

DC 12/08 and IMM 08/08

**CHAIRS OF INDEPENDENT MONITORING BOARDS IN PRISON AND IMMIGRATION
SERVICE ESTABLISHMENTS**

cc: The Governor/Centre Managers
Controllers and Directors of contracted out prisons
Clerks to the IMBs in Prisons and IRCs
Members of the National Council

10 June 2008

Dear Chair

**TRIENNIAL REVIEW OF MEMBERSHIP OF INDEPENDENT MONITORING
BOARDS: 2008**

This letter is being circulated to those Boards scheduled for the Triennial Review of its members during 2008 for action and to all other Boards for information.

2. The appointment of all members of the Boards set out in the attached Annex A will expire on 31 December 2008. In accordance with the Secretary of State's instructions, section 75(1) of the Prison Rules 1999; section 79(1) of the Young Offender Institution Rules 2000 (as amended) and section 59(1) of the Detention Centre Rules 2001, the re-appointments of these individual Board members will shortly be due for review.

3. Members will be aware that two of the recommendations made by Sir Peter Lloyd's Working Group were that an informal annual review of individual Board members should be carried out by the Chair and Vice Chair on the anniversary of the member's appointment. Also, that the above Prison Rules should be amended so that individual members would be appointed for a term of five years instead of three years as at present, and be subject to a formal quinquennial review at the end of that period to assess if it is appropriate that the member should be re-appointed for another five year term. Those recommendations have been accepted, subject to agreement on the final details, and the changes will be introduced as soon as the necessary legislative amendments have been made to the Prison/YOI and Detention Centre Rules. It is not yet possible to indicate when the Parliamentary timetable will provide an opportunity to do that. In the meantime, we will adhere to the present arrangements for this year.

4. The Triennial Review cannot be undertaken without your assistance and I should be grateful for your co-operation with regard to its timely completion. I am aware that the Review exercise can be time-consuming and would therefore like to thank you in advance for your assistance.

The Review

5. As you may recall, DC 8/1998 introduced changes to the triennial review procedure to help a Board to improve the balance of its membership and to offer members the opportunity to transfer to other Boards.

6. The Triennial Review process and the arrangements for transfer of membership are fully detailed in the attached guidance notes at Annex B.

7. Ministers will expect Chairs and members of the Boards due for review to give full consideration to all factors relating to re-appointment. You will need to consider whether the Board would benefit from a rebalancing of skills and experience within the membership by bringing in new people, and whether some members with a lengthy period of service on one Board would benefit from a transfer to another Board. In previous reviews, we have sometimes been told belatedly that a member had failed to attend regularly and we discovered that no steps had been taken to determine his/her future commitment to the Board. It would be helpful if Chairs could resolve any problems like these at an early stage. Any recommendations by Chairs that individual members should not be re-appointed by Ministers, or be transferred, must be supported with a full explanation and any available evidence.

Dual Membership

8. Board members who are serving on more than one Board should be asked to decide on which Board they wish to remain. Although each case will be decided by the Minister on the individual circumstances, it is unlikely that any member who is serving on two Boards will be re-appointed to the Board under Triennial Review unless there are compelling operational reasons for so doing.

Review Action

9. In order to assist us with the Review, I should be grateful if Chairs of the Boards concerned would take the following action:

- i. ascertain from all members of the Board whether they wish to serve a further term;
- ii. consider whether any members should be recommended for transfer. Ensure that you discuss fully with such members, where applicable, the reasons for such a recommendation and incorporate yours and the member's views on the recommendation in his/her assessment report;
- iii. discuss with any member of the Board whose attendance has fallen below 75% of the Board meetings held or is generally below that of other Board members, the reasons for this. You should ensure that the assessment report gives details of the reasons, the member's comments, your views about the matter and a recommendation as to whether the individual in question should be re-appointed;
- iv. verify that no member of the Board is barred from re-appointment by virtue of Prison Rule 74, Young Offender Institution Rule 78 or Detention Centre Rule 58, which state that any person interested in any contract for the provision of goods or services to a Prison establishment or Detention Centre, shall not be a member of an Independent Monitoring Board for that establishment.

v. ascertain that there are no other conflicts of interest by virtue of Prison Rule 75(3)(e) or Young Offender Institution Rule 79 (3)(e).

vi. seek confirmation from all Board members that the information held about them in Annex C is correct and if it is not, amend the information. This is requested particularly in respect of members' current addresses. **NB Annex C is being sent direct to the Clerk to the Board to preserve confidentiality and to avoid complications with its distribution.**

vii. arrange for the attached Form A to be completed in respect of each member of the Board. Copies of the forms should be taken locally and one copy used for each member of the Board (as per example enclosed). **NB Please ensure that each member completes the section on the back of the form.**

viii. complete the Chair's declaration (Form B), seeking advice from the Secretariat if necessary; and

ix. return all the forms fully completed to Mike Paice in the IMB Secretariat, Room 202, Ashley House, **no later than 1 October 2008.**

10. General notes about the Review and details of the statutory and Ministerial requirements are given at Annex D.

11. Your assistance in this matter is much appreciated and I look forward to hearing from you. Please contact Mike Paice the Appointments Officer on 020 7035 2260, Nigel Mulcaster on 020 7035 2259, Abi Bishi on 020 7035 2264 or Paul Blake on 020 7035 2263 if you have any queries or need further advice.

