Board's business and corporate plans. This is agreed independently of MoJ, taking into account the departments wider strategic aims and agreed priorities;
- providing forecasts and monitoring information on performance and finance to the Department via the Head of the Secretariat. This is to include: prompt notification of over and under spends and details of corrective action being taken; any significant problems whether financial or otherwise (including legal challenge), and, whether detected by internal audit or other means, are notified to the Department in a timely fashion; and
- ensuring that financial considerations are taken fully into account by the Management Board and the Head of the Secretariat at all stages in reaching and executing their decisions, as outlined in the spending controls and that financial appraisal techniques are followed.

#### *Publication by the Management Board – National Annual Report*

**8.3** The Management Board will produce a national annual report. The annual report will cover the main issues arising from monitoring over the year, and the activities carried out by IMBs.

#### *Publication by the Management Board – Corporate Plan*

- 8.4** The Management Board will prepare and publish a corporate plan setting out the proposed work and priorities of the IMBs over a three-year period, alongside annual business plans. The corporate plan will be reviewed annually.

#### *Consultation with and advice to Ministers*

- 8.5** The National Chair has direct access to Ministers to raise any issues of concern or to provide an update on performance and delivery. The National Chair will meet Ministers at any mutually agreed time. IMBs' annual reports are presented directly to Ministers, and IMBs may contact Ministers directly about any major issues of concern.
- 8.6** The sponsorship team should be made aware of any contact with Ministers, and copied in on any written submissions for such meetings where this is known by the Secretariat.

## **9. CORPORATE GOVERNANCE**

#### *National governance*

- 9.1** Each prison and place of immigration detention must have an IMB to monitor the treatment of those detained. Each IMB is a separate statutory body. There is no statutory national organisation.

#### *The National Chair*

- 9.2** The post of the National Chair is a public appointment made by the Secretary of State for Justice for a three-year term, renewable once. The National Chair reports to the Secretary of State
- 9.3** The National Chair will be subject to an annual appraisal of the performance of the IMBs conducted by or on behalf of the Director General
- 9.4** The National Chair is responsible for leading the work of the IMBs, and ensuring that there are systems, policies and guidance to assist IMBs and members to perform their statutory responsibilities effectively and independently. The National Chair is the principal national media spokesperson and national liaison with Ministers, the Department, Parliament, HMPPS and partner organisations. The National Chair chairs the Management Board and task manages the Head of Secretariat.

#### *Appointment of the National Chair*

- 9.5** Appointments will comply with the Cabinet Office Governance Code for Public Appointments.

#### *The IMB Management Board*

- 9.6** The IMB Management Board is responsible for developing and agreeing national strategies and policies, and the processes and systems that underpin the work of IMBs. IMB Management Board members are predominantly drawn from the IMB membership, with some external appointees. Members are appointed by the National Chair following a competitive selection process for a three-year term, renewable once.
- 9.7** The IMB Management Board is chaired by the National Chair. The Head of the Secretariat will attend in an advisory capacity and arrange secretariat support.
- 9.8** The IMB Management Board may set up sub-committees to deal, for example with finance, recruitment or training. Ad-hoc groups can be created to deliver specific projects.

#### *Regional structure*

- 9.9** Regional representatives provide advice and support to Chairs and IMBs within their region (or in the case of the IDE, the immigration estate) to help them fulfil their statutory responsibilities. Regional representatives are appointed for a three-year term, renewable once. They report directly to the National Chair.

#### *Local structure*

- 9.10** Each IMB has a local leadership team that comprises a Board Chair, a Vice-Chair, and a Board Development Officer. Board Chairs and Vice-Chairs are appointed for a term of twelve months by the relevant Secretary of State,<sup>6</sup> on the recommendation of the IMB<sup>7</sup>. This recommendation is normally sought by a ballot of all substantive Board members. Board Development Officers are responsible for ensuring that IMB members complete all mandatory training and facilitate access to additional training.
- 9.11** All IMB members are public appointees, appointed by the relevant Minister. The recruitment process follows the principles outlined in the [Governance](#)

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<sup>6</sup> Section 6(2) *Prisons Act 1952*, Rule 75 of the *Prison Rules 1999* and section 152(1) *Immigration and Asylum Act 1999*.

<sup>7</sup> In the case of Short Term Holding Facilities, the responsibility for appointing Chairs and Vice Chairs lies with the IMBs themselves.

[Code of the Commissioner for Public Appointments](#)<sup>8</sup>. Each IMB is responsible for its own recruitment, with administrative assistance from the Secretariat and in accordance with policies developed by the Management Board, taking diversity into account.

