

Independent Monitoring Boards (IMB)

Basics	Web site	http://www.imb.org.uk
	Geographical coverage	England and Wales for prisons. England, Wales, Northern Ireland and Scotland for the immigration detention estate.
Constitutional Aspects	Legal Framework/Basis	<p>For visits to prisons: §6 Prison Act 1952 (c.52) (http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1952/cukpga_19520052_en_1#pb1-l1g6)</p> <p>Part V of Statutory Instrument 1999 No. 728 The Prison Rules 1999 (http://www.opsi.gov.uk/si/si1999/19990728.htm) - both refer to appointment and functions</p> <p>For visits to immigration removal centres: §152 Immigration and Asylum Act 1999 (http://www.opsi.gov.uk/acts/acts1999/ukpga_19990033_en_1)</p> <p>See also Part VI of Statutory Instrument 2001 No. 238, The Detention Centre Rules 2001 for immigration (http://www.opsi.gov.uk/SI/si2001/20010238.htm#58)</p> <p>The IMB's 2016 Monitoring Framework explicitly refers to OPCAT and the NPM.¹</p>
	Independence	<p>The legislation pertaining to bodies visiting immigration removal centres refers to them as 'visiting committees'. However they are now known as IMBs like their counterparts that monitor prisons. Similarly Immigration Holding Rooms (e.g. at airports) will also have statutory IMBs when the new Short Term Holding Facilities Rules have been approved by Parliament.</p> <p>All IMBs, are appointed by the Secretary of State. In spite of the name and apparent independence in practice, legislation does not make any mention of their actual status in relation to the executive. Statutory Instrument 1999 No. 728 Part V 75 (3) The Secretary of State may terminate the appointment of a member if he is satisfied that - (e) there is, or appears to be or could appear to be, any conflict of interest between the member performing his duties as a member and any interest of that member, whether personal, financial or otherwise.</p>
	Financial Independence	IMB members do not receive any remuneration. Their travel and subsistence expenses are met from a budget negotiated by the IMB Secretariat with the Ministry of Justice and the Home Office.

¹ P.2 IMB, 'The National Monitoring Framework' (March 2016)

Membership	Composition of body	<p>Minimum and maximum Board complements have been set at 10 and 20 members respectively, depending upon the size and nature of the establishment.</p> <p>Prison Rules 1999 §V 75(5): A board shall have a chairman and a vice chairman who shall be members of the board. In practice, IMBs also have Board Development Officers who are responsible for the training of the members.</p>
	Appointment	<p>See §6(2) of Prison Act 1952 (c.52) and §152(1) of Immigration and Asylum Act 1999 (c.33): each detention centre must have an 'independent monitoring board' or a 'visiting committee' which is appointed by the Secretary of State. Both the Prison Rules 1999 and Detention Centre Rules 2001, contain similar provisions regarding the appointment and the respective termination thereof of IMB members. Applicants to the IMB are interviewed by two members of the local IMB and an independent member from another IMB. All IMB members must be security cleared and undergo criminal record checks. Board members are then individually appointed by the Minister taking into account the recommendation of the local IMB.</p>
	Expertise	<p>Members are volunteers. No specific expertise required. Prison Rules 1999 §V 75(2) A member - (a) appointed for the first time to the independent monitoring board for a particular prison; or (b) reappointed to the board following a gap of a year or more in his membership of it, shall during the period of 12 months following the date on which he is so appointed or (as the case may be) reappointed, undertake such training as may reasonably be required by the Secretary of State.</p>
Visiting Mandate	Places of deprivation of liberty to be visited	<p>Under § 6 Prison Act 1952 (c.52) and § 152 Immigration and Asylum Act 1999 (c.33) IMBs can visit prisons and immigration detention centres respectively. Each prison and detention centre has its own IMB.</p> <p>Visits to Immigration Detention Centres may be restricted according to lower/subordinate legislation: §63(4) Immigration Detention Centre Rules 2001: "In exceptional circumstances, the Secretary of State may temporarily restrict visits by members of the committee in the interests of safety or security."</p> <p>The Immigration Minister has also asked the IMBs National Council that IMBs should extend their remit to monitoring deportation flights. Monitoring of short-term holding facilities and repatriation flights does not yet have statutory footing.² Under the Detention Services' Order 04/2014 on working IMBs the Home Office instructs immigration enforcement to ensure the chair of the relevant IMB is notified of details regarding flights on which detainees will depart.³</p>

