



**Memorandum of Understanding
and Service Level Agreement
between
The UK Border Agency's
Detention Services
and
The National Council of
Independent Monitoring Boards
for the UK Border Agency's
Detention Estate**

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Introduction to this Memorandum of Understanding

1. We, the UK Border Agency and National Council for Independent Monitoring Boards, formally agree this Memorandum of Understanding, also incorporating a Service Level Agreement, which sets out the arrangements between us in relation to the monitoring of the UK Border Agency's detention estate in accordance with Part VI of the Detention Centre Rules 2001.
2. The Agreement is not a legally binding document but sets out our commitments and expectations and is designed primarily to support the Independent Monitoring Boards to fulfil their functions of monitoring the state of the removal centre premises, the administration of the removal centre and the treatment of detained persons.
3. It also recognises that Boards are independent from the UK Border Agency. Their role is to ensure those held in the Agency's care are treated with humanity and respect and that it operates a safe and secure environment for detainees, staff and visitors alike.

Signed on behalf of UKBA

Signed on behalf of IMB National Council

Alan Kittle

Director
Detention Services
UK Border Agency

Dr Peter Selby

President
National Council
Independent Monitoring Boards

Date

Date.....

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Principles

Independent Monitoring Boards

4. Independent Monitoring Boards are appointed by the Secretary of State in accordance with Section 152 of the Immigration and Asylum Act 1999 and operate in accordance with Part VI of the Detention Centre Rules 2001.
5. Boards are responsible for monitoring conditions in Immigration Removal Centres by statute and other short-term holding facilities by agreement with the Secretary of State for the Home Department¹, in order to monitor and report on the conditions in which immigration detainees are held, the administration of the removal centre and how detainees are treated.

UK Border Agency

6. The UK Border Agency is charged by Government to protect our border and to manage migration in the best interests of the United Kingdom, including enforcing the removal of those with no legal right to remain in the UK.

Detention Services and the UK Border Agency's Detention Estate

7. Detention Services is a Directorate of the UK Border Agency with responsibility for:
 - The operation of the UK Border Agency's detention estate of holding rooms at ports of entry and reporting centres, residential short-term holding facilities and Immigration Removal Centres.
 - In-country and overseas escorting
 - Electronic monitoring

¹ *Independent Monitoring Boards currently have no statutory basis to monitor short-term holding facilities but do so in some cases by appointment of the Secretary of State.*

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Service Level Agreement

8. This Service Level Agreement sets out the services the UK Border Agency will provide to each Board in the interests of allowing them to function as effectively as possible.

Accommodation

9. The UK Border Agency will make arrangements for Boards to be provided with:
- A single designated office in each Immigration Removal Centre which is equipped with a desk, chairs, computer, printer, telephone and lockable cabinet storage facilities.
 - Boards with responsibility for monitoring short-term holding facilities to be provided with a locked cupboard at each facility.
 - Reasonable access to black and white photocopying facilities.
 - A venue for monthly Board meetings.
 - Tea, coffee and water for Board meetings.

Clerking

10. The UK Border Agency will make arrangements for Boards to be provided with:
- A clerk for up to 15 hours per month (including travel to and from and attendance at monthly Board meetings) to fulfil duties set out at paragraph 13; and
 - A deputy clerk to cover absences on the same terms as the clerk.
11. The Chairs of Boards will give clerks at least 6 weeks notice of Board meetings to enable rostering of suitable shift rosters.

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12. Clerks will only be available to conduct duties between the hours of 10.00 am and 7.30 pm on working days².
13. Where a dedicated clerk is not available on a temporary basis, the UK Border Agency will nonetheless ensure responsibilities of the clerk are covered.
14. Duties of the clerk shall be to:
- Attend a national training course for Clerks.
 - Agree the agenda for monthly Board meetings with the Chair at least 7 days in advance and circulate to all members of the Board, the Centre Manager and UK Border Agency Contract Monitor.
 - Attend Board meetings and provide minutes to the Chair within 7 working days for distribution within 14 working days.
 - Handle correspondence on behalf of the Board.
 - Circulate all relevant information to Chair and applicable Board members.
 - Maintain up to date manuals and filing systems.
 - Provide relevant statistics for Board meetings.
 - Maintain records of the Board to enable the compilation of the Annual Report
 - Maintain a current list, addresses and contact details of all members.
 - Preside over the annual nominations for the election of Chair, Vice-chair and Board Development Officer.
 - Meet with the Chair on a mutually agreed basis.
 - Maintain Board confidentiality.
 - Assist with all aspects of the recruitment process.
 - Arrange interviews in conjunction with the Chair.
 - Arrange ID cards and badges.
 - Assist with the Triennial Review by ensuring attendance at the establishment is recorded.