#### *Head of the Secretariat*

- 9.12** The Head of the Secretariat is a civil servant and employee of the MoJ, and as such is subject to the Department's terms and conditions. The Head of Secretariat is assigned a line manager from within the Department or its associated bodies for administrative and developmental purposes. The Head of the Secretariat's line manager will conduct their appraisal, drawing on contributions from the National Chair. The Head of the Secretariat reports to the National Chair for operational matters.
- 9.13** The Head of the Secretariat has delegated budget responsibilities and reports to the Principal Accounting Officer for the MoJ. The Head of the Secretariat is the senior manager for the Secretariat and has a responsibility to provide advice and support to the National Chair, Management Board and members on specific aspects of IMB operation, recruitment issues and data protection. The Head of the Secretariat has accountability for IMB finances.

### **FINANCIAL RESPONSIBILITIES**

#### **10. Managing Public Money and other Government-wide corporate guidance and instructions**

- 10.1** Unless agreed by the MoJ and, as necessary, by HMT, the Head of the Secretariat will follow the principles, rules, guidance and advice in *MPM*, referring any difficulties or potential bids for exceptions to the sponsorship team in the MoJ in the first instance. A list of guidance and instructions with which the Head of the Secretariat should comply is at **Appendix A**.
- 10.2** Once the budget has been approved by the MoJ in consultation with the National Chair, the Head of the Secretariat will have authority to incur expenditure approved in the budget without further reference to the MoJ, on the following conditions:
- the Head of the Secretariat will comply with the delegations set out in writing from the Director General. These delegations will not be altered without the prior agreement of the MoJ;

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<sup>8</sup> <https://publicappointmentscommissioner.independent.gov.uk/regulating-appointments/governance-code/>

- the Head of the Secretariat will comply with *MPM* regarding novel, contentious or repercussive proposals; and
- inclusion of any planned and approved expenditure in the budget will not remove the need to seek formal Departmental approval where any proposed expenditure is outside the delegated spending controls limits or is for new schemes not previously agreed.

**10.3** The Head of the Secretariat will provide the MoJ with such information about its operations, performance, individual projects or other expenditure as the MoJ may reasonably require.

## **11. Risk management**

**11.1** The Head of the Secretariat will ensure that the risks they face are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance. The Head of the Secretariat, together with the Management Board, will also develop a risk management strategy, in accordance with HMT's guidance *Management of Risk: Principles and Concepts* ([Orange Book<sup>9</sup>](#)).

**11.2** The Head of the Secretariat should adopt and implement policies and practices to safeguard against fraud and theft in line with HMT's guidance on tackling fraud (2011): [Tackling internal fraud<sup>10</sup>](#) and [Tackling external fraud<sup>11</sup>](#). The Head of the Secretariat is also responsible for the management of health and safety risks for members of the secretariat.

**11.3** Risks should be subject to regular review at the sponsorship meetings, and where the risk is capable of impacting on the MoJ itself, escalated to the MoJ business group or Departmental risk register, as appropriate.

## **12. The Management Board's Corporate and Business Plans**

**12.1** The Management Board will agree a three-year corporate plan and annual business plan at its own discretion, taking account of the IMBs' funding provision and consideration of the Department's wider strategic aims. The plan should reflect the IMBs' statutory and other duties and budgetary allocations.

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<sup>9</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220647/orange\\_book.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220647/orange_book.pdf)

<sup>10</sup> [http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing\\_the\\_risk\\_fraud\\_guide\\_for\\_managers.pdf](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf)

<sup>11</sup> [http://www.nao.org.uk/wp-content/uploads/2013/02/Tackling\\_External\\_Fraud.pdf](http://www.nao.org.uk/wp-content/uploads/2013/02/Tackling_External_Fraud.pdf)

### **13. Budgeting procedures**

**13.1** Each year, in light of decisions by the MoJ on the updated MoJ draft corporate plan, and subject to the budget negotiations set out in 10.2, the MoJ will send to the Head of the Secretariat as close to the end of the financial year as possible:

- a formal statement of the annual budgetary provision allocated by the Department in light of competing priorities across the Department, and any forecast income approved by the Department, including funding from other Departments; and
- a statement of any planned change in policies affecting the IMBs.

**13.2** The Head of the Secretariat will operate relevant systems that enable timely and effective reviews (at least quarterly) of financial and non-financial performance against the budgets and targets set out in the corporate plan. Expenditure against budget is monitored in accordance with agreed spending controls and budget delegation letters. Reporting information to the MoJ will be proportionate to the Head of the Secretariat's activities and risks posed to the MoJ. As a minimum, the Head of the Secretariat will provide the MoJ with information on a monthly basis that will enable the Department to satisfactorily monitor:

- the Head of the Secretariat's cash management, headcount information and financial risks and/or opportunities;
- forecast outturn by resource headings with variance analysis; and
- other data required for HMT's Online System for Central Accounting and Reporting (OSCAR).

