

The Rt Hon James Cleverly MP, Secretary of State for the Home Department
2 Marsham Street
London
SW1P 4DF

Sent via post and e-mail

Monday 18 March 2024

Dear Home Secretary,

IMB response to Brook House Inquiry

I am writing to set out the Independent Monitoring Board's (IMB) formal response to the Brook House Inquiry report. On 12 January 2024, I wrote to the Chair of the Inquiry, affirming the IMB's commitment to learn from the report, and providing an interim update on our progress in reviewing and responding to the recommendations made to the IMB. I am grateful that a copy of that letter has been published on the Inquiry's website. For completeness, I append that letter.

In this response I would like to take this opportunity to respond to the recommendations, provide a further update on the progress made to date, and address some of the wider concerns included in the Inquiry report.

I am grateful that the Inquiry recognised the positive work undertaken by the local Board since 2017, as set out in the witness statements provided to the Inquiry by the IMB. As the IMB made clear in its closing statement to the Inquiry, "This Inquiry offers an opportunity to not only cast light on the reasons for the appalling treatment in one immigration removal centre, but also to reshape the immigration detention system in a way which better promotes humane and decent treatment for those living within it." The IMB remains wholly committed to contributing to this valuable endeavour. I hope the response set out below demonstrates the organisation's continuing commitment to learning from the Panorama broadcast and the Brook House Inquiry.

Recommendations to the IMB

Recommendation 13: Audit of use of Rule 40 and Rule 42 of the Detention Centre Rules 2001

"The Home Office must regularly (and at least quarterly) audit the use of Rule 40 and Rule 42 across the immigration detention estate, in order to identify trends, any training needs and required improvements.

In addition, HM Inspectorate of Prisons and the National Chair and Management Board of Independent Monitoring Boards must review processes to consider how they fulfil their oversight role in respect of Rule 40 and Rule 42, and report on the monitoring of the use of Rules 40 and 42 going forward.”

The IMB accepts this recommendation. Having reviewed the existing processes, the IMB have taken the following steps to improve the oversight, monitoring, and reporting of Rules 40 and 42 at both a local and national level:

- We devised guidance and created new weekly rota and annual report templates which include the monitoring of Rules 40 and 42. The changes and guidance encourage members to focus on relevant information and evidence in their weekly visits and to carry that focus through to their annual reports. By so doing we intend that members will be better placed to identify any issues which arise in the moment, as well as to identify any patterns or trends over longer periods of time. The templates and guidance were issued to members in November 2023;
- We are developing a new pocketbook for IDE members, which contains detailed information and guidance on how to monitor Rules 40 and 42; and
- We are producing a toolkit of dedicated guidance on this topic for IDE members.

The IMB staff team are progressing these actions which we expect to complete by the summer of 2024. We hope and anticipate that these measures will assist IMB members in identifying, recording, challenging, and reporting on the use of Rules 40 and 42 and also encourage more consistent and detailed oversight throughout the entire immigration estate.

In our interim response of 12 January 2024, I explained that IMB staff had continued to press the Home Office to amend the Detention Centre Rules, which presently set an unrealistic 24-hour time limit for IMB members to visit those on Rule 40 and 42. The difficulties inherent in this and the IMB’s efforts since 2018 to secure changes to the Rules were detailed in the IMB’s evidence to the Inquiry.

On this, we have recently been informed that ministers have agreed to change the Detention Centre Rules. This is a positive development which recognises that it is not in practice possible for IMB members to comply with the Rules in their current form, and for which there is no comparable requirement in either the Prison Rules for prison IMBs or the Rules for IMBs monitoring immigration short-term holding facilities. In the meantime, IMB members will continue to routinely visit care and separation units and other locations holding those under Rules 40 and 42 when they are in the Centre. We will make sure that any legislative changes are reflected in the guidance produced for members.

Recommendation 33: Improving the investigation and reporting of HM Inspectorate of Prisons and Independent Monitoring Boards

“HM Inspectorate of Prisons and Independent Monitoring Boards working within immigration removal centres must ensure that they have robust processes for:

- obtaining and reporting on an enhanced range of evidence and intelligence from detained people and those who represent or support them, staff and contractors, including that which is received outside of inspections or visits; and
- reporting on any concerns about the Home Office and contractors.”

The IMB accepts this recommendation. In pursuit of this aim, we have:

- Created new tools intended to enhance the IMB’s ability to obtain evidence from detained people in immigration detention settings, including application forms, ‘ice breaker’ cards and posters in a wider range of languages. These resources allow us to explain the role of the IMB and how to contact us to an even wider audience and provide members with more ways to interact, and foster relationships, with detained persons;
- Developed a new pocketbook for IDE members, detailing the evidence and intelligence which IMBs should seek. This will be issued imminently;
- Produced new rota and annual report guidance, giving Boards clearer direction on how to report using a range of evidence. These have been available to members since November 2023;
- Updated our ‘Reporting Abuse’ policy, which guides members on actions to take if they are told by a detained person that they have suffered abuse from staff or others. This was approved in June 2023 and is now available to members on the member website;
- Held a study day for IDE members with a keynote speech from Sarah Cooke OBE and the National Preventive Mechanism (NPM) on their work on prevention of ill treatment, and workshops dedicated to learning from the Brook House Inquiry. This event also included a workshop for members run by AVID, a network of voluntary organisations providing support for people in detention, which involved discussions on the role of the IMB with those with lived experience of detention; and
- Agreement to work with Sarah Cooke and the NPM to develop their work on monitoring indicators of mistreatment for the IMB. This will result in guidance materials and training for all members.

We consider that this renewed focus and the measures being put in place are producing positive results. As was noted in our interim update, there are a number of examples of individual IDE IMBs raising concerns and criticising failings, including:

- On 7 April 2023 my predecessor wrote to the Director of Detention Services with questions related to the handling of a death in custody at Colnbrook IRC in March, as well as wider concerns regarding support for the number of vulnerable individuals in immigration detention;

- On 16 June 2023 my predecessor wrote to Robert Jenrick, the then Minister of State, and copied to the Home Secretary with concerns related to the Illegal Migration Bill;
- On 20 October 2023 the Heathrow IMB wrote to the Home Office regarding serious concerns for safety at Heathrow IRCs;
- On 12 December 2023, I wrote to the Chief Pharmaceutical Officer for England to relay the repeated concerns of the IMB regarding detained people's access to prescription medication in STHFs; and
- On 4 March 2024, the Charter Flight Monitoring Team Chair wrote to the Home Office regarding the appropriateness of removal directions being served to a detained person with serious mental health concerns.

In my interim update to the Inquiry, I referred to the IMB's commitment to share the learning from the Inquiry with all local IMBs, including those monitoring in prisons. A presentation on the key learning points on the role of the IMB is currently being delivered to IMB Chairs during regional meetings, with the expectation that Chairs will take the learning back to their local Boards for discussion, reflection and implementation.

Recommendation 32: Enhancing the role of the Independent Monitoring Boards.

"The government must:

- respond to and publish responses to all concerns raised by any Independent Monitoring Board regarding immigration removal centres;
- take steps without further delay to amend the Detention Centre Rules 2001, in so far as they govern Independent Monitoring Boards, in order to accurately reflect their current role; and
- consider whether to put the National Chair and Management Board of the Independent Monitoring Boards on a statutory footing."

Whilst this recommendation is for the Government to respond to, the IMB fully endorses it and hopes to see a positive response from the Home Office. I understand that the Ministry of Justice plan to pursue legislative reform to recognise the IMB National Chair and Management Board in legislation, which I welcome. I also look forward to receiving the response from the Home Office on the additional points made in this recommendation.

The constitution and role of the IMB

Building on the substantial programme of training and guidance set out above, which cover many of the criticisms made, we will continue to reflect carefully on the findings of the Inquiry and identify any further points of learning. In addition to the recommendations made, the Inquiry report raised concerns about other aspects of the operation and constitution of the IMB which I believe also merit consideration within this response.

First, the Inquiry described the local IMB as not being sufficiently challenging of G4S or the Home Office and stated that it was inappropriate that minutes of Board meetings were taken by a clerk who is a member of Home Office staff. All Boards have access to the services of a member of staff (the IMB clerk) employed in the setting they monitor, to take minutes of Board meetings and provide other administrative support, which enables the Board to deliver their statutory duties. This is set out in the Memorandum of Understanding agreed between the Home Office and His Majesty's Prisons and Probation Service, respectively. Training is provided to the member of staff allocated to IMB clerking duties and confidentiality is emphasised as part of that training. In addition, all Boards are able to have private time, without the presence of the clerk to discuss more sensitive matters, and Chairs have a responsibility to review and sign off each set of minutes as an accurate record. As was explained by the IMB's witnesses in evidence, the Brook House Board adopted this approach and routinely made use of this time to discuss issues amongst themselves. The Brook House Inquiry served to emphasise the value and importance of independence and I would like to provide reassurance that the organisation is fully committed to protecting this essential quality of our monitoring. However, I am confident that this is a process which protects the independence of local IMBs.

Another concern was that members were and continue to be volunteers, lacking expertise and knowledge in some key areas they were expected to monitor. Members of the Independent Monitoring Board are, by their very nature, lay monitors; members of the public bringing citizen oversight to a service that is delivered in their name. I strongly believe that this is their strength: IMB members are not expected to be experts in any one field, and so are unencumbered by prior knowledge of the limitations of delivery of a particular service or professional connection to it and the conflicts that may bring. Their role is to offer a lay or outsider's perspective on conditions in detention. As I set out in the interim update, we plan to provide use of force training for IDE members and are committed to developing and adapting further training and guidance for members so they are better informed to comment on what they see but I would not want unwittingly to undermine the unique quality of the role by inviting specialists to perform it.

I await the responses to recommendations from other core participants to this Inquiry with interest and we will consider how we can take forward any further learning from these to the monitoring practices of the IMB.

This letter will be copied to Edward Argar MP, Minister for Prisons, Parole and Probation, the Home Affairs Select Committee and the Joint Committee on Human Rights.

Yours sincerely



Elisabeth Davies – IMB National Chair

IMB Interim update to the Brook House Inquiry

Kate Eves

Chair, Brook House Inquiry

By email: Enquiries@BrookHouseinquiry.org.uk

12 January 2024

Dear Chair,

I write further to your letter of 18 December 2023, and your request for an update on the steps taken by the Independent Monitoring Boards to review and formally respond to the recommendations made to the IMB.

The IMB welcomes your report and takes seriously the findings and recommendations made. The IMB remains committed to learning from the unacceptable events which occurred at the Brook House IRC. I will provide a formal response to the recommendations within six months of the publication of the Inquiry report but set out below an update on planned key activities and progress to date.

Two of your recommendations were directly addressed to the IMB and I address these in this update, however we have reflected far more broadly on the lessons to be learnt from the matters revealed by the Inquiry. Indeed, the IMB did not await publication of your report before beginning its work to learn from the Inquiry and I will provide further details of this with our formal response, but a summary of key activities includes:

- Specialist human rights training and follow up written guidance for all IDE members
- Specific training and guidance from Medical Justice on monitoring and following concerns related to healthcare (Rule 34/35)
- Training on the ACDT process (for supporting those at risk of suicide or self-harm)
- Toolkits for members on Rule 34/35 and on defining the use of force.

Recommendation 13: Audit of use of Rule 40 and Rule 42 of the Detention Centre Rules 2001

Issue	Planned action	Deadline
The National Chair and Management Board of Independent Monitoring Boards “must review processes to consider how they fulfil their oversight role in respect of Rule 40 and Rule 42, and report on the monitoring of the use of Rules 40 and 42 going forward.”	<u>Completed actions</u> Monitoring of Rules 40 and 42 is covered in the new IDE Pocketbook, which is a guide for members for what to look for when monitoring immigration detention.	Due to complete in February 2024.

	<p>Monitoring issues around Rules 40 and 42 are included in the new rota and annual report templates and guidance that have been produced.</p> <p><u>Outstanding actions</u></p> <p>IDE toolkit on monitoring of Rules 40/42 to be produced.</p> <p>To note: IMB staff continue to press the Home Office to amend the Detention Centre Rules as per previous agreements dating back to 2018, as detailed in previous evidence given to the Inquiry.</p>	<p>Issued to members in November 2023.</p> <p>IMB staff team coordinating the development in early 2024.</p>
--	---	--

Recommendation 33: Improving the investigation and reporting of HM Inspectorate of Prisons and Independent Monitoring Boards

Independent Monitoring Boards working within immigration removal centres must ensure that they have robust processes for:

Issue	Planned action	Deadline
“Obtaining and reporting on an enhanced range of evidence and intelligence from detained people and those who represent or support them, staff and contractors, including that which is received outside of inspections or visits”	<u>Completed actions</u>	Due to complete in February 2024.
	<p>The pocketbook developed for IDE members details the evidence and the intelligence that IMBs should report on.</p> <p>The new rota and annual report guidance templates distributed in November 2023, give Boards clear direction on reporting on a range of evidence.</p>	November 2023
	<p>IMBs have increased their accessibility in detention settings through:</p> <ul style="list-style-type: none"> • application forms translated into multiple languages 	November 2021

	<ul style="list-style-type: none"> ice breaker cards in multiple languages posters on the role of the IMB in multiple languages. <p>The improved accessibility is intended to enhance the IMB's ability to obtain evidence from detained people.</p>	<p>January 2023</p> <p>December 2023</p>
"Reporting on any concerns about the Home Office and contractors"	<p><u>Completed actions</u></p> <p>The IMB's <i>reporting abuse policy</i> was updated and agreed by the Management Board in June 2023. This gives clear guidance to members on what to do if they are told by a detained person that they have suffered abuse from staff or other detained people.</p>	June 2023
	<p>The IDE pocketbook provides guidance on steps to take if abuse is revealed.</p> <p><u>Outstanding actions</u></p> <p>IDE toolkit for members on monitoring indicators of mistreatment, including staff cultures to be produced.</p> <p>National training session to be delivered on monitoring indicators of mistreatment, including staff cultures. This is in addition to the training provided in 2020 on raising concerns and preventing abuse.</p>	<p>Due to complete in February 2024.</p> <p>IMB staff team coordinating the development of guidance and training for members, drawing in relevant expertise where appropriate. To be developed in early 2024.</p>

In respect of recommendation 33, it has remained the case that individual IMBs and the National Chair, reflecting thematic evidence, have raised concerns and criticised failings. For example:

- On 7 April 2023 my predecessor wrote to the Director of Detention Services with questions related to the handling of a death in custody at Colnbrook IRC in March, as well as wider concerns regarding support for the number of vulnerable individuals in immigration detention.

- On 16 June 2023 my predecessor wrote to Robert Jenrick, the then Minister of State, and copied to the Home Secretary with concerns related to the Illegal Migration Bill.
- On 20 October 2023 the Heathrow IMB wrote to the Home Office regarding serious concerns for safety at Heathrow IRCs.
- On 12 December 2023, I wrote to the Chief Pharmaceutical Officer for England to relay the repeated concerns of the IMB regarding detained people's access to prescription medication in STHFs.

Recommendation 32

Recommendation 32 is for the government to respond to, but the IMB is supportive of the proposals and would be happy to assist in actioning the response to these concerns. These are key issues that the IMB has pressed for, for several years now.

As an organisation that monitors all places of detention, we are committed to sharing the learning from the Inquiry with all local IMBs, including those monitoring in prisons. During the first quarter of 2024, there will be a roll out of a presentation on the key findings from the Inquiry addressed to the IMB that will be shared at regional meetings, capturing all IMB Chairs and inviting discussion. Some Chairs have already started to discuss learning from the Inquiry with their Boards, but all will be encouraged to cascade these key findings to their Board members. This presentation will be accompanied by a detailed 'Guide' for members which is intended to be an aid for all members in locating topics in the report which are relevant to monitoring and reporting through rota and annual reports.

I trust that the update provided demonstrates the IMB's position as an organisation committed to learning and acting on the findings from the publication of the Brook House Inquiry Report.



Elisabeth Davies – National Chair, Independent Monitoring Boards