

IMB Toolkit for Immigration Detention Estate

April 2016

IDE Toolkit - April 2016

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IMB toolkit - ways to monitor (IDE version)

Context

Independent Monitoring Boards are appointed so that members can report to Ministers on what is happening in their establishment¹. This is no simple task. How do members know what detainees are experiencing when the IMB are not present? How can members check through a mass of detailed observations to identify the significant ones?

The IMB National Monitoring Framework makes clear that every board needs to decide its monitoring priorities in the light of the specific and unique characteristics and requirements of its establishment. Having decided *what* the most important aspects to monitor are, Boards must decide *how* best to set about it.

This toolkit lists some of the ways effective monitoring may be achieved. It offers examples to help answer the question 'How do we find the evidence on which to base our judgements?'. Even a 'general check' can be given a sharper edge by focusing on specific questions, and boards may wish to establish their own list. The examples here are drawn from the practical experience of a range of boards.

Collecting evidence

IMBs are most effective and influential when they base conclusions and pronouncements on relevant, secure and incontrovertible evidence. The practices illustrated in this toolkit exemplify a range of ways in which good quality evidence can be collected.

Some real-life examples

- IMBs in IRCs were concerned about the number of detainee moves taking place at night. They undertook an analysis of movement logs which demonstrated the prevalence of such moves and submitted their findings to the Home Office. The frequency of night moves has now shown a decrease.
- By observation of roll-counts as they happened, the Board in a female Centre were able to monitor whether, as was the Contractor's policy, they were conducted by female officers.
- An IMB was concerned about processing times through Detainee Reception, particularly at night. Monitoring Reception through a 24-hour period provided evidence of processing times and reasons for any delays.
- Another board, at a short-term hold facility, was concerned about detainees sitting in vans for excessive periods, waiting to be admitted. The board systematically recorded times from the vans' arrival to the detainees being admitted onto the residential unit.

¹ Detention Centre rules 2001 ("DC Rules"), rules 61 (3) and (4)

Assessment of risk

No IMB can assemble evidence about everything that happens. If it tries to do so it will fail and it risks collecting snippets of information about many things and a secure evidence base about nothing. Clear priorities are needed.

In order to establish such priorities, a board should take a view on the *risks* faced at the establishment – pre-eminently the risks which impact the treatment of detainees in relation to fairness, humanity and preparation for release or removal. Such risks change over time and it is good practice for boards to review their assessments of risk periodically – perhaps quarterly. Sometimes an urgent review will be necessary because of unexpected developments.

Risks can be categorised according to likelihood and impact. Obviously Boards will focus effort on monitoring those which score highly in both respects. One approach is for the Board to maintain a risk register in which different concerns are ranked in order of severity but this kind of formality is by no means essential.

In an IRC context, there are some risks that are endemic. Examples mentioned in the Monitoring Framework are the heightened risks of unfair or inhumane treatment in care and separation/segregation units and in-patient healthcare units. There are many more.

New risks can arise (and previously serious ones diminish) caused by changing circumstances. Boards need to be on the alert to recognise and predict them. For instance:

- A change in rules (such as rules on use of force or restraints);
- Or regime (such as different arrangements for ordering food);
- Or contractual arrangements, (whether this be a main provider or a subsidiary provider such as Healthcare)
- Or makeup of the population (such as an increase in the numbers of ex-Foreign National Offenders).

These usually introduce an implementation risk, however valuable the change itself may be once it has bedded in.

The nature and balance of risks faced are unique to each establishment. Periodic reassessment of risks is necessary if a board is to maintain properly-focused monitoring.

Risks identified by other bodies

External surveys and reports, and the establishment's own record systems, provide valuable data relevant to an IMB's monitoring, in particular to establishing priorities. For instance, surveys published by the Inspectorate contain information about detainee views and perceptions. Reports by the Ombudsman following deaths in custody may identify aspects of an establishment's work to keep an eye on.

For example, a board can:

- Ask the establishment for the updated Action Plan after the last HMIP report
- Review occasional reports from charities and NGOs working in the immigration field to see if their findings and impressions accord with those of the Board.

Formulating questions

Having identified a risk, the next step is to decide what questions to ask that will enable members to assess whether the risk is materialising and the impact it is having on detainees. Usually it is practical for a named board member to take responsibility for leading this process.