**13.3** The Head of the Secretariat's delegated authorities are set out in writing in a letter from the sponsoring Director General to the Head of the Secretariat. The Head of the Secretariat will obtain the MoJ's prior written approval before:

- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the Head of the Secretariat's annual budget as approved by the Department;
- incurring expenditure for any purpose that is or might be considered to be novel or contentious, or which has or could have significant future cost implications;
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the MoJ;

- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; or
- carrying out policies that go against the principle, rules, guidance and advice in *MPM*.

**13.4** From time to time, the MoJ may need to impose Department wide spending controls on the IMBs that may require additional instances of written approval. In considering applications under any such spending controls, MoJ must take due and proper regard to the IMBs' roles as independent scrutiny bodies. In respect of recruitment of staff, spending control applications should be applied in light of any specific agreement to further delegate the authority to recruit to the Head of the Secretariat.

#### *Cash holding*

**13.5** The Head of the Secretariat will use the services of the Government Banking Service (GBS).

#### *Audit*

**13.6** The Head of the Secretariat will remain within MoJ arrangements for internal and external audit.

## **ORGANISATION MANAGEMENT**

### **14. Staff**

**14.1** IMBs do not directly employ any staff. IMBs are provided with the services of a clerk (the terms of which are governed by separate agreements with HMPPS and the Home Office) and they receive central support from the Secretariat.

**14.2** The Secretariat is subject to MoJ pay and conditions (including issues relating to pensions, redundancy and compensation) and policies in relation to the management of staff.

**14.3** Subject to its delegated authorities, the Head of the Secretariat will ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

### **15. Corporate service provision**



**15.1** A number of support functions will be provided to the IMBs by the MoJ. Such functions will generally include:

- Information and Communications Technology (ICT)
- Human Resources
- Finance
- Facilities
- Procurement
- Legal services
- Digital services
- Estates
- Information assurance
- Data incident handling (for significant incidents involving personal data)

**15.2** Some of these support functions, for example, facilities, estates and ICT, will include the management of aspects of risk on behalf of the IMBs, notably fire safety and security risk management.

## **16. Complaints and litigation**

**16.1** Where complaints are received about the IMBs or matters within their remit, the MoJ will refer these to the National Chair to deal with. Complaints about the personal conduct of the National Chair or those relating to the sponsorship or mandate of the MoJ will be considered by the responsible Minister. If the responsible Minister decides the complaint should be investigated, he will appoint a Civil Servant from another part of MoJ to investigate the issues and make recommendations to him about the complaint resolution.

**16.2** The National Chair will manage any litigation arising from IMBs' operational activities, involving the Government Legal Department and other officials, including the sponsorship team, at the earliest appropriate stage. The sponsor will also inform the National Chair as soon as they are aware of litigation or potential litigation in relation to the Department which makes specific reference to the work of the IMBs or an IMB. Where the National Chair chooses to seek legal advice independent of MoJ, this will normally be sought from elsewhere within the Government Legal Department.

### *Access*

**16.3** The MoJ will have a right of access to all of the National Chair and Management Board's records as required to discharge the obligations of the MoJ and the Principal Accounting Officer.

## **17. Sustainable Development**

- 17.1** The Management Board will comply with policies and guidance issued by the MoJ, HMT or other relevant bodies in relation to sustainable development, contributing to the Government's vision for Mainstreaming Sustainable Development.

## **18. Occupational Health and Safety**

- 18.1** The Secretariat will follow MoJ's Occupational Health and Safety (OHS) policies and documentation, and IMBs will ensure the proportionate management of OHS risks.

## **19. Freedom of Information and Data Protection**

- 19.1** The National Chair and the IMB Management Board are not subject to the Freedom of Information (FOI) Act 2000, however they will ensure that the Secretariat informs individual Board Chairs of their information assurance obligations under the FOIA 2000, the Environmental Information Regulations 2004, the Data Protection Act (DPA) 2018, and the EU General Data Protection Regulation (GDPR).
- 19.2** Compliance support, advice, guidance and drafting will continue to be provided to the Board chairs either from within the IMB Secretariat or through resource procured on the Board chair's behalf.
- 19.3** Additionally, the Secretariat will maintain a central monitoring record of FOI and DPA requests received and dealt with. The MoJ may require this information for inclusion in Departmental statistics.

## **20. Welsh Language Scheme**

- 20.1** The IMBs are committed to the principle of treating the English and Welsh languages on a basis of equality when conducting public business in Wales. The IMBs in Wales operate their own Welsh Language Scheme that complies with the Welsh Language Act 1993, and has been approved by the Welsh Language Board.

## **RELATIONSHIPS WITH OTHER BODIES**

### **21. Relationship with Parliament**

- 21.1** IMBs, normally through the National Chair or another person delegated by the Management Board, will provide both written and oral evidence to parliamentary committees and inquiries.

