

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE PRISONER ESCORT AND CUSTODY SERVICES (PECS), HIS MAJESTY'S
COURTS AND TRIBUNAL SERVICE (HMCTS) AND THE NATIONAL COUNCIL FOR LAY
OBSERVERS**

Introduction

1. This memorandum of understanding (MoU) has been agreed between PECS) (in His Majesty's Prison and Probation Service (HMPPS)), HMCTS and the National Council (NC) for Lay Observers (LOs) on behalf of individual LOs. It:
 - supports the LOs' work to provide effective independent scrutiny of treatment and conditions for detainees in court custody and during transportation and
 - accepts the importance of promoting positive outcomes for detainees in court custody and during transportation.
2. Nothing in this MoU will supersede the obligations of parties to fulfil their individual responsibilities as set out in their existing policies and procedures.
3. A separate MoU has been agreed between the National Council for LOs and the HMPPS Long Term High Security Estate (LTHSE) for Category A prisoners.

Joint working

4. The Chair of the LO National Council and PECS and HMCTS will meet at regular intervals to exchange information and discuss issues of common concern and mutual interest.
5. The LO National Council will:
 - provide a copy of the LO annual report to the Secretary of State to PECS and HMCTS;
 - provide copies of visit reports;
 - act promptly to provide reports of serious concerns as and when necessary;
 - inform LOs about information and other intelligence received from PECS and HMCTS as appropriate;
 - via the Chair, review the MoU on a biennial basis;
 - contact PECS first on any issue relating to contractors;
 - centrally appoint LO representatives to attend regional or cluster level stakeholder meetings and brief them fully;
 - attend or send a representative to the quarterly Welfare board and provide an executive summary on behalf of LOs at the meeting;

- ensure that all visits to custody suites, prisons, vehicles and vehicle basis will be conducted in accordance with the LO Visits Protocol and in compliance with health and safety regulations and procedures.

6. PECS and HMCTS will:

- Meet bimonthly with the LO Chair to provide a regular forum where all parties can come together with a focus on improving outcomes for detainees, through discussion of operational issues;
- provide organisational updates to the LO Chair during operational meetings;
- refer any themes or consistent concerns arising that cannot be addressed operationally to the strategic quarterly meetings;
- alert the LO staff team of any serious concerns about LO conduct;
- provide the LO Chair with updates on serious issues raised in LO reports;
- inform the LO National Council and LO staff of correspondence or other intelligence that may require, or benefit from, action by the LOs;
- ensure PECS and HMCTS staff are aware of the work and role of LOs;
- biennially review the MoU;
- provide details to LO staff of regional/cluster stakeholder multi agency meetings;
- invite area lead LOs to attend quarterly meetings with Contract Delivery Managers (CDM), in advance of the HMCTS Quarterly Multi-Agency Stakeholders' Meeting, inviting the lead area Lay Observer to provide business updates, enabling the LOs to have a voice and feedback trends and concerns as well as positive practice observed.
- provide senior staff attendance to a quarterly forum hosted by MoJ Sponsorship, with the LO NC to discuss strategic and thematic issues.

Data and Retention Periods

7. This MoU is also the data sharing agreement between HMCTS/PECS and the Lay Observers. The parties may share personal and sensitive information, records or images obtained during the course of their respective duties for the purposes outlined in Annex A. Personal and sensitive information includes any information that identifies a person, including DPs, PECS and court staff and LOs. Such information will be shared using secure email systems.
8. The relevant legal basis to share information involving personal data between both parties is "public task/interest".
9. Both parties confirm they will comply with their respective obligations under the Data Protection Legislation and must also comply with all other applicable laws, including the Human Rights Act (HRA) 1998, in particular Article 8 of the HRA interferences must be fully considered by the Participants before sharing any personal data under this MoU.
10. Both parties within this MoU are considered data controllers.
11. Detainees are made aware of data sharing by way of notices displayed within custodial settings. The Lay Observers can also provide copies of privacy notices to detainees as

requested. These notices explain how to exercise rights in relation to the processing of information.

