

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE PRISONS AND PROBATION OMBUDSMAN  
AND  
THE IMB NATIONAL CHAIR ON BEHALF OF INDEPENDENT MONITORING  
BOARDS IN ENGLAND AND WALES**

1. This memorandum of understanding (MoU) has been agreed between the Prisons and Probation Ombudsman (PPO) and the National Chair of the Independent Monitoring Boards (IMB) on behalf of individual IMBs. The agreement:
  - acknowledges the independence of both IMBs and the PPO and the importance of that independence in fulfilling their respective responsibilities;
  - supports the work of ensuring that custody is safer and fairer for those detained;
  - commits to the importance of learning lessons to promote the improvement of places of custody; and
  - outlines information sharing responsibilities.
2. Nothing in this memorandum will supersede the Terms of Reference or remit obligations of the individual parties.

**Aims**

3. The aim of this MoU is to promote a clear understanding of the respective roles of each party, to promote a mutually beneficial relationship between IMBs and the PPO and to facilitate partnership working where appropriate.

**Prisons and Probation Ombudsman**

4. The Prisons and Probation Ombudsman (PPO) is appointed by, and reports directly to, the Secretary of State for Justice. The Ombudsman's office is wholly independent of the services in remit. It is also operationally independent of, though it is sponsored by, the Ministry of Justice (MoJ). The roles and responsibilities of the Prisons and Probation Ombudsman's office are set out in its Terms of Reference<sup>1</sup>.
5. Complaints from prisoners and young people in custody are investigated by the Independent Prisoner Complaint Investigations (IPCI) team. IPCI is part of the PPO. References to the PPO in this MoU also include IPCI.
6. This MoU relates only to the PPO's role in prisons and young offender institutions (YOIs) in England and Wales, and immigration removal centres (IRCs), immigration short-term holding facilities (STHFs), pre-departure accommodation and immigration escort in the United Kingdom and internationally. The PPO's remit includes:

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<sup>1</sup> <http://www.ppo.gov.uk/>

- complaints made by prisoners, young people in detention (prisons and secure training centres), offenders under probation supervision and individuals detained under immigration powers (detained individuals), including those under immigration escort;
- deaths of prisoners, young people in detention, approved premises' residents, detained individuals, neonatal deaths and stillbirths due to any cause; and
- deaths of recently released prisoners that occur within 14 days of release from prison due to any cause, except homicide.

### **The Independent Monitoring Board National Chair and local IMBs**

7. The National Chair of the Independent Monitoring Boards is appointed by, and reports directly to, the Secretary of State for Justice.
8. The role of the IMB is to monitor day-to-day life in prisons in England & Wales, and immigration removal centres and short-term holding facilities (STHFs) in England, Wales, Scotland and Northern Ireland, as well as charter flight removals.
9. The Prison Rules, Detention Centre Rules and the Short-Term Holding Facility Rules define the principal duties of the IMB which are:
  - to satisfy itself as to the humane and just treatment of those held in custody/detention within that establishment;
  - to inform the Secretary of State, or any official to whom he has delegated authority, of any concern it has;
  - to report annually to the Secretary of State on how well the establishment has met the standards and requirements placed on it and what impact these have on those in its custody.
10. IMB members are independent unpaid public appointees. Members have unrestricted access to their local prison or immigration detention facility at any time. They can talk to any prisoner or detained person they wish, out of sight and hearing of a member of staff, if necessary, and have right of access to records held at the establishment to support their monitoring. They can also deal with applications from prisoners or detained people in relation to individual issues that have not been resolved through the usual internal channels.
11. The role of the IMB National Chair and Management Board is to provide leadership, direction, guidance and training to Boards to help them fulfil their statutory and other duties and protect their independence. Boards are required to make annual reports to the Secretary of State, as well as raise concerns directly with managers of prisons or places of immigration detention.

### **The IMB National Chair and Prisons and Probation Ombudsman**

12. The IMB National Chair and the Ombudsman will meet at least quarterly to discuss issues of common concern and mutual interest.
13. The National Chair and individual IMBs will:

#### **Sharing of information**

- provide any relevant information to the PPO that informs them of concerns in particular establishments;

- provide updated contact details of chairs of Boards on an annual basis;
- alert the PPO to the publication of any IMB annual reports;
- consider and inform joint work with the PPO on issues relevant to both parties;
- pass to the relevant IMB, as appropriate, correspondence and other intelligence received from PPO in line with the IMB/PPO information sharing requirements (page 4);
- follow-up, as appropriate, correspondence or other intelligence received from the PPO via the National Chair;
- as part of the IMB monitoring role in relation to the conditions and treatment of prisoners/detained people, be cognisant of the PPO 'lessons to be learned' from any relevant PPO publications;
- if IMB members become aware, alert the PPO that there is a lack of communication material (posters and leaflets) about the PPO / IPCI so that prisoners/detained individuals are able to take their complaint beyond the establishment.

#### **Complaint handling**

- promote an awareness of the role of the PPO and IPCI to board members;
- where appropriate explain to prisoners/detained individuals how to escalate a complaint to PPO / IPCI;
- assist in investigations where appropriate.

#### **Deaths in custody**

- if IMB members become aware, alert the PPO that notices about a death in custody investigation have not been published so that members of staff and prisoners/detained individuals are able to raise their potential concerns with the PPO investigator;
- as part of the IMB monitoring role in relation to the safety of prisoners/detained people, be cognisant of the PPO recommendations from death in custody investigations;
- assist in investigations as appropriate

14. The PPO will:

#### **Sharing of information**

- ensure PPO staff are aware of the independence, work and role of IMBs;
- inform and consider joint work with IMBs on issues relevant to both parties;
- seek information/evidence from IMBs where relevant as part of individual investigations, which may include interviewing individual IMB members;
- provide IMB staff with advance disclosure of any investigation report that contains criticism of an IMB member's actions;
- forward correspondence or other intelligence that may require or benefit from action by a relevant IMB to IMB staff for them to pass on as appropriate;
- alert IMB staff to the publication of any relevant PPO publications.

