NATIONAL COUNCIL ACHIEVEMENTS 2003-2007

Revised IMB role

One of the first tasks of the National Council (NC) was to consider the role and purpose of IMBs and whether this was accurately encapsulated in the present Prison and Immigration Rules. The NC felt it was essential to have clear agreement on the role and purpose of boards before it could consider and implement coherent policies on recruitment, training, reporting and communication, all items high on its agenda. There was concern that Prison Rule 77(1), which put administration and buildings before prisoners, reflected the priorities of 19th century visiting committees of magistrates rather than the current responsibilities of monitoring boards to ensure prisoners are properly treated and prepared for release. Concern over Prison Rule 77 applied equally to Immigration Rule 61. The NC agreed that the Rules should be revised to focus on the humane and just treatment of those held in custody or detention and the range and adequacy of the programmes preparing them for release.

The new Rules can not be put before Parliament until there is a suitable legislative opportunity but legal advisers have confirmed that boards do not have to wait before following their clearer focus. Ministers therefore have endorsed the Rules with immediate effect together with the explanatory statements drawn up by the NC to show in greater detail how boards should discharge their responsibilities.

Annual Reports

Although Ministers declined to accept the Lloyd review's recommendation that annual reports should in future be addressed to the community rather than to the Secretary of State, they nevertheless said that all reports should be produced in a more readable fashion and circulated within the community.

A revised Annual Report template, designed by the National Advisory Council, was piloted in 2006 by selected boards and, having reviewed the results, the NC produced a revised template and guidance which was issued in early 2007. The new template and guidance will assist Boards by identifying who the report is for, who else it should be seen by, how it can be made most useful to these different groups of readers, and how Boards can be helped to make writing the report a less onerous task.

Independent Interviewers trained and in use

Whilst Ministers have acknowledged the hard work undertaken by IMBs in the recruitment and interviewing of candidates for appointment as IMB members, they have not always agreed with the recommendations made by selection panels. However they have indicated their willingness to appoint the applicant recommended by the selection panel provided that they are satisfied that a formalised, fair and open selection process is established and is working properly.

To meet Ministers’ concerns, procedures have been established which are clearly fair, can be readily audited and stand up to scrutiny if challenged. An independent interviewer scheme was introduced at the end of June 2004 to assist IMBs in their role of assessing the suitability of candidates for appointment to boards. A pool of about 40 IMB members, throughout the country, has been selected for this role because of their interviewing skills. They have also received training in selection procedures and best practice which should have the additional benefit of raising the
standard of interviewing in general. A review of the use of independent interviewers has established that the scheme is working well and providing added value to the recruitment process for new members.

Procedures for dealing with allegation and/or complaints about conduct and poor performance

Cases of alleged misconduct by IMB members were dealt with under the procedures set out in the 'Dear Chairman' letter, DC4/1999. These presented considerable difficulties for a number of reasons. One major weakness was the inability to dismiss a complaint where the investigating officer has found no evidence to support it. Under DC4/99 some cases had also become very protracted because of the lack of clear time limits. Although Board members are not paid employees the NC felt it was important to set clear guidelines on appropriate conduct, to have an acceptable process for dealing with any alleged breaches of that code, and that such procedures should meet the tests of reasonableness and natural justice.

In December 2003 a draft copy of disciplinary procedures for board members incorporating a new code of conduct was issued to board members for comment. A working group comprising members of the NC and the Secretariat considered the responses received and further amendments were made to the text, a final draft of which was approved by Ministers. The new procedures, which were issued to board members in July 2004, lay the emphasis on early, informal resolution although there may be occasions when a formal investigation is the most appropriate course of action. Members of the National Council have an active role to play at all stages of the process for dealing with complaints by or against Board members.

The NC, in conjunction with the Secretariat, have set up a Care Team, a group of board members who have volunteered to be available to provide counselling and support to any board member involved in the complaint process, and a Disciplinary Group comprising Board members willing to sit on Discipline Panels.

Training Review

The Lloyd review made a number of recommendations about the need for focused training, made available in the most efficient and effective ways. The NC worked with the Secretariat in commissioning Consultants to conduct a review of the current range, content and methods of training and identify innovative and effective approaches to training delivery in the future that will meet the needs of the busy membership.