#### *Parliamentary Questions*

- 21.2** Parliamentary Questions (PQs) relating to non-IDE IMBs will be sent by the MoJ's Parliamentary Branch to the sponsorship team who will inform the Secretariat and agree whether the PQ is about Government policy on monitoring, or about the work or operation of the IMBs. In the case of the former, the sponsorship team will produce the draft reply and submit to Parliamentary Branch, but will first seek any immediate comments from the National Chair. In the case of the latter, the National Chair will agree a draft reply for the Secretariat. The Secretariat will liaise with the sponsorship team, who have responsibility for sending responses to Parliamentary Branch. The general expectation is that the sponsorship team would not amend the draft.

#### *Ministerial Correspondence*

- 21.3** Members of Parliament will be encouraged to write directly to the National Chair about specific activities and the administration of the IMBs. When Ministers receive correspondence from Members of Parliament on these matters, they will normally ask the National Chair to reply (sending a copy of the reply to the sponsorship team). Where a Minister decides to reply personally, for example, where the correspondence involves wider policy considerations, advice will be sought from the National Chair.

### **22. Arm's Length Bodies**

- 22.1** The IMBs currently work in partnership with scrutiny bodies including HMIP, the PPO and others.

### **23. Other Government Departments**

- 23.1** The National Chair may also correspond with other Government Departments regarding the findings of IMBs, where appropriate.
- 23.2** Memoranda of understanding and service-level agreements are in place with a number of key stakeholders and organisations. They include:
- Her Majesty's Prison and Probation Service
  - Prisons and Probation Ombudsman
  - Her Majesty's Inspectorate of Prisons

**23.3** The Management Board may make such agreements as it considers necessary.

Signed ..... *Richard Heaton* .....

Signed ..... *A. Owers* .....

Date..... *11 July 2019* .....

Sir Richard Heaton KCB

Permanent Secretary  
Ministry of Justice

Date..... *25/7/19* .....

Dame Anne Elizabeth Owers, DBE

The National Chair on behalf of the  
Management Board of the IMBs



Ministry  
of Justice



## Appendix A: APPENDIX 2 TO SPECIMEN DOCUMENT

Compliance with government-wide corporate guidance and instructions [NB to check/update references.]

The Body shall comply with the following general guidance documents and instructions:

- this document;
  - Appropriate adaptations of sections of *Corporate Governance in Central Government Departments: Code of Good Practice*  
<https://www.gov.uk/government/publications/corporate-governance-code-forcentral-government-departments>;
  - *Code of Conduct for Board Members of Public Bodies*  
<http://www.civilservice.gov.uk/wp-content/uploads/2011/09/code-ofconduct-tcm6-38901.pdf>
  - *Code of Practice for Ministerial Appointments to Public Bodies*  
<http://publicappointmentscommissioner.independent.gov.uk/wpcontent/uploads/2012/02/Code-of-Practice-2012.pdf>
  - *Managing Public Money* (MPM);
  - Public Sector Internal Audit Standards,  
<https://www.gov.uk/government/publications/public-sector-internal-auditstandards>;
  - Management of Risk: Principles and Concepts:  
<https://www.gov.uk/government/publications/orange-book>
  - HM Treasury Guidance on Tackling Fraud,  
[http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/d/managing\\_the\\_risk\\_fraud\\_guide\\_for\\_managers.pdf](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf);
  - Government Financial Reporting Manual (FRoM),  
<https://www.gov.uk/government/publications/government-financial-reportingmanual>;
  - Fees and Charges Guide, Chapter 6 of *Managing Public Money*;
  - Departmental Banking: A Manual for Government Departments, annex 5.6 of *Managing Public Money*;
  - relevant Dear Accounting Officer letters  
<https://www.gov.uk/government/collections/dao-letters>;
  - Regularity, Propriety and Value for Money,  
[http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/psr\\_governance\\_valueformoney.htm](http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hmtreasury.gov.uk/psr_governance_valueformoney.htm);
  - The Parliamentary and Health Service Ombudsman's Principles of Good Administration <http://www.ombudsman.org.uk/improving-publicservice/ombudsmansprinciples>;
  - Consolidation Officer Memorandum, and relevant DCO letters;
- A7.2 Drawing up framework documents
- Communications
- <https://gcs.civilservice.gov.uk/guidance/propriety-in-digital-and-social-media/#>

### Managing Public Money

- relevant Freedom of Information Act guidance and instructions (Ministry of Justice);
- [Model Code for Staff of Executive Non-Departmental Public Bodies (Cabinet Office) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/80082/PublicBodiesGuide2006\\_5\\_public\\_body\\_staffv2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80082/PublicBodiesGuide2006_5_public_body_staffv2_0.pdf)];
- other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts;
- other relevant instructions and guidance issued by the central Departments;
- specific instructions and guidance issued by the sponsor Department;
- recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the ALB.