² ***Working days are Monday-Friday only, excluding statutory Bank Holidays or other privilege days (i.e. holidays granted to Government officials such as the Queen's Birthday)***

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- Give clerical support to arrange training courses.
- Ensure attendance at training courses is recorded.
- Process members' expense claims in accordance with Clerk's Finance Manual.
- Maintain records and give support to the Chair in the administration of the Board's budget.

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Matters of Security

Security Clearance

15. The Independent Monitoring Boards' Secretariat will:

- Make arrangements for all Board members to be security cleared to the necessary standards set by the Home Office's Departmental Security Unit before being allowed to take up their duties.
- Ensure all Board members undergo an enhanced Criminal Records Bureau check once every 3 years.
- Provide the Clerk to each Board with a list of Board members, including the level of security clearance they hold, the expiry of the clearance and confirmation that they do not have any criminal convictions.
- Notify Detention Services immediately if any Board member:
 - Is suspended from duty
 - Has their security clearance suspended or revoked
 - Is subject to a disciplinary matter which impacts on the safety or security of the detention estate and those who live and work in them.

Security Passes and Clearances

16. The Chair of each Board is responsible for applying to the appropriate port operator or land-lord of the facility being inspected for necessary security passes and airside clearances.

17. The UK Border Agency will sponsor such applications, but responsibility lies with the Chair of each Board to liaise with the relevant authorities issuing security passes and clearances. The UK Border Agency will, however, provide as much support as is required to assist the Chair.

18. The UK Border Agency is unable to arrange exemption for Board members in relation to any requirements in relation to security passes and clearances (e.g. to sit tests).

Physical Security

19. Board members will:

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- Adhere to all Detention Services' and its contractors'³ policies and procedures relating to the safety and security of the establishment being monitored. This includes the handling of keys, UKBA or contractors' documents and other physical security procedures.
- Attend relevant training in relation to security (e.g. with the establishment's security officer before drawing keys for the first time).
- Report to the Centre Manager or Detention Services' Local Manager (hereafter referred to as the UKBA Manager)⁴ without delay any breach or potential breach of security.

Communication and Information Assurance

20. The Secretariat will issue each Board member with the copy of an Information Assurance Policy which protects the integrity of UKBA and its contractors' data and assures the safety and security of the estate and privacy of detainees and staff alike. The Secretariat will require Board members to adhere to this policy.
21. Board members should use secure e-mail (i.e. secure accounts and addresses which have been provided by the Ministry of Justice) to communicate electronically (i.e. by e-mail) with the UK Border Agency and its contractors, and to communicate with each other about any matter to do with the detention estate, individual detainees or members of staff. Any deviance from these arrangements must be agreed by the IMB Secretariat and UK Border Agency.
22. The Chairs of the Boards also agree to notify the relevant UKBA Manager 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 a detainee or a member of UKBA or its contractors' staff.

³ ***Contractors include partners who deliver a service for Detention Services, such as HM Prison Service.***

⁴ ***Detention Services' Local Manager is legally known as the "Contract Monitor".***

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Special Notifications

23. The UK Border Agency will make arrangements to ensure the Chair or another designated member of the relevant Board is notified 24 hours in advance of:

- A Centre being used as a point of collection for chartered flights or other special operations such as a documentation exercise.
- The number and nationality of detainees to depart on the flight and the anticipated time of departure from the Centre.
- A chartered flight where the Board monitors the airport from which the flight will be departing, including the details of when detainees are expected to arrive at the airport and the scheduled time of departure of the flight.
- Any planned use of force on a child or known pregnant woman in order to enforce their removal from the UK.