Consider 'change in Healthcare provider' as the example. The sort of questions that might be asked are:

- Are Healthcare needs assessed properly?
- Has the level of service been maintained (or even improved)? E.g. number of GPs, nurse appointments.
- Have staff members stayed on following the transfer to the new provider?
- Have numbers of DNAs (did not attend) increased or reduced?
- Have times for transfer of detainees who have been sectioned, to appropriate accommodation, lengthened or reduced?
- Are detainees able to get appointments with a male/female doctor if requested?
- What do detainees say about the service? Have complaints and applications increased or reduced?

Sometimes answering such questions will require direct observation at specific times or places. Sometimes they will involve looking at data and data trends. Sometimes they may involve interviewing staff and/or detainees, or conducting a survey of some kind. Sometimes planned observations involving several members in a coordinated exercise may be a good approach.

What is seldom effective is to say 'we need to keep an eye on the new Healthcare provider so everyone, during your week on rota, please visit the clinic and see how things are going'. This unfocused approach does not usually enable a board to collect persuasive evidence.

Gap check

Whilst thoughtful assessment of risk underpins a Board's overall monitoring strategy, there remains a need for checking to ensure that the activities of individual members combine to deliver that strategy and that no important elements get overlooked. This is a check that is probably needed on a monthly basis. For instance, it might be that because of other urgencies, one of the residential units or perhaps the kitchens have not been visited for some time. It is sensible to have a system for spotting when this occurs in order to take steps to plug any significant gap quickly.

Special interests

Many Boards divide some major elements of the establishment's work between members, so that particular individuals undertake to become the 'expert' on specific functions (such as healthcare, education and skills, ex-foreign national offenders) able to coordinate the Board's monitoring in their areas. From time to time the National Council establishes a support group which may offer tailored guidance for monitoring a particular area. Currently (2016) there are support groups for healthcare and for education and skills (see also Annex A).

Serious incidents

The Framework illustrates the range of serious incidents that may occur in an establishment and can require particularly careful monitoring. The National Council has issued a number of guidance documents covering specific incident types (such as a death in custody) and how to draw up a contingency plan for discussion and agreement with the establishment, including a protocol to be applied whenever the Command Suite is opened².

Rota week

Detention Centre Rules 60 and 64 specify that IMBs should hold monthly meetings and visit the establishment at least once a week. It is generally accepted that more frequent attendance at the establishment than this implies is desirable. Most IMBs arrange a rota of members so that every week a named individual accepts responsibility to visit at least once for a general check on how things are, and to be the point of contact in case the establishment wishes to inform the IMB about any matter (such as a death in custody).

Even a 'general check' can be given a sharper edge by focusing on specific questions and boards may wish to establish their own list. For instance, questions such as:

- How many detainees have been held in the care and separation/segregation unit this week, for what reasons and for how long?
- How many detainees have open ACDTs and when a sample is checked are the specified requirements being met? In a female IRC for example are detainees on constant supervision being watched by female officers?
- Are living conditions adequate (cleanliness, temperature, laundry etc)?
- Are detainees being afforded the proper facilities for maintaining contact with their families (phone, faxes, visits)?
- Is the food of an acceptable quality and sufficiently diverse to satisfy a range of cultural/religious requirements?
- At STHFs, where ready-prepared meals are offered, are these in-date?

A list such as this can provide a purposeful framework round which to build the 'general check' which is the *raison d'etre* of the visit. No visit, or even set of two or three of them, can possibly cover everything in an average-sized establishment. Visits can be hijacked by events that mean plans have to be modified or abandoned.

²See Annex A and IMB Reference Book section 22

However, neither of these factors vitiate the value of planning to focus on deliberately selected specific issues.

Some real-life examples

- One IMB checks on a quarterly basis that kitchens, WCs and showers are clean. Are all the facilities working?
- At an IRC's Detainee Reception, checking periodically (from the logs) the time taken to process a detainee from arrival to transfer to his or her residential unit. Is it acceptable?
- Where a Board feels that an establishment is under-staffed, focussing on the
 effect that has on detainees, e.g. do disabled residents have to wait an
 unreasonably long time to be escorted in the lift to meals or other
 appointments?
- One board checks each visit that the free telephone line to the Samaritans is working and that it is manned.