Yours faithfully

Norman McLean
Head of the Independent Monitoring Boards' Secretariat

ESTABLISHMENTS FOR TRIENNIAL REVIEW: 2008

Altcourse	Portland
Askham Grange	Ranby
Belmarsh	Reading
Bullingdon	Rochester
Bullwood Hall	Standford Hill
Castington	Stocken
Channings Wood	Stoke Heath
Deerbolt	Styal
Doncaster	Swaleside
Drake Hall	Thorn Cross
East Sutton Park	Usk/Prescoed
Edmunds Hill	Wayland
Erlestoke	Wellingborough
Everthorpe	Wetherby
Featherstone	Whatton
Feltham	Whitemoor
Forest Bank	
Foston Hall	
Frankland	
Haverigg	
Hindley	
Hollesley Bay	
Hull	
Huntercombe	
Kirkham	
Lancaster Castle	
Latchmere House	
Littlehey	
Moorland	
Morton Hall	
The Mount	
Northallerton Parc	

THE TRIENNIAL REVIEW OF BOARDS

NOTES FOR GUIDANCE

Introduction

The purpose of the Triennial Review is to assist the Minister for Prisons and the Home Office's Minister for Immigration in deciding whether or not to reappoint an individual member.

2. The then Minister for Prisons and Probation, Joyce Quin, announced at the 1997 Annual Conference that she had decided to rescind the '15 year Rule' and in its place she would strengthen the Triennial Review process in order to achieve a good balance on Boards.

3. The Minister felt that the Review could measure more accurately individual members' performances of Board duties, allow for the creation of vacancies for new members and the transfer of longer serving members to other Boards. These steps would bring new skills and experience to Boards and spread good practice between Boards.

4. The following sets out in some detail the points that Chairs and Boards will need to consider when the Triennial Review process is undertaken.

Transfers

5. Appointments to Boards are made on merit. All members are appointed for a maximum period of up to 3 years, coinciding with the Triennial Review date of the Board to which they are appointed. Each member's appointment comes to an end at the Triennial Review.

6. At this stage Boards should look to see how they are operating. Consideration should be given to the injection of new blood, through the recruitment of new members; transfers or the swapping of members in order to obtain further skills needed on the Board and to improve its overall balance and effectiveness.

7. The need for transfer will not apply to all members, but is likely to be more applicable to members of long standing, that is, members with service of nine or more years on the same Board. Members will not have to go through the normal appointments process if they wish to transfer to another Board. There will be no formal interview, nor any formal selection process for transferring members, but the Chair and the member should meet to discuss the Board's needs and the skills and experience which the new member might bring. The member will also find it beneficial to go on a tour of the proposed new establishment.

8. The Chair of a receiving Board would need to give strong valid reasons for wishing to decline the acceptance of a transferring member whose skills met the Board's criteria for membership.

Balance

9. The balance of each Board should ideally include within its membership a good mix of length of service, age, sex, ethnicity, relevant skills and proximity to the establishment. Such a Board should avoid too many members coming from one particular grouping e.g. JPs, members from the same political party (etc.).

10. The Board should, if possible, include members who are employed, self-employed, non-employed or unemployed. There should also be a spread of experience from professionals, business people, Trade Unions or those from the caring professions. Gender should be represented equally together with a spread of ages. The Board should also aim for appropriate ethnic minority representation.

11. To create such an ideal balance of membership on some Boards, movement through the creation of vacancies will be required.

12. It is accepted that such an ideal balance, even through attempts to broaden membership, may be difficult on occasions. However, for most Boards movement will be achievable and beneficial.

The Triennial Review Process - Chair's/Board's Role

13. The Chair will need to identify members who are:

- ❖ recommended for reappointment
- ❖ recommended for non-reappointment
- ❖ recommended for transfer
- ❖ wishing to transfer
- ❖ not seeking reappointment.

14. In this process, Chairs need to ensure that they are open with members and that they discuss fully their proposed recommendations either on reappointment or transfer, in good time, to allow members the opportunity to manage the situation effectively.