24. The UK Border Agency will make arrangements to ensure that the Chair or another designated member of the relevant Board is notified within 2 hours of:

- Any detainee removed from association in accordance with Rule 40 of the Detention Centre Rules 2001.
- Any use of force in accordance with Rule 41 of the Detention Centre Rules 2001.
- Any detainee temporarily confined in accordance with Rule 42 of the Detention Centre Rules 2001.
- Any use of special control or restraint in accordance with Rule 43 of the Detention Centre Rules 2001.
- The commencement of an unannounced inspection by HM Inspectorate of Prisons or the Children's Commissioners.
- Any serious incident, including:
 - Death of a detainee or member of staff whilst on duty or as a direct result of an incident occurring at work
 - Concerted indiscipline (active or passive)
 - Escape or attempted escape from a Centre

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- Escape or attempted escape by a detainee under escort by a Centre's staff
- Hostage taking
- Roof climbing
- Bomb threat or explosion
- Find of a firearm, ammunition or explosive
- Full lock-down search
- Breach or attempted breach of security or control by outsiders
- Barricades
- Serious fire
- Evacuations (other than other those conducted as part of a fire drill practice)
- Industrial action taken by staff.

The UK Border Agency will make arrangements to ensure the Chair or another designated member of the relevant Board is notified within 24 hours of:

- Detainees who have been subject to a strip or intimate search.
- Detainees who have been subject to a compulsory drug or alcohol test.
- Emergencies requiring a detainee being admitted to hospital
- Detainee on detainee assaults
- Key compromises or other serious security matters
- Detainees who have missed more than 9 consecutive meals (including breakfast)
- Detainees who healthcare are satisfied have been refusing fluids for more than 24 hours.
- Outbreaks of any contagious disease

25. The UK Border Agency will make arrangements to ensure the Chair or another designated member of the relevant Board is notified weekly of:

- Detainees who have been subjected to close monitoring in accordance with suicide and self-harm prevention policies (ACDT).

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- Detainees who have missed 3 or more consecutive meals (excluding breakfast).
- Detainees who have refused to sign the Centre's Compact.
- Complaints by detainees or visitors received in the week.
- Detainee on staff assaults
- Detainees who claim to be under 18 years of age and where an age assessment has not yet been conducted by Children's Services.

26. The UK Border Agency and its contractors will exercise its discretion to decide when Boards should be notified of other incidents:

- Which constitute a serious threat to security;
- Which are likely to attract unfavourable publicity for the UK Border Agency or its contractor; or
- Where it would be desirable in the interests of detainees or staff, to have an independent witness present.

27. Boards will:

- Notify immediately a member of staff and the duty manager of any detainee, member of staff or visitor about whom they have concern with regards to their personal safety or security.
- Complete a Security Information Report (SIR) or advise the Duty Manager about any incident they witness or another matter brought to their attention about the safety and security of the Centre (e.g. escape attempts, drug dealing, etc.).
- Notify the UKBA Manager of any matter which they feel requires their attention.
- Seek to resolve minor issues at a local level first, and if necessary then with Detention Services' Area Manager, Head of Operations and Director.
- As a matter of courtesy, notify the UKBA Manager of any matter relating to their establishment they intend to bring to the attention of the Secretary of State.

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- Bring any matter which they consider to affect good order and discipline within the Centre to the attention of the Centre Manager/Contract Director and Detention Services' Contract Monitor without delay.

Access to Records, Statistics and Management Information

Records

28. The UK Border Agency:

- Will provide access to records in accordance with Detention Centre Rule 63(3).
- Will be as open as possible with Boards and allow access to other records which may be reasonably required by them to exercise their duties.
- Will not provide Boards with copies of records other than:
 - RCF1 forms where detainees have been removed from association in accordance with Rule 40 of the Detention Centre Rules 2001
 - Use of Force reports raised in accordance with Rule 41 of the Detention Centre Rules 2001
 - Incident reports raised following the use of control and restraint
 - RCF3 forms where detainees have been temporarily confined in accordance with Rule 42 of the Detention Centre Rules 2001
 - DCF9 complaint forms and responses unless the detainee has indicated that he or she does not wish the Board to be provided with such access.
- May refuse access to records if it has reasonable grounds to suspect that access is being requested for a purpose which is not directly related to the functions of the Board.
- May refuse access to records if information contained within is protected or classified to a level requiring a higher level of security clearance than that held by the individual Board member. Such instances are expected to be rare, and a full explanation why access is being refused will be provided. Where a Chair is unhappy with the explanation provided, he or she may appeal the matter to Detention Services' Head of Operations in the first instance, and thereafter to the Director of Detention Services.
- Will facilitate reasonable access to elements of individual contracts relating to facilities for which they have monitoring responsibility which are not confidential or commercially sensitive.