Structured observations

A good way to address some monitoring questions, especially those relating to trends, is by making a series of standard observations over a period. This avoids the risk of having to compare apples with oranges.

Some real-life examples

- To answer the question 'How good is access to legal advice?' Boards can
 monitor attendance of law firms at legal surgeries over a period of, say,
 three months, and check with the booking clerk about the waiting time for
 appointments at these surgeries
- To answer the question 'Is the balance of male:female staff appropriate for the detainee population?', a Board could ask at regular intervals for the staff detail, paying specific attention to the manning of areas where this is important, such as care suites, reception (for searching).
- To answer the question 'is the regime administered fairly and efficiently?' some boards ask for official times for aspects of the regime (unlock, domestics, shop opening times, education, lunch etc) and then during a week/month note actual times to assess punctuality and completeness.

Special investigations and thematic surveys

Sometimes situations are identified where an intensive and focused monitoring effort is needed. For example, detainees might be telling board members that they are not given an opportunity to use some of the equipment in the gym because staff limit its availability to a few 'favourites'. This raises concerns about fairness. The board might decide to investigate by instigating a programme of frequent visits to the gym over a period of (say) six weeks in which a specific note is take of whether the equipment concerned is being used, and if so by whom.

As with all monitoring, the presence of IMB members might lead gym staff to modify their normal behaviour. Nevertheless, it is certainly possible – perhaps likely – that if

favouritism were endemic, or typically displayed by particular members of staff, perceptive observation would pick it up.

Some real-life examples

- Boards concerned over length of detention might, for example, take it upon themselves to interview the 10 longest-serving detainees to elicit their understanding of their legal position and to see if that accords with the Home Office version.
- Where a Board was concerned about an establishment's handling of a specific incident, it reviewed all relevant SIRs to establish the strength of the intelligence on which the resolution strategy was based.
- A systematic review of all IS91s over a period in a STHF revealed a tick in a box indicating that a one-year old girl had been handed a leaflet about a particular topic, revealing a mechanistic approach to completion of these important forms.

Collaboration between members

Direct collaboration between board members when monitoring can be undertaken in various ways. It is often valuable for two colleagues to make similar observations, or to participate jointly in a conversation with a detainee and then share perceptions and interpretations of the event. Combining different points of view may lead to deeper insights and understanding.

Collaboration between members is also fundamental to training. This is clearly the case when a member first starts and there are well developed approaches to mentoring in this circumstance. The value of collaboration does not end after the probationary year. Board officers (Chairs, Vice Chairs, Board Development Officers) can also benefit from mentoring in their roles perhaps by Board colleagues, or perhaps by colleagues in a different Board with whom they can be put in touch. And it is a rare Board member, however experienced they may be, who does not have plenty to learn from colleagues with other perspectives.

Real-life example

- Joint monitoring (e.g. a shared rota visit) by two inexperienced members still in their probationary year is found to have a range of benefits from increasing self-confidence and independence to rapid learning about what works well and what is less successful
- One Board has developed 'crib sheets' for each area of the establishment containing 'need-to-know' information about it, which can be updated regularly by anyone who learns something new (e.g. the name of a new activities manager). The sheets are readily available for consultation in the IMB office
- Many Boards circulate all rota reports to all members, as well as to the contract director and HOIE manager on cjsm so that all concerned are up-todate about issues and the areas that have been visited most recently.

Monitoring the physical environment

This is an important area for monitoring in all establishments. In most situations detainees will point out to board members where there are major shortcomings. However, it is particularly important in airport holding rooms and other short-term holding facilities where needs and requirements are lower-level than in a long-term facility. On some visits monitors may not encounter any detainees, but they still need to check such basic matters as toilet and showering facilities; food and drink provided; communications; general cleanliness of the area.

Monitoring a journey

Another monitoring approach is to follow a given detainee for a day to get an exact picture of how they spend their time. This kind of exercise is certainly likely to yield interesting information, though perhaps not in a focused way. It is a monitoring approach that may be particularly valuable to new board members as a way for them to learn about establishment life.

However, such an exercise must be set up carefully and with the consent of the detainee concerned. Board members need to avoid any suggestion that they are 'spying' (either on detainees or staff) or acting clandestinely.

Some real-life examples

- From time to time, one Board follows a detainee as they arrive in Reception until settled in a room
- Ditto, following a detainee for a morning until, say, lunch
- Ditto, following a detainee who is being released or transferred, from room to Detainee Reception
- At airports, IMB members follow detainees during their passage through the airport, off the vans and up the steps of the aircraft
- Charter flight monitors of course follow a complete journey from IRC right through to final destination.

Using data to monitor

Large amounts of data and other information are routinely collected by establishments themselves. IMBs are entitled to see this information. Often it complements the direct observations made by members in a powerful way.

For example, an IMB may gain an impression (from discussion with detainees) that members of a particular ethnic group are disproportionately involved in detainee-on-detainee assaults. The establishment's use-of-force data should enable the board to check whether the impression is borne out by the facts.

Or, to take another example, an establishment's statistics about detainee complaints can yield considerable information about the areas of establishment life that are most problematic from a detainee's perspective. Such information may well inform a board's risk assessments (see above).

Some real-life examples

Choosing non-consecutive periods of at least a month, some boards routinely compare the:

- Number of assaults on staff or on detainees
- Number of times Personal Protective Equipment was used³.

To monitor complaints some boards:

- Choose ten complaints at random and read the answers; are they fair and reasonable?
- Look at the complaints statistics; are the common topics the same as crop up in Applications to the IMB? If not, why?
- Read ten Discrimination Incident Report Forms and the answers; are they fair and reasonable?

To monitor Applications some Boards:

• Track trends in Applications received by location and topic to spot trends.

IMBs in IRCs need to monitor length of detention, and this can be done at a high level with Home Office Immigration Enforcement management providing statistics and case summaries on the longest-stayers at the monthly IMB meeting.

Length of detention is also important in short-term holding facilities. It can be monitored by a review of the logs kept by staff. IMB members may not see detainees at each facility on a particular visit, so have to access other information about their welfare.

Significant numbers of detainee moves are carried out at night, whether to or from the airport or between IRCs. IMBs can obtain data from their respective Centres' detainee receptions, where all arrivals and departures, as well as flight departure times, are logged.

Monitoring the reception processes is not always easy because of the number of arrivals at night, but it is possible to monitor, again from the Centre's own logs, the time taken to process a detainee from arrival to transfer to his or her residential unit.

Reviewing CCTV

CCTV and video records of an establishment's activities and incidents are available to IMBs and are potentially a rich source of information when there is a specific question to be addressed. For instance, an IMB might believe that education sessions are being curtailed because detainees arrive late or mill about outside classrooms when they should be inside them. Relevant CCTV footage could show whether the concern is valid, and do so better and more simply than IMB members trying themselves to monitor the situation by direct observation.

Other examples where CCTV can be particularly valuable are:

³Obtainable from the monthly Security report/meeting

- Reviewing incidents involving the use of force; and
- Investigating complaints from detainees (e.g. female detainees alleging that male officers enter their rooms without leaving adequate time after knocking).

Conducting surveys

This monitoring activity should be approached with caution, as constructing survey questions that produce usable findings is a task best left to professionals. Nevertheless, a short, simple survey can provide the evidence on a topic that the Board needs. Such direct evidence can be compelling. However, interpretation of all survey data must be made honestly and cautiously.

For example, an IMB might be told by detainees that their friends and relations were finding the number for booking visits by phone was constantly engaged. The IMB might decide to test this through a survey (see example below).

Some real life suggestions

- Ask 20 waiting visitors to fill in an anonymous five-question yes/no survey, on the spot, about the time taken and method used to book their visit
- Having warned the staff, ask Members to ring the visits-booking line a number of times (vary days and times) and note how long it takes to get through
- Ask the last five detainees admitted whether they were offered a hot meal
- Ask a sample of new detainees two or three set questions about their experience of Induction.

Collaborating with other Boards

There may be circumstances when several Boards have interlocking concerns that can be most successfully addressed through collaborative monitoring relating to an agreed theme. When deciding whether such a thematic monitoring initiative is appropriate, it is important to be clear what the value of the intended outcome might be. 'It would be interesting to compare...' is not really good enough. Any joint initiative needs to have a clear focus on one or more issues of fairness, humanity or preparation for release.

Recent examples co-ordinated by the IDE/IMB Chairs' Forum include short surveys of the longest-held detainees in each IRC, as well as the joint work on night moves referred to on page 1 above.

In conducting this research it is important that the Boards concerned agree a consistent monitoring protocol in order to establish the evidence base. Evidence should be gathered by all Boards during an agreed time period, and recorded in an identical format.

Answering detainee applications

All detainees, wherever held, have the right to submit applications to the IMB in confidence, and they are entitled to a response when they have done so. It is

commonplace, and natural, for detainees to see an IMB application as an alternative to a written complaint to the establishment. It is not. When IMBs respond as though it is, they tend to undermine the establishment's own proper procedures. This benefits no one in the long term.

There is a range of ways that different boards try to ensure that detainees are clear about what IMBs can and cannot do, such as:

- Involvement in detainee induction sessions to explain the IMB role
- Making clear on posters what IMBs can do
- Having handouts and pamphlets describing the IMB's role and purpose for distribution to detainees.

Sometimes detainees need help to make an application to the IMB either orally or in writing. This might be because they are illiterate or do not like to write, or cannot communicate in English, or simply are too bewildered by the process to make use of it.

When responding to an application it is usually necessary to talk to the detainee first, in order to ensure that their concern has been correctly understood, before investigating it in some way. It is sensible, however, to undertake some basic research before speaking to the detainee, such as how long he/she has been detained.

- Sometimes applications are received that may be incoherent or suggest that the detainee is in a distressed state. It is best to check whether the detainee has an open ACDT document, or is undergoing some course of treatment, before deciding the proper way to approach them. It is necessary to be aware that in some circumstances a visit from the IMB may destabilise a precarious situation and so a written response, or possibly no formal response at all, is in the detainee's best interest
- Sometimes the application is clear and it is sensible both to discover the answer and what the detainee has already been told and by whom before speaking to them
- When sending a written reply to the detainee it is essential to ensure that it
 is legible and intelligible to the detainee. Some boards always provide
 typewritten responses (which ensures legibility but not, automatically,
 intelligibility).
- With some detainees it may be necessary to use interpretation or translation software of some kind when speaking or writing to them.

A general principle is that, when dealing with an application, IMB members should aim to support the process whereby the establishment handles whatever the issue may be rather than circumventing or duplicating it.

Co-operation with other agencies

There are many agencies, both official and voluntary, that share IMBs' concern for the welfare and proper treatment of detainees. IMBs can and should use their reports when this assists monitoring. For instance, HMIP reports contain illuminating surveys of detainee opinions and often highlight areas of concern that help a board to decide its own priorities.

Sometimes other agencies approach IMBs, either an individual board or, through the IMB National Council, IMBs collectively, with a request for a specific collaboration or (perhaps) for help collecting data for a project of their own. The parameters guiding co-operation with some agencies (eg HMIP) have been formalised in Memoranda of Understanding. There is a distinction to be made between co-operation and collaboration.

When considering co-operation with another agency it is important to protect the independent status of IMBs. To illustrate this point, take a situation where establishment inspectors identify a failing in the way a establishment operates and make a recommendation about how it should correct things. For example, in order for 'detainees to be treated with respect by staff...and encouraged to take responsibility for their own actions' inspectors might recommend that 'a personal officer scheme should be introduced'. The particular role of an IMB is, independently, to monitor whether 'prisoners are treated with respect...', whether or not the establishment is successful in implementing a personal officer or any other formal scheme.

Similarly, if the Ombudsman makes recommendations following an investigation, an IMB should focus its monitoring on outcomes for detainees, not on whether procedural recommendations have been implemented. They may have been, but if outcomes have not improved as intended then the IMB should report this.

There are many charities and NGOs working in the IDE field. Sometimes they approach the IMB for information or to investigate a particular detainee's situation. Boards should exercise extreme vigilance in dealing with these requests to ensure that they maintain their independence in identifying which detainee issues to investigate or pursue, and to avoid being drawn into the political arena.

Recording evidence

IMB members need to ensure that any significant evidence collected during monitoring is recorded appropriately. There are several elements to 'appropriateness'.

- The system a board adopts for recording evidence should be straightforward to use and not excessively time-consuming for board members
- · A multiplicity of forms and protocols should generally be avoided
- All evidence should be recorded accurately and legibly
- Records should be concise and avoid superfluous information (such as data readily available elsewhere)
- · Any opinions or assumptions should be clearly identified as such
- Evidence records should be filed in a way that enables them to be searched and sorted easily.