#### **Complaint handling**

- advise complainants to redirect any complaint specifically about an IMB member to IMB staff so it can be investigated in accordance with the IMB complaints procedure.

#### **Deaths in custody**

- consider the content of the latest IMB annual report when investigating a death in custody;
- share initial and final death in custody and post-release death reports with IMB staff for forwarding to individual IMBs;
- share the HMPPS/Home Office action plan in response to fatal incident investigation recommendations with IMB staff for sharing with individual IMBs.

## **Sanctions**

15. Both parties to this MoU are committed to working jointly and with HM Inspectorate of Prisons (HMIP) to ensure the delivery of the agreed protocol on the issue of sanctions<sup>2</sup>.
16. The purpose of the protocol is to ensure prisoners and detainees are protected from any victimisation/sanctions which might take place for communicating or trying to communicate with HMIP, IMB or the PPO.

## **Dispute resolution**

17. Any disagreement between the Parties will normally be resolved at working level, for example, between a Board Chair and an Assistant Ombudsman. If this is not possible, issues should be referred to the relevant Deputy Ombudsman or Ombudsman and/or the Regional Representative or National Chair who will be responsible for ensuring a satisfactory resolution.
18. Each signatory to this memorandum will respect the independence of and keep confidential the views of the parties.

## **Review**

19. The MoU will be reviewed annually (at the beginning of the calendar year) with meetings attended by key representatives.

## **Information sharing requirements**

17. Both parties agree to comply with:
  - Data protection legislation
  - HM Government's Security Policy Framework: <https://www.gov.uk/government/publications/security-policy-framework>
  - The Information Commissioner's Office (ICO) Framework Code of Practice for sharing personal information: [http://ico.org.uk/for\\_organisations/data\\_protection/topic\\_guides/data\\_sharing](http://ico.org.uk/for_organisations/data_protection/topic_guides/data_sharing)
18. In particular, this includes:
  - Preserving the integrity, confidentiality, and availability of shared data and preventing the corruption or loss of such data;

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<sup>2</sup> <http://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/02/hmip-imb-ppo-protocol.pdf>

- Processing the data only to the extent, and in such a manner, as is necessary for the effective functioning of the justice system or as required by law or any regulatory body;
- Conducting, if necessary, a Data Protection Impact Assessment (DPIA) when changes are made to the processing of data.

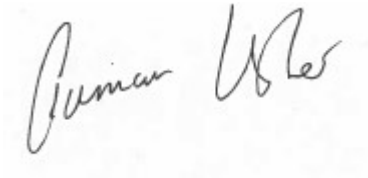
19. Specific measures to protect personal information:

- We shall at all times aim to protect personal data, the release or loss of which could cause harm or distress to individuals by compromising its confidentiality, integrity, or availability;
- We shall handle all information that meets the definition as set out in the Government Security Classification System definitions for OFFICIAL, including any marked OFFICIAL-SENSITIVE, according to the prescribed standards including the specific measures set out in this agreement;
- When OFFICIAL or OFFICIAL-SENSITIVE marked information is held on paper, it will be locked away when not in use;
- When shared information is held and accessed on IT systems, we shall ensure the mandatory security outcomes described in the Security Policy Framework are met;
- When shared information is moved between locations, we will securely transfer the information and it will be held and accessed in secure premises;
- Any IT system is assessed as secure to the appropriate level;
- We agree to avoid the use of removable media for storage of personal data wherever possible, and when removable media must be used then:
  - the information transferred will be the minimum necessary to achieve the business purpose
  - the media will be encrypted to the standards specified by the MoJ
  - user rights to transfer data to removable media will be carefully considered and strictly limited only to those absolutely necessary for business purposes;
- All material that has been used as shared data will be subject to controlled disposal (if and when it is agreed that the material cannot be returned to the source party)
  - Paper records will be destroyed by incineration, pulping, or shredding so that reconstruction is unlikely
  - Digital/electronic media will be disposed of through secure destruction, overwriting, or erasure for re-use;
- We will ensure that all data users that handle personal information are aware of the sensitivity of the data, the handling requirements, and successfully; undertake information assurance risk awareness training on appointment and thereafter regularly throughout the length of their service;
- We shall maintain, at all times, the 'need to know' principle and limit access to information to the minimum possible;
- We shall maintain business continuity and incident recovery frameworks that cover the protection of shared data to maintain its integrity, availability, and confidentiality;
- We shall not process personal data provided by the other party with countries who do not have adequacy arrangements in compliance with the UK GDPR, unless there is prior written consent and, where consent to a transfer is provided, the processing will comply with:
  - the obligations of a Data Controller under data protection legislation by providing the adequate level of protection to any personal data that is

transferred, and any reasonable instructions as notified by the party that owns the data;

- If at any time we suspect or have reason to believe that shared data has or may become corrupted or lost, then we shall notify the other immediately, reporting any losses to MoJ Security as necessary;
- All personal data shared will be held, and destroyed, according to the retention schedules defined by the originating organisation.

Signed

A handwritten signature in black ink, appearing to read 'Adrian Usher', written over a faint, light blue rectangular stamp.

Adrian Usher  
Prisons and Probation Ombudsman

Date: 12/01/2024

Signed

A stylized handwritten signature in black ink, appearing to read 'Elisabeth Davies', written over a faint, light blue rectangular stamp.

Elisabeth Davies  
IMB National Chair

Date: 12/01/2024