15. Members will also need to consider in good time whether they feel that they would benefit from a transfer and particularly at Triennial Review time, whether they wish to be considered for reappointment.

STATUTORY REQUIREMENTS AND GENERAL GUIDELINES

1. Prison Rule 74, YOI Rule 78 and DC Rule 58 state that any person interested in a contract for the provision of goods or services to a prison or immigration detention centre may not be a member of the Board of Visitors/Visiting Committee (now known as Independent Monitoring Boards) at that establishment. This is a legal restriction. It should be taken to include persons who are members of companies which are engaged in dealings with the establishment or members who have been appointed to an NHS Trust providing services to the establishment. Each case will be considered in its own right. Full details of the person's involvement should be forwarded with the Triennial Review forms.

2. Prison Rule 75(3)(e)/YOI Rule 79 (3)(e) allows the Secretary of State to terminate the appointment of any Board member if he is satisfied that there is, or could 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. Full details of the person's involvement should be forwarded with the Triennial Review forms. The Secretariat will be happy to offer advice in any cases if required.

3. Prison Rule 76 (DC Rule 60) states that the Board shall meet at the establishment once a month or, if they resolve for reasons specified, not fewer than eight times in twelve months. If a member's attendance at Board meetings has been below 75%, an explanation of the reasons for attendance below this level should be submitted with the member's Review form together with the Chair's views and recommendations about re-appointment.

4. It has been known for years that the roles of Board members and Prison Visitors should not be carried out by one individual, because this could lead to the independence of the Board being brought into question. Chairs are asked to ensure that no member of their Board is carrying out this other role. If any member is, the matter should be discussed with that member, who should be asked to consider their position on the Board. Full details of any cases that arise should be submitted with the Review forms.

5. It is essential that all forms are completed and returned by 1 October 2008. The Secretariat will be conducting Reviews of one third of the Boards nationwide. This exercise is resource intensive and all re-appointments must be completed by 31 December 2008, so your prompt response would be very helpful. **A member who has not been re-appointed by 31 December for whatever reason cannot continue to exercise the functions of the Independent Monitoring Board thereafter.**

6. Any Board which has not had its Review completed by that date will technically cease to exist. It will have no right of access to the establishment, no power to hear requests or complaints, and no power to monitor a prisoner's segregation under Prison Rule 45 (YOI Rule 46). The onus for providing the necessary information to ensure that the Board is available to carry out its statutory functions therefore lies very much with the Chairs of Boards.

Disclosure of reports

7. In the interests of openness and fairness, it is important that each member is afforded the opportunity to see and agree the Chair's assessment of their performance before the assessment report is submitted to the Secretariat. This is especially critical where the Chair's recommendation is that the member should not be given another appointment or, alternatively, should be considered for a transfer to another Board, in circumstances where the recommendation does not reflect the views of the member concerned. If time constraints or other circumstances make it difficult for the Chair and an individual member to meet to agree the report, it will be acceptable for the review process to take place on the telephone, provided both sides agree. This practice should not however be adopted for 'adverse' reports.

Training

8. It is recognised that Chairs must be offered assistance in carrying out their role in the Triennial Review and three separate one-day training events to take place on 5, 7 and 20 August 2008 have been organised to assist you with the Task. The venues have yet to be decided and a letter will be sent to the Chairs of all the Boards listed in Annex A by Rodney Bowles indicating which venue we would like you to attend. Training will be made available in the North on 5 August, in the Midlands on 7 August and here in Ashley House on 20 August 2008.

Norman McLean

Head of the Independent Monitoring Boards' Secretariat

INDEPENDENT MONITORING BOARD MEMBER'S COMMENTS

Please indicate whether you have read and discussed this Appraisal Report with the Chair.

YES/NO

Comment below if you wish:

Signature:

Date:

Name in Capitals:

TRIENNIAL REVIEW OF THE MEMBERSHIP OF THE INDEPENDENT MONITORING BOARD AT HMP / IRC.....

CHAIR'S DECLARATION

1. I have checked and am satisfied that no member of the Board is disqualified from membership by virtue of Prison Rule 74/Young Offender Rule 78 or Detention Centre Rule 59.

2. I have checked and am satisfied that no member of the Board is disqualified from membership by virtue of Prison Rule 75 (3)(e)/Young Offender Rule 79 (3)(e) (Prison establishments only).

3. All members of the Board are recommended for re-appointment and are seeking to continue as members of the Independent Monitoring Board, (except for
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.....).

4. Explanatory notes are enclosed about any Board member who has attended less than three-quarters of the monthly Board meetings or whose attendance or conduct is not considered satisfactory and is thus not recommended for re-appointment.

I have discussed my recommendations with the individual members.

Chair's Signature:

Date: