



Annual Report of the Independent Monitoring Board at HMP Fosse Way

**For reporting year
1 June 2023 to 31 May 2024**

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Introductory sections 1 – 3

1. Statutory role of the IMB

The Prison Act 1952 requires every prison to be monitored by an independent board appointed by the Secretary of State from members of the community in which the prison is situated.

Under the National Monitoring Framework agreed with ministers, the Board is required to:

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

To enable the Board to carry out these duties effectively, its members have right of access to every prisoner and every part of the prison and also to the prison's records.

The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international human rights treaty designed to strengthen protection for people deprived of their liberty. The protocol recognises that such people are particularly vulnerable and aims to prevent their ill-treatment through establishing a system of visits or inspections to all places of detention. OPCAT requires that states designate a National Preventive Mechanism to carry out visits to places of detention, to monitor the treatment of and conditions for detainees and to make recommendations for the prevention of ill-treatment. The IMB is part of the United Kingdom's National Preventive Mechanism.

2. Description of the establishment

HMP Fosse Way was opened on 29 May 2023 as a category C offence-neutral prison, with a capacity of 1715 prisoners¹. Offence neutral means an integrated regime to provide equity of access and service provisions for all prisoners. To achieve this the on-site management teams provide guidance to different cohorts such as VPs (vulnerable prisoners), Young Offenders and those with disabilities or cognitive impairments. It is a privately managed prison in Leicester, operated by Serco. The catchment area was to be, predominantly, the East Midlands, with resettlement of 24 months to 14 days. Vulnerable prisoners (VPs), mainly sex offenders, were not to be segregated but integrated into the general prisoner population. The intake of prisoners was carefully planned for the prison to reach or near capacity by May 2024.

Following a decision by the Minister for Prisons, HMP Fosse Way prisoner intake was increased to reach capacity significantly earlier than planned in recognition of nationwide prisoner location requirements. The weekly prisoner intake projections were increased from around 25 prisoners to around 90 prisoners a week. The prison capacity was achieved by February 2024, five weeks ahead of schedule.

Although HMP Fosse Way is still classed as category C prison, there are now other prisoner categories in Fosse Way, including category D and young offenders. The resettlement window has moved up to 36 months and 21 days and the catchment area is no longer just the East Midlands. This has generated far more caseload work, such as offender behaviour and OASys risk predictor programmes.

¹ Figures included in this report are local management information. They reflect the prison's position at the time of reporting, but may be subject to change following further validation and therefore may not always tally with Official Statistics later published by the Ministry of Justice.

3. Key points

This report will look at the first year of the opening of Fosse Way in two parts:

- a) 1 June 2023 to 31 August 2023
- b) 1 September 2023 to 31 May 2024

It will also identify what the IMB deems to be key areas that give cause for concern on the actual new build of the prison and what could, and should, be avoided in future new build prisons.

During the first operational year, the IMB has been monitoring Fosse Way with an average of just two experienced members and with just one experienced member for the last three months of the reporting period. This has meant that the usual IMB duties have not been carried out and in-depth reviews of many of the prison functions have not been possible.

3.1 Main findings

- a) 1 June 2023 to 31 August 2023

- From the Board's observations, intake of the first 250 prisoners went to plan and most appeared to settle in well.
- The recruitment and training of new staff commenced in October 2022. When the prison opened, staffing was ramped up in line with the increasing population. New recruits were supplemented with management and staff seconded from other, Serco-managed prisons. There were 107 prison custody officers (PCOs) and 12 custodial managers from these sources.
- The prison was fully operational, but with industries not up to planned levels, there was a jobs shortage for prisoners. In addition, the education department did not have sufficient tutors to meet the education demands.
- VPs (vulnerable prisoners) integrated successfully into the house blocks/wings.

The initial opening was considered successful and, except for industries and education, opening objectives were achieved. The IMB's only real issue during this time was missing property coming from other prisons.

- b) 1 September 2023 to 31 May 2024

With the prisoner intake to Fosse Way increasing from around 25 to around 90 prisoners per week, the prison reached operational capacity five weeks early, in February 2024. This impacted as follows:

- The workforce, except for those seconded from other prisons, was new to the Prison Service and approximately 85% were in the 18-30 age bracket; they were young and inexperienced.
- With the speedy increase in the prisoner population, pressure on young, inexperienced staff was high; and with staff levels reducing, the pressure and strain increased. In our opinion, this has resulted in ongoing staff retention issues, which have impacted on the regime at times during the reporting year.
- Due to the accelerated ramp up of prisoner intake, staffing numbers fell below the original planned levels. In addition, resignations/sickness/holidays/

overtime requirements meant that secondments from other prisons continued up to six months longer than planned.

- Employment, due to a variety of factors, was behind schedule and there was a lack of employment for prisoners. There were a number of workshops that were not opened as per the plan.
- A total of 396 seats in education was insufficient to meet the sudden increase in prisoner numbers. Only 52% of eligible prisoners were in education.
- The offender management unit (OMU) was not fully staffed, leading to a backlog of OASys (offender assessments) required for prisoner category C to D reviews. In addition, with the speed and increase in prisoner numbers, OASys were being left incomplete by the outgoing prison(s), putting further pressure on the OMU.
- Self-harm and violence incidents went up with the increase in prisoner numbers, putting added strain on the staff (see the evidence in section 4). However, assaults on VPs were no higher, at this time, than the general average number of assaults on prisoners.
- The number of adjudications (disciplinary hearings when a prisoner is alleged to have broken prison rules) increased, as did the number of prisoners segregated in the care and separation unit (CSU). Due to the increased demand, SERCO utilised a number of cells on the G1 landing gated area for cellular confinement when required, but there was no formal agreement between HMPPS and SERCO for this and it was managed by SERCO at a local level.

New prison building shortfalls

In the Board's view, the following features the areas in HMP Fosse Way that do not meet the demands and requirements of a new prison. Interestingly, Fosse Way has an identical footprint to HMP Five Wells, the previous new prison to open. In the Board's view, no lessons appear to have been learned from the issues that arose at Five Wells.

- The gymnasium held a maximum of 15 prisoners for a prisoner population of 1720. Serco has converted two workshops into a double gymnasium to meet the requirements of the prison population.
- Laundry: although each wing has a laundry room with domestic washing machines, there is no central laundry for washing larger items such as duvets. The reason given was based on environmental considerations. However, Fosse Way regularly now has a lorry transport their large-article washing to HMP Dovegate, a round trip of 140 miles.
- The washing machines, tumble dryers and other electrical items (e.g. fridges and toasters) on the house blocks appear to be of a domestic, and not industrial, standard. As a result, they appear to require ongoing repair and are likely to have a limited lifespan.
- There is no staff training facility: during ramp-up, where large numbers of staff were recruited and SERCO did not have access to the prison - as it was still being constructed - training took place off site. Following handover of the prison, a purpose-designed control and restraint (C&R) practice area was constructed on site and an additional training room was created.

- There is a significant shortage of office space with, in some instances, cupboards being used to accommodate staff. The IMB office is outside the secure prison zone, as there is no other space available.
- The commissioned on-site health service finishes at 7pm, with no on-site healthcare between 7pm and 8am. There is also no on-site residential healthcare unit. This means that prisoners who have severe mental health issues and those who require palliative care or 24-hour watch have to be accommodated on their respective wings or in the CSU. There are dedicated cells on wings to accommodate constant supervision and palliative care needs. In our opinion, SERCO staff are not qualified to deal with their health issues, despite social care plans being in place. In addition, prisoners with emergency 'out of hours' physical and/or mental health issues have to be transported or escorted to local A&E departments. This places additional demands on NHS facilities in the city and also impacts on immediate staffing levels in the establishment.
- Library: although the size is acceptable, its location is poor and the area can get very congested and noisy. For prisoners studying in the library, the environment is particularly unhelpful.
- Extra house block: on completion of the original build, a decision was taken to build a further house block. Apart from the upheaval this has caused, we understand the cost of the extra new build is significantly higher than it would have been if it had been included in the original scheme.
- Window design: a number of the cell windows are being smashed (deliberately) and there is clearly a design fault that is creating a potential security risk as there are no bars on any of the houseblock windows, including those on the ground floor. The smashed glass can also be used to inflict self-harm and, aware that the houseblocks have no bars on the windows, the security risks in these areas is particularly heightened.
- Cell design and cell furniture – The furniture installed is primarily made in MDF and it can very easily, and quickly, be damaged/destroyed by prisoners. This is likely to necessitate frequent repairs/refurbishment alongside pressures of cells being uninhabitable whilst repairs are completed. Overall the standard of furniture installed would not appear to be sufficiently robust or durable for a prison environment.
- The care and separation unit (CSU) has insufficient cells for a prison of Fosse Way's population. A further 18 cells on G block have been converted and managed by the CSU to meet demand.
- The fencing around each house block yard has no razor wire on top. The fences have already been climbed and create a security risk.

3.2 Main areas for development

As this is the first annual report for HMP Fosse Way and because the IMB has had a very small team to cover such a large prison, an in-depth review has not been possible. In addition, due to the sudden ramping up of prisoner numbers, the original operational planning of the prison was unable to be implemented properly.

TO THE MINISTER

- The Board is seriously concerned about prison build shortcomings, which have been identified in the report. What will the Minister do to avoid the same

errors being repeated in future builds (one of which we believe is due to open near York in the coming year)?

- Prison population changes, such as the early release scheme, have had a huge impact on management and staff, through a significantly increased workload. Before making these decisions, what consideration does the Minister give to the individuals in the prisons affected?

TO THE PRISON SERVICE

- As above, 'To the Minister'.

TO THE DIRECTOR

- Any issues for the Director of Fosse Way will be identified in our next annual review.

Evidence

As already stated, due to a lack of Board members, the IMB has been very restricted in what can be reported in the first year of Fosse Way's operation. In addition, year-on-year comparison figures do not apply and, because of the changing prisoner numbers, from zero to 1715, in the reporting year, comparisons are not necessarily representative of the operational situation now applying.

The following are statistics on a number of key areas:

- MDT (mandatory drug testing)
- IRS (incident reporting system)
- Summary of complaints
- Deaths in custody

MDTs: monthly number of drugs tests

Although the number of MDTs has increased during the reporting period, reflecting the rise in the number of prisoners within the establishment, the total number of tests completed is 5%, which is policy compliant. In our opinion, this is low.

Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Total
18	40	32	47	62	60	68	78	85	93	86	86	755

Number of positive drug tests per month

Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Total
0	0	0	16	29	17	23	29	39	36	36	34	259
0	0	0	34%	47%	28%	34%	37%	31%	28%	30%	29%	29%

Incident reporting system (IRS)

	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Total
Deliberate damage	0	0	4	2	11	10	17	15	26	18	29	35	167
Key locks	3	11	6	9	4	7	7	9	3	6	5	1	71
Finds	7	18	44	59	50	64	63	68	82	86	67	41	649
Drones	0	0	0	0	3	2	0	1	8	1	0	1	16
Self-harm	0	0	3	8	17	36	58	45	51	67	66	74	425
Prisoner-on-prisoner assaults	0	0	2	1	8	7	11	17	16	37	36	24	159
Staff assaults	0	0	0	0	2	2	2	1	4	6	6	12	35
Other*	2	7	14	9	6	3	9	9	16	30	23	29	157
Total	12	36	73	88	101	131	167	165	206	251	232	217	1679

*Food refusal; security breach; disorder; fire; miscellaneous.

Summary of complaints

Complaint type: Comp 1 (ordinary complaint); Comp 1A (appeal); Comp 2 (confidential complaint)

Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Total
38	133	260	338	307	429	273	239	394	420	368	358	3557

Key areas of complaint: residential; security; the offender management unit (OMU).

Key trends: property (damaged or missing); recategorisation; staff; refunds.

Deaths in custody

There was one death in custody in the reporting year, which was, apparently, self-inflicted.

The work of the IMB

Board statistics

Total number of visits to the establishment	205
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Moving forward, it will be very important for the Board to increase its visibility within the prison and ensure both staff and prisoners are fully aware of the role and responsibilities of Board members. This will happen naturally, with new members being able to take on additional Board duties, including representation at relevant internal management meetings, completing monitoring visits and Rule 45 review boards (when the prison decides if the prisoner should remain segregated), etc, and engagement in the training of new prison staff.

Applications to the IMB

Code	Subject	Number received
A	Accommodation, including laundry, clothing, ablutions	6
B	Discipline, including adjudications, incentives scheme, sanctions	13
C	Equality	2
D	Purposeful activity, including education, work, training, time out of cell	8
E1	Letters, visits, telephones, public protection, restrictions	9
E2	Finance, including pay, private monies, spends	4
F	Food and kitchens	2
G	Health, including physical, mental, social care	15
H1	Property within the establishment	11
H2	Property during transfer or in another facility	34
H3	Canteen, facility list, catalogues	4
I	Sentence management, including HDC (home detention curfew), ROTL (release on temporary licence), parole, release dates, recategorisation	22
J	Staff/prisoner concerns, including bullying	4
K	Transfers	9
L	Miscellaneous	13
	Total number of applications	156

Property, particularly items that did not arrive from the transfer prison, was the category with the most applications.



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