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29. Boards:

- Accept that they are not entitled to review UK Border Agency casework files or records for individual detainees.
- Require the written permission of an individual detainee before being given access to medical records. Even then, medical records may nonetheless be withheld in accordance with Section 5 of the Access to Health Records Act 1990.
- Agree not to make copies of documents without the permission of the UKBA Manager.
- Accept that they are not entitled to see information which is commercially confidential or does not relate directly to the administration of the establishment for which they have monitoring responsibility.

Statistics and other management information

Definitions:

30. **Statistics** relate to information which has been published formally by the UK Border Agency on its website. This information has been checked carefully for accuracy to a high degree, including cross-referencing, before publication.
31. **Management information** relates to that which is generally held locally and has not necessarily been checked for accuracy to a standard whereby it might be published. Management information in particular is liable to change.
32. Detention Services will make clear where numerical information is being provided to Boards whether it relates to statistics or management information.
33. Detention Services will provide Boards on a monthly basis with information relating to the detainee population relevant to the facility for which the Board has responsibility in monitoring (see section on reports).
34. Boards may be directed to the UK Border Agency's website to obtain published statistics about wider detention matters.
35. Where a Board would like information which is not published, a request should be made by the Chair in writing to the relevant UKBA Manager.
36. The UK Border Agency will endeavour to provide such information where it is readily held locally within 5 working days of the request being received. Any delays will be communicated to the Chair in writing with an explanation for the delay together with revised timescales.

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37. Where the information requested is not held locally or is not readily available, the request will be referred by the UKBA Manager to Detention Services HQ and will be treated in the same way as a request made under the Freedom of Information Act.
38. Requests for general information about the detention estate or that which cuts across the detention estate should be submitted in writing by the Chair of the Forum⁵ or the National Council representative to Detention Services' Head of Operations, or in his or her absence to the Director of Detention Services.
39. Boards agree:
- To treat information provided in accordance with the Information Assurance Policy published by the Secretariat.
 - Not publish management information about the UK Border Agency's detention estate without the written permission of the UKBA Manager, unless it has been collated by the Board as a direct result of its monitoring activities (i.e. the information was not provided to the Board by the UK Border Agency or its contractors).
 - In such instances, to make it clear that the information has been sourced from their own monitoring activities and does not form part of the Government's own statistics or management information.
 - To ensure that where permission to publish information is given, any disclaimer or other statement provided by the UK Border Agency in relation to the statistics or management information is clearly displayed.

Contract Tenders

40. The UK Border Agency will:
- Make arrangements for the relevant Board to review documentation which relates to services being tendered prior to publication to potential bidders.
 - Consider carefully any comments made by the Board.
 - Notify the Chair of the Board once a final decision has been made on contract award and the new supplier has been notified.

⁵ *The Forum is a meeting of all Chairs of Boards with responsibility for monitoring the UK Border Agency's detention estate.*

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- Make arrangements for the Chair to meet the new Centre Manager/Contract Director designate (where applicable) once contracts have been signed between the supplier and the UK Border Agency.

41. Boards agree:

- Not to make copies of any of the documentation in relation to contract tenders
- Not to discuss the contents of any such documentation with any third party, including the incumbent contractor or potential suppliers.

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Serious Incidents

42. The UK Border Agency will ensure the relevant Board is notified where a serious incident occurs in an establishment, details of which are given in paragraph 23 above.
43. Where the Silver Command Suite, that is the room used for commanding response to an incident occurring in the Centre, is opened, a single Board member will be permitted to attend the Suite but only as an observer.
44. The Silver Commander, that is the manager in charge of the response to an incident occurring in the Centre, will seek to update the Board member at regular intervals as to the management of an incident. However, the management of the incident itself will be the priority and situations can change quickly; there may therefore be delay in doing so on occasion.
45. Neither the UK Border Agency nor the Centre Manager/Contract Director will seek to impede the right of Board members to have access to any part of the Centre, unless the safety and security of either the Centre or the individual or another individual is at risk. Where permission to access a part of the Centre is denied, full reasons will be given, which will be confirmed in writing as soon as is reasonably possible.
46. Board members agree to make themselves and any notes taken during the management of an incident available to any management review or investigation, and if necessary to provide witness statements.
47. The Centre Manager/Contract Director and the UKBA Manager will make themselves available within 7 days of the conclusion of an incident to meet with the Chair of the Board to discuss the Board's observations, and any recommendations the Board wishes to make.