² P.1 IMB, 'The National Monitoring Framework' (March 2016)

³ Paras 23-27 Detention Services Order 04/2014 Working with independent monitoring boards (Updates January 2017) <http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/detention-services-orders/commissioning-investigations.pdf?view=binary>

Frequency of visits	<p>Under § 6 (3) Prison Act 1952 (c.52) IMB members are required to make frequent visits to the prisons. Confirmed by lower legislation: § 79 (1) Prison Rules 1999: " The members of the independent monitoring board for a prison shall visit the prison frequently, and the board shall arrange a rota whereby at least one of its members visits the prison between meetings of the board." § 152(4)</p> <p>Immigration and Asylum Act 1999 (c.33) mentions that IMBs can visit immigration detention centres at any time but does not mention frequency. However, § 63(1) of the Immigration Detention Centre Rules 2001 states that: "The members of the visiting committee for a detention centre shall (subject to paragraph (4)) visit the detention centre frequently, and the committee shall arrange a rota whereby at least one of its members visits the detention centre each week." (para 4 states that visits may be restricted in the interests of safety or security).</p> <p>In practice, IMBs arrange a rota schedule among the members which ensure that most, if not all, establishments are visited at least once a week by at least one member of the Board. IMB members will work an average of 2-3 days per month. (http://www.justice.gov.uk/about/imb.htm)</p>
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<p>Types of visits</p>	<p>Visits may be announced or unannounced: Under § 6(3) Prison Act 1952 (c.52) IMB members "[...]may at any time enter the prison and shall have free access to every part of it and to every prisoner." § 152(4) Immigration and Asylum Act 1999 (c.33): "Every member of the Visiting Committee for a detention centre may at any time enter the centre and have free access to every part of it and to every person detained there." This is also present in lower legislation.</p> <p>It combines a proactive and reactive mandate. In general the visits are proactive: See §77 Prison Rules 1999: (1)The independent monitoring board for a prison shall satisfy themselves as to the state of the prison premises, the administration of the prison and the treatment of the prisoners. (2) The board shall inquire into and report upon any matter into which the Secretary of State asks them to inquire. (3) The board shall direct the attention of the governor to any matter which calls for his attention, and shall report to the Secretary of State any matter which they consider it expedient to report. (4) The board shall inform the Secretary of State immediately of any abuse which comes to their knowledge. (5) Before exercising any power under these Rules the board and any member of the board shall consult the governor in relation to any matter which may affect discipline. IMB members may hear complaints which are made by detainee." Similar wording is used for Immigration Removal Centres with the addition of some aspects related to migration: See § 61 Immigration Detention Centre Rules 2001. In addition, IMBs at Immigration Removal Centres may visit detained persons subject to special conditions related to removal (§ 62(1) Immigration Detention Centre Rules 2001). The reactive mandate is evident in §6(3) of Prison Act 1952 (c.52) and §152 (3)(b) of the Immigration and Asylum Act 1999 (c.33), which state that the IMB members may hear complaints made by the persons deprived of their liberty. See also § 78 (1) of Prison Rules 1999 and §62(2) of Immigration Detention Centre Rules 2001. There appears to be no mention as to how complaints should be dealt with in legislation (both main and subordinate). In practice, complaints are logged by the IMB and taken up with the most appropriate authority. In immigration detention centres the official, formal complaints are collected by the UKBA Detention Services and logged centrally, and the IMB notified of them if the detainees have not asked that they should not be. The role of the IMB is to monitor that the issues reported are handled in a timely and satisfactory manner.</p>
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<p>Private interviews</p>	<p>No explicit mention is made about this in legislation. The wording of legislation does imply having the possibility of interviewing detainees: See for example § 6(3) Prison Act 1952 (c.52): "Rules made as aforesaid shall prescribe the functions of independent monitoring boards and shall among other things require members to pay frequent visits to the prison and hear any complaints which may be made by the prisoners and report to the Secretary of State any matter which they consider it expedient to report. [The IMB members also] shall have free access to every part of it and to every prisoner." Similar wording in § 152(4) Immigration and Asylum Act 1999 (c.33): "Every member of the Visiting Committee for a detention centre may [...] have free access to [...] every person detained there." Subordinate legislation makes it clear, however that interviews may be conducted in private: § 79(2) of The Prison Rules 1999 and § 63(2) of the Immigration Detention Centre Rules 2001 do state that members of the IMB "[...] shall have access at any time to every part of the detention centre and to every detained person, and he may interview any detained person out of the sight and hearing of officers." The 2016 National Monitoring Framework stipulates that annual reports "must not compromise prisoner confidence".⁴</p>
<p>Access to information</p>	<p>No explicit mention in the main legislation, but similar to the issue with private interviews, may be implied from the text of legislation. Subordinate legislation: § 79(3) of The Prison Rules 1999 and § 63(3) of the Immigration Detention Centre Rules 2001 do state that members of the IMB "[...] shall have access to the records of the prison". IMB does not have access by right to immigration files of detainees in immigration detention.</p>
<p>Publication of findings after visits</p>	<p>IMBs must [...] report to the Secretary of State any matter which they consider it expedient to report [...] (§6(3) Prison Act 1952 (c.52) Similar provision also under §152 (3)(c) Immigration and Asylum Act 1999 (c.33). Under § 80(1) of the Prison Rules 1999, the Board shall make from time to time a report to the Secretary of State "[...] concerning the state of the prison and its administration, including in it any advice and suggestions they consider appropriate." In practice, weekly reports of the IMB visits are not public but only submitted to the Governor of the establishment in question who is invited to respond to the recommendations made. The Prison Minister generally responds to the chair of the relevant IMB within eight weeks.⁵</p>