Balancing views and formulating evaluations

IMBs are boards that report collectively. The judgements they make are not a collection of individual views but balanced evaluations based on a range of evidence

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collected by all the board's members. This is critical in maintaining a board's reputation for fairness and building its influence.

Achieving a consensus which is not simply the lowest common denominator is often a considerable challenge. Board members sometimes hold different views about some aspect of the establishment's performance, which may occasionally be diametrically opposed. When this situation arises a good approach is to consider what additional evidence might help to clarify which view is more likely to be correct or, perhaps, that neither view is correct and some third judgement is better.

Boards that are successful in reaching illuminating corporate judgements tend to be those where all members respect the views of their colleagues. The backgrounds, skills and experiences of members can, indeed ideally should, cover a wide spectrum. Some individuals will almost certainly be better at expressing their ideas persuasively, but this does not automatically mean that they are in the right. All members need to work at getting to the bottom of what each of their colleagues thinks, and exploring the range of views seriously. This is the way to build a proper consensus.

Reporting effectively

Within an IMB context there are several levels of reporting – individual members to the rest of the board, members, either individually or collectively, to establishment staff, and the board corporately to senior Home Office staff and/or to the Minister. At each of these levels it is generally the case that 'less is more'. The better a message can be distilled to its essentials before it is transmitted, the greater its impact.

Some real-life examples

- Members enter their reports on to a standard computer template. These reports are then searchable by detainee name, number, wing and subject code
- Members' reports can be read by all IMB colleagues before the next monthly meeting by ensuring that they are circulated using cjsm
- A list of the issues arising from rota (and other) visits that members wish to bring to establishment management's attention is sent to the Manager in advance of the monthly meeting so that they can come properly prepared to respond.

Boards are obliged to write an annual report for the Minister⁴. Further, they are expected to write to the Minister if they have any major concerns about the way detainees are being treated, whenever this occurs, without waiting for the end of the reporting year and the annual report. Any such letters should be brief and to the point. If a Minister needs more detail they can and will ask for it.

⁴ The standard template for an annual report and guidance on how to use it is currently under revision.

Board meetings

The monthly board meeting may be the only opportunity for some members to speak to each other. Section 3 of the IMB Reference Book suggests an agenda for board meetings which is impractically long unless discussion of each item is stringently curtailed. Many boards also use the occasion of their meeting to arrange a briefing or training session about some aspect of the establishment's work, given by a member of staff. All this creates the danger that monthly meetings become very long – three or four hours is not uncommon – which is undesirable. Few people can concentrate properly for such a period and it is questionable whether four hours out of a total of (say) 20 hours that a member might spend in the establishment during a typical month is the best use of their time.

Boards need to:

- Establish realistic agenda for their meetings, prioritising the important and topical issues that require discussion and not attempting to cover all areas in every meeting
- Control the length of meetings: a helpful practice is to indicate the time allowed for each agenda item so that all participants can help to keep the discussion moving forward at a fair rate
- Circulate good background papers for members to read in advance of the meeting: minor corrections or amendments (e.g. to the last meeting's minutes) can be handled before, not at, the meeting
- Be prepared to make decisions by voting rather than engaging in lengthy discussions which do not reach a conclusion
- Warn the manager of the major issues that members wish to raise (e.g. those arising from rota reports) so that they can come properly briefed to respond
- Ensure that minor issues, or issues where the Board's evidence base is weak or where members have not reached a corporate view, are not raised with the manager prematurely.

Monitoring and evaluating board performance

Boards need to have a way to appraise their own performance, and to check both that their evaluations are sound and that their reporting of them has the intended impact. This essential component of monitoring is described in greater detail in the IMB Governance Framework.

What happens next?

Please help us keep toolkits relevant and up-to-date.

Send your examples and suggestions for improvement to: imbtraining@justice.gsi.gov.uk

Annex A

Guidance on particular monitoring topics issued in DC and DBM letters

Topic	DC or DBM letter
Monitoring equality and diversity	DC 32-12
Monitoring following a death in custody	DC 06-15

Other DC and DBM letters with guidance of direct relevance to monitoring

Topic	DC or DBM letter
Annual report template	Under revision
Information assurance	DC 28-12
Monitoring if establishment staff take industrial action	DC 32-13