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Meetings and Reports

Meetings

48. Boards agree to:

- Invite the Centre Manager/Contract Director and UKBA Manager to attend their monthly meetings (or in part), normally providing at least 6 weeks notice of meetings.
- Provide the Centre Manager/Contract Director and the UKBA Manager with a copy of rota reports and any issues of concern at least two working days in advance of the meeting to allow them to prepare.

49. The UK Border Agency will:

- Ensure both the Centre Manager/Contract Director and the UKBA Manager attend meetings, or make arrangements for attendance by deputies where necessary.
- Ensure a report is given at the meeting on the state of the Centre, including:
 - The size of the population
 - Any incidents in the month, including serious self-harm attempts, suicides, assaults or escapes
 - Changes to management of the Centre
 - New notices to staff which impact on the operation of the Centre
 - UK Border Agency policy changes which impact on the operation of the Centre or detainees
 - New Detention Services' Orders or changes to operating standards
- Agree with the IMB National Council both the content and lay-out of the report so that information is presented in the same way to all Boards.
- Consult with the Board about any significant changes to local policy or process (where appropriate) but decisions rest with the Centre Manager/Contract Director in consultation with the UK Border Agency Contract Monitor.

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50. Either the Director of Detention Services or the Head of Operations will by invitation attend the Chairs' Forum and other meetings and present matters of a strategic nature.

Publication of Annual Reports

51. Boards agree to:

- To provide the Centre Manager/Contract Director and the UKBA Manager with a draft copy of any reports intended for publication, providing a minimum of 3 weeks for comment with regards to factual accuracy.
- To provide the Minister and UK Border Agency with a final version of the report at least 4 weeks prior to publication and to provide a confirmed publication date.
- To consider carefully any representations the UK Border Agency makes about the content of a report or an intended publication date. However, any decision to accept the representations remains for the Board and the Board alone.

52. The UK Border Agency will:

- Consider draft reports promptly, providing details of any factual inaccuracies within 3 weeks of receipt.
- Provide a detailed response, including where recommendations are either accepted or rejected, together with reasons why and proposed actions, within 6 weeks of publication of the report.
- Provide Boards with updates at their monthly meetings on progress against any recommendations which have been accepted.

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Public Relations

External Visits

53. The UK Border Agency accepts that from time to time, Boards may, as part of their duties, wish to make arrangements for external visitors to view the UK Border Agency's detention estate, in particular prospective new Board members.
54. Boards should normally submit requests for such visits to the Centre Manager and the UK Border Agency Contract Monitor at least 2 weeks in advance of a proposed visit, providing:
 - Full details of the visitors, including their name, date of birth, nationality, the organisation they represent and position
 - Objectives of the visit
 - Proposed date, time and duration of the visit
55. Whilst the UK Border Agency and its contractors will seek to facilitate such visits, the decision whether or not to permit such visits rests with the UK Border Agency in consultation with its contractors, in particular where there is concern about the safety and security of the Centre or to manage the number of visits a particular part of the estate is receiving.
56. Where permission for a visit is refused because of timing (e.g. to manage the number of visits to a Centre in a particular week), the UK Border Agency and its contractors will work with the Chair to agree an alternative date and time.
57. Where permission for a visit is refused for another reason, a full explanation will be provided to the Chair of the Board.

Media

58. The UK Border Agency accepts that Boards may wish to speak to or otherwise engage with the media from time to time, e.g. in relation to the publication of annual reports.
59. In doing so, Boards agree:
 - As a matter of courtesy, to notify the UKBA Manager in advance of an intention to engage with the media.
 - Not to use photographs of the estate, detainees or staff without prior permission of the local UKBA manager.

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- To provide a copy of any press statement or in the case of an interview, an outline of key messages, to both the UKBA Manager and the Secretariat.
- Not comment to the media about anything that might adversely affect the course of events or jeopardise the safety or security of the estate, detainees or staff.
- Not comment to the media whilst discussions are taking place in relation to an industrial dispute.
- Not to discuss individual cases of detainees.

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Disputes and Review

60. Attempts should be made to resolve any disputes about this MoU at a local level wherever possible. This means that in the first instance, matters should be raised between either the Chair or the Vice Chair of the Board, the Centre Manager or Deputy Centre Manager and the UK Border Agency Manager.
61. Any disputes which cannot be resolved at a local level should be referred by the Board to the National Council representative and by UK Border Agency or contractor staff to Detention Services' Head of Operations.
62. This Service Level Agreement will be reviewed as necessary or at the request of either party.