



Ministry
of Justice

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Minister of State for Justice

Chair, Independent Monitoring Board
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De Chair.

HMP BIRMINGHAM: INDEPENDENT MONITORING BOARD ANNUAL REPORT FOR 1 JULY 2021 – 30 JUNE 2022

Thank you for your Board's report for the year ending 30 June 2022. I was saddened to hear there were four deaths in custody during the reporting year due to natural causes / self-inflicted. As you are aware the Prisons and Probation Ombudsman (PPO) carry out independent investigations into deaths in custody and I would like to assure the Board my officials take recommendations from the PPO very seriously.

I am very much aware of the amount of effort that goes into producing annual reports and thank you for providing a comprehensive picture of HMP Birmingham over the reporting period, especially as you had eight new Board members who had to be trained.

I address below the specific points you have raised for my attention:

I fully understand your concerns about the court backlog. The Government is committed to supporting the recovery of the courts and our decisive action to deploy a range of measures kept justice moving during the pandemic. To increase capacity in the criminal justice system, we have removed the limit on sitting days in the Crown Court for the second year running, extended 30 Nightingale courtrooms beyond the end of March 2022 and opened two new 'super courtrooms' in Manchester and Loughborough. Magistrates' Courts' sentencing powers have also been extended from six to twelve months for a single triable either way offence (an indictable offence, may be heard either in the Magistrate's Court or in the Crown Court) to allow more cases to be heard in the Magistrates' Courts and free up capacity in the Crown Court.

More broadly, over the next three financial years, we are investing an extra £477 million for the criminal justice system to address the Crown Court backlog and help improve waiting times for victims of crime. Across all jurisdictions, more judges are being recruited to enable courts to sit at the maximum possible level over the coming years.

In terms of remand, the Bail Act 1976 creates a presumption in favour of bail. Those who are deemed by the court to be a risk to public safety, are likely to reoffend, abscond or obstruct the course of justice are likely to be held in prison on remand. The judiciary are prioritising cases involving Custody Time Limits to ensure they are listed at the first available opportunity, as well as prioritising cases involving vulnerable complainants and witnesses (including youth cases), domestic abuse and serious sex cases. My officials will continue to closely monitor the situation and volumes of CTL cases. The outstanding caseload in the

Crown Court had reduced from 60,600 cases in June 2021 to 57,900 cases at the end of March 2022. However, since April 2022 the caseload increased following an industrial dispute with the Criminal Bar Association and stood at 61,200 at the end of August 2022.

Staff at HMP Birmingham have a well-established relationship with remand prisoners and make the best use of key worker sessions to help signpost individuals to support services. The 24 hour in-cell telephony is reported as being a positive instrument to support those experiencing lengthy periods on remand.

I acknowledge that the Board remains concerned about foreign nationals who have completed their sentence but are detained at HMP Birmingham under immigration powers. The Home Office have advised that every effort is made to ensure that a foreign national offender's removal by deportation coincides, as far as possible, with their release from prison on completion of sentence. I hope to reassure the Board that where deportation at end of sentence is not possible, decisions on the appropriateness of continued detention of time-served foreign national offenders under immigration powers are made on a case-by-case basis and include consideration given to the likelihood of risk to the public and absconding from immigration control. Continued detention is authorised by an official at a level appropriate to the length of detention. The individual concerned is provided with an update every 28 days explaining the latest position of their case and why their detention is being maintained. Case Progression Panels with independent panel members provide additional assurance and challenge on the progress of cases of individuals in detention.

As the Board will appreciate, the Home Office can face significant and complex challenges when seeking to return foreign national offenders to their country of origin. These challenges can include travel documentation, late applications /appeals, and broader non-compliance issues. Individuals held in prison usually are there because they have been assessed as unsuitable for the conditions of immigration removal centres such as posing high-risk or high harm to others. When an individual held in detention presents specific risk factors which cannot be managed within the regime applied in Immigration Removal Centres which operate to Detention Centre Rules, a decision is made as to the most suitable location for their continued detention. For the reasons mentioned, this may be at a prison and there are no plans to end the limited use of prisons for the purpose of immigration detention.

There is a presumption in favour of liberty for all individuals. As mentioned previously by my predecessor(s), the published Home Office policy is clear that detention must only ever be used sparingly and for the shortest period necessary and there are a series of safeguards that ensure proper and continuing scrutiny of decisions to detain. In the year ending June 2022 of the individuals leaving detention, less than four percent were detained for four months or more, with two percent of individuals detained for six months or more. The Board can access the published information on all immigration detainees Returns and detention datasets - GOV.UK (www.gov.uk), which includes numbers detained in HM Prisons (not individual locations) and how long they have been detained for which is grouped by length

Turning to some positive comments captured in your report, it was encouraging to note the sustained improvement in the ethos and culture at HMP Birmingham and high standards of safety. It was pleasing to note that equality, diversity and inclusion is high on the prison's agenda, the healthcare provision is considered good and resettlement preparation a strength. I am also pleased to hear in your report about the Inside Job, a peer-led initiative that provides prisoners with routes back into employment.