12. A protocol agreed between HMPPS PECS and the LOs National Council sets out the standard for access to the Book a Secure Move (BaSM) platform and the Digital Person Escort Record (dPER).
13. Routine onward disclosure to third parties is not intended by either participant. Any onward disclosure of data will only be made in compliance with the data protection obligations of both parties, and in line with any applicable legal or statutory restrictions. The sharing of any data under this MoU will be securely transmitted, and steps will be taken to confirm that the recipient has adequate security arrangements and data storage policies in place.
14. HMCTS will hold data in line with their existing departmental retention and disposal policies. Lay Observers will retain records for 7 years in line with the IMB & Lay Observer record retention schedule.
15. LO staff will issue Lay Observers with a copy of an Information Assurance Policy on an annual basis, which protects the integrity of all data and assures the safety and security of HMCTS locations and the privacy of detainees and staff. All Lay Observers are asked to sign and acknowledge their adherence to this policy each year.
16. Lay Observers will at all times act in compliance with the Information Assurance Policy regarding the use of email communication.
17. Lay Observers also agree to notify the Data Protection Officer immediately where they believe there may have been a breach of data security, breach of the Information Assurance Policy, or the loss of personal information relating to any Lay Observer, detainee, or member of HMCTS/PECS staff.

Reconciliation of Disagreements

18. Any disagreement between individual LOs and escort or court staff will normally be resolved at working level. If this is not possible, issues should be referred to PECS and HMCTS and the LO staff. They will be responsible for ensuring a resolution.
19. Each signatory to this memorandum will respect the independence and views of the other.

Signed:



David Whalley
On behalf of the Lay Observer National Council
Date: 23.10.24

Signed:

T. Coates

Tim Coates
Head of Prisoner Escort and Custody Services
Date: 23.10.24

Signed:



Kris Hamson
Deputy Director
HMCTS
Date: 23.10.24

Annex A

Protocol between The Prisoner Escort and Custody Services (HMPPS), Her Majesty's Courts and Tribunals Service (HMCTS) and The National Council for Lay Observers regarding the taking, storage and sharing of photographs

1. This Protocol has been agreed between the Prisoner Escort and Custody Services (HMPPS), Her Majesty's Courts and Tribunals Service (HMCTS) and The National Council for Lay Observers, and sets out the parameters for the taking, storage and sharing of photographs by Lay Observers whilst undertaking their roles and responsibilities.

Entry to court custody suites

2. Lay Observers will be permitted to enter court custodial suites with cameras for the express purpose of taking photographs to illustrate particular aspects of their observation visit.
3. Photographs of any other area within courts (including public areas) are strictly forbidden.

Permitted subjects

4. No photographs should be taken of:
 - a. PECS contractors' staff, HMCTS staff or members of staff from any other agency;
 - b. Detainees;
 - c. Personal data which could identify an individual;
 - d. IT systems;
 - e. Alarms, locks, CCTV cameras or other equipment used to secure an area; or
 - f. Staff areas within the custody suite.

Storage and sharing

5. The National Council for Lay Observers will meet all legal and government requirements for the protection of personal information, records and images seen during the observation.
6. Photographs taken by Lay Observers will be kept for retention periods defined by Lay Observers staff and then destroyed in accordance with Lay Observers' retention policy.

Approval of photographs and images prior to publication

7. Prior to publication, any photographs captured during the course of an observation must be shared with the following contacts for approval:
 - Head of PECS
 - Head of HMCTS Custodial Services
 - Head of HMCTS Safety and Security
8. If any of the above contacts object to the publication of a photograph or an image, this should be made in writing to The National Council for Lay Observers via the staff setting out the relevant breach of this protocol.

Publication

9. Once approved, photographs and images captured during the course of an observation may be used by The National Council for Lay Observers in their observation reports of court custody suites and in annual reports. The National Council for Lay Observers will not be required to obtain further approval to use approved photographs and images in future publications.