⁴ P. 10 IMB, 'The National Monitoring Framework' (March 2016)

⁵ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-03-21/32010>

	Coordination of visits	No explicit mention is made in legislation about coordination of visits with other bodies. In some reports by IMBs, mention is made of visits carried out by HMIP and the particular findings of the visit, so it would appear that account is taken of what has been dealt with in other visits. Similarly IMBs are consulted by HMIP inspection teams. The 2016 National Monitoring Framework states that IMBs work in partnership with other NPM members including Her Majesty's Inspectorate of Prisons, the Youth Justice Board and the Prisons and Probation Ombudsman. ⁶
Other Aspects of Mandate	Recommendations and suggestions for amendments to legislation	<p>No explicit reference to recommendations or suggestions for amending legislation in the main legislation. From wording of provisions in §6 Prison Act 1952 and §152 of Immigration and Asylum Act 1999, it may be possible to read the possibility of making recommendations (they must report their findings to Secretary of State). The Prison Rules 1999 (subordinate legislation) states in § 80 that "the independent monitoring board for a prison shall [...] from time to time make a report to the Secretary of State concerning the state of the prison and its administration, including in it any advice and suggestions they consider appropriate." See also § 64 of Immigration Detention Centre Rules 2001.</p> <p>IMBs are generally consulted about amendments to the subordinate legislation but if this does not happen and the IMBs have comments to make, they are not discouraged from submitting them.</p> <p>The Annual reports by the various IMBs do contain recommendations and appraisals but these refer to the establishment in question as opposed to the legislation.</p> <p>In 2012 the IMB National council issued a report highlighting issues of importance representing priorities for all IMBs in England and Wales, including most prominently, in relation to resources, resettlement and reduction of reoffending, accommodation and equipment, and healthcare and mental healthcare.⁷ It has issued reports on specific issues, including the Oasys in prisons and property in 2015.⁸</p>

⁶ P.2 IMB, 'The National Monitoring Framework' (March 2016)