HMPPPS comments in response to other issues raised in your report are set out in the attached annex.

The Justice Secretary and I appreciate the valuable role played by members of Independent Monitoring Boards throughout the estate and we are very grateful for your continued hard work on behalf of HMP Birmingham.

Ministry

Dr. Lick

Damian Hinds
Minister for Prisons and Probation

HMP BIRMINGHAM: INDEPENDENT MONITORING BOARD ANNUAL REPORT FOR 1 JULY 2021 – 30 JUNE 2022

HMPPS comments on matters raised in the report

Remand Prisoners

Remand un-convicted prisoners cannot be forced to take education classes but can openly apply for courses if they so wish to. It is inadvisable for them to join long duration courses, especially those that span over a few years. Activities are available should they wish to engage.

Available evidence shows that some remand prisoners who have engaged with the services provided at HMP Birmingham, have immediately accessed employment after being released from court (arranged whilst in custody).

Prisoners' Property

New Policy Framework

The newly published *Prisoners' Property Policy Framework* came into effect on 5 September 2022. The framework is the result of extensive consultation, including with the IMB. It has been designed with procedural justice at its core and aims to ensure consistency and fairness and enhance prisoners' satisfaction with processes and outcomes. Given the nature of property, and the movement of prisoners between establishments, the Framework looks to provide greater direction and standardisation on a national basis. It strengthens processes in relation to the main problem areas identified by IMBs and staff including the handling of valuable property, managing cell clearances, compliance with volumetric control and forwarding on excess property following a prisoner's transfer.

Prisoner Escort and Custody Services (PECS)

As the Board may be aware, PECS provide transportation for individuals and their property. As part of the planning for the new PECS contract, which commenced in August 2020, PECS engaged with the Ministry of Justice (MoJ) Policy Leads to review property limits on transportation, and it was agreed that the new vehicle fleet would have increased capacity to facilitate an additional half bag of property for consumables to the limit of 7.5kg. The introduction of digitally recorded Person Escort Records (dPER) including property tags will assist with investigations for property that is lost in transit with PECS suppliers. However, PECS receive few complaints for lost property overall and often the issue does not sit with the PECS transportation. PECS continue to monitor all aspects of the contractors' performance and on occasions where it fails to meet the agreed levels will be raised with the contractor for improvement.

GEOAmev and Serco are contractually required to transport prisoners' property as part of the PECS contract and property can be tracked through use of the dPER.

Cell Clearances

Locally at HMP Birmingham, a revised process has been introduced to improve cell clearances. Specifically, for the Care and Separation Unit (CSU), this includes a change of documentation and assurance process by the unit manager to ensure compliance with the agreed 72 hours completion period. The daily Duty Governor's visit to each prisoner held in the CSU has been revised to enquire about cell clearance and property. This acts as a secondary assurance measure.

More widely across the prison there is evidence that the revised processes are improving performance in this area. All residential managers have been issued with a specific set of instructions to enable and monitor cell clearance. This includes an improvement-based objective for each manager as part of the performance management process. Cell clearance is also an agenda item at the recently introduced weekly residential managers meeting.

Issues with authorised property being handed to prisoners

Following a consultation with the prisoner population, property items that are permitted have been reviewed by the prison staff. Regarding unauthorised property, there have been several occasions where ingress routes have been discovered. It is therefore vitally important that effective searching takes place, although it is recognised this sometimes causes a backlog of property. To make some improvements, the Governor has introduced a dedicated resource to work in Reception and to co-ordinate the distribution of property. This staffing resource will be base lined in the operational re-profile to take place early 2023. Recruiting new prison officers should help with improvements.

Prisoners' Pay

Governors and Directors of contracted prisons have the necessary freedoms to set local pay rates based on a variety of reasons such as their prisoner population needs, the type of prison and regime in operation, and the jobs / educational / vocational training that are available. Governors and Directors of contracted prisons are also required under Prisoners' Pay policy to have a local pay structure which is reviewed annually as part of the business plan process, to ensure that it remains compliant with Prison Service Pay policy.

In response to inflationary cost increases in prison canteen items, the MoJ has recently and permanently increased private cash rates for prisoners by 10% (money that is sent in by family and friends of prisoners). For example, convicted prisoners of Standard incentives status can now access £19.80 a week of their private cash. Other options to support prisoners financially with the cost-of-living issue are also being explored.

Locally, the Governor will explore revising the prisoner pay structure to better reflect levels of activity and learning.