⁷ Paras 2.1, 3.1, 5.4, IMB, 'Issues of concern' (July 2012) <http://www.imb.org.uk/wp-content/uploads/2015/03/imb-issues-concern.pdf>

⁸ <http://www.imb.org.uk/wp-content/uploads/2015/07/IMB-Offender-Assessment-Group-Report.pdf> ; <http://www.imb.org.uk/wp-content/uploads/2015/07/IMB-Property-Group-Report.pdf>

	Preventive activities	See §77 Prison Rules 1999: (1)The independent monitoring board a prison shall satisfy themselves as to the state of the prison premises, the administration of the prison and the treatment of the prisoners. (2) The board shall inquire into and report upon any matter into which the Secretary of State asks them to inquire. (3) The board shall direct the attention of the governor to any matter which calls for his attention, and shall report to the Secretary of State any matter which they consider it expedient to report. (4) The board shall inform the Secretary of State immediately of any abuse which comes to their knowledge. (5) Before exercising any power under these Rules the board and any member of the board shall consult the governor in relation to any matter which may affect discipline. Similar provision is made in §61 of the Immigration Detention Centre Rules 2001.
Standards	Legal standards applied	<p>No mention of standards in legislation. The National Council of IMBs has produced a Reference Book for IMBs in prison which is to guide IMBs work. Members are to “observe whether prisons conform to Prison Rules, Prison Service Orders and Instructions, Detention Centre Rules and Detention Services Orders, Service Level Agreements, specifications, contracts and the law”, according to the 2016 National Monitoring Framework.⁹</p> <p>IMBs visiting Immigration Removal Centres run by private security companies check upon standards set by the UK Border Agency: Detention Services Operating Standards manual for Immigration Service Removal Centres, which are built upon the Detention Centre Rules (which in turn seem to be based on international standards (no specific mention therein to SMR or European Prison Rules, but a slight reference to the ECHR)).</p>

⁹ P.3 IMB, ‘The National Monitoring Framework’ (March 2016)

Reports	Annual reports	<p>All the IMBs prepare annual reports of their activities. Main legislation does not mention this explicitly, although it does say that they should "[...] report to the Secretary of State any matter which they consider it expedient to report [...]" (§6(3) Prison Act 1952 (c.52)" Similar provision also under §152 (3)(c) Immigration and Asylum Act 1999 (c.33). Subordinate legislation does state that the IMBs have to prepare annual reports to the Secretary of State: See § 80 (1) and (3) of the Prison Rules 1999 and § 64 (1) and (3) of Immigration Detention Centre Rules 2001 which in the same wording state that IMBs must "[...] make an annual report to the Secretary of State as soon as reasonably possible after 31st December each year, which shall cover the period of twelve months ending on that date or, in the case of a committee constituted for the first time during that period, such part of that period during which the committee has been in existence." In December 2016 the IMB published new guidance endorsed by the relevant secretaries of state on annual reporting, effective 1 July 2017.¹⁰</p>
Other		<p>The IMBs in prisons in England and Wales and the immigration detention estate in the UK come under the management of the National Council. The National Council is an elected body made up of nine members from IMBs in prisons and one member from IMBs in the immigration detention estate. The Council sets general policy for the IMBs and may co-opt no more than three members with particular expertise who do not have to be members of IMBs. It is chaired by a non-executive president.</p> <p>There is also a Secretariat. The IMB Secretariat is a team of civil servants based in the Ministry of Justice who are responsible for providing support to the IMBs and the national Council.¹¹As of 2014 there were fewer than 20 staff.¹² This also includes working in partnership with the national Council to produce policy and its subsequent implementation.</p>

¹⁰ <http://www.imb.org.uk/wp-content/uploads/2016/11/DBM-28-16-Annual-Reports-Guidance-2-Dec2016.doc>

¹¹ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-03-21/32010>

¹² One source shows 19 and another 14: <https://data.gov.uk/data/contracts-finder.../6ad92adb-6040-4f41-b162-93f608097e88>; <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2014-09-01/207726>