One of the priorities to come out of the training review has been to establish a Training Strategy Group (TSG). Training strategy will be driven by the monitoring needs of the Boards and is the responsibility of the National Council, to whom the TSG is accountable. The TSG includes representatives from the NC, the Secretariat, National Tutors, training co-ordinators and ad hoc specialists as required. In this way there will be input to both national and local training needs and a more coherent link between the two. The TSG will delegate to sub-groups a range of issues concerning training. Some of these sub-groups already exist or are in the process of being established e.g. the Diversity Working Group, the Healthcare and Learning & Skills Support Groups. Others will be established to consider the training needs of, e.g. new members, established members. The TSG will also consider the provision of generic training for prison and IRC Boards.
One of the TSG's first tasks to ensure delivery of the National Training Strategy has been to ensure there is an expanded and refocused team of well trained, managed and supported Board Members to deliver both National Training Courses and support local initiatives. To this end the current group of National Tutors has been restyled the National Training Team, under the leadership and management of a Team Leader and eight new tutors have been selected from the Board membership.

Diversity Working Group

The Diversity Working Group, comprising board members, the Secretariat and NC representatives, has met regularly over the past year and group members have examined how diversity is monitored within their own prisons and how to improve the diversity of boards. The NC has acknowledged that this is a large and complex subject which requires an over-arching strategy and the Diversity Working Group therefore developed a Diversity Action Plan in order to take forward various strands of work. The Action Plan, which covers a range of diversity strands (race, gender, age, disability, sexual orientation, religion and belief), includes five key components:

- that the National Council consider the appointment of a person to the National Council to advise on diversity;
- the appointment of a diversity co-ordinator (as a consultant) by the Secretariat to assist the Diversity Working Group and, more particularly, IMBs on the subject of diversity and how to recruit a more diverse membership;
- training on diversity to be designed and delivered as a module on national training courses (initially by specialist diversity training consultants and then by national tutors);
- diversity to be closely linked to plans for the probationary year;
- guidance on how to monitor diversity in prisons and IRCs.

The Diversity Action Plan was approved by the Minister and work has started on its implementation. A Board member has been co-opted to the NC to advise on Diversity issues and an external Diversity & Recruitment Co-ordinator has been employed to assist Boards on diversity matters particularly with recruitment, which many find difficult, and with training. The first diversity training modules have been piloted on national training courses and feedback has been positive.

An important piece of work for 2007 has been the many implications for Boards of the Zahid Mubarek Inquiry report.

Revised Board complements agreed and issued

Until recently there had been no rational basis for determining Board numbers with the result that Boards operating at establishments of a similar size and category might have very different complements. The Lloyd review recommended that there should be a formula for determining the size of a Board. Preliminary work was done by the NAC and a number of possible formulae discussed with the Secretariat which included weightings for the number of applications received above and beyond a fixed point, Rule 45s, adjudications etc. This approach was considered too complicated and a simplified formula was finally agreed by the NC based on prison population and type of prisoner held. The results of the simplified formula and its more complicated forerunner were very close. The new board complements were issued, as a guide to Boards, in spring 2005. Minimum and maximum board sizes have been set at 10 and 20 Board members respectively and the NC has reassured
members of Boards above the recommended complement that they will not be asked to resign.

Recruitment

An IMB clustered recruitment programme has been developed and is being implemented by the Diversity and Recruitment Co-ordinator to assist recruitment to Boards. Each cluster comprises a handful of participating Boards, representatives of which attend a Diversifying Board Management Module at which a 7-step process for recruitment is outlined to help Boards to identify the current strengths and weaknesses of their Board membership and recruitment practices. Boards are encouraged to take a strategic look at the diverse range of skills and experience required to be effective and to expand their recruitment networks to encourage a wider range of applicants from local professional and community groups.

A 5 year programme of 6 clusters per year is envisaged but for the moment the 7-step process has already been piloted in Kent and a further 4 clusters will be formed by February 2008.

Communications Review/ Communications Working Group

It is important that prisoners and prison management, detainees and immigration management, and all parts of the Criminal Justice System, understand the role of IMBs and the work they do. It is also vital, not least for recruitment, that there is a similar understanding on the part of Parliament and the general public. With this in mind, the many changes that have occurred to IMBs in the last couple of years, not least the name change from Board of Visitors and Visiting Committees to Independent Monitoring Boards and the bringing together of boards monitoring prisons and IRCs, it was decided that the time was right to review the IMB communications strategy and materials. External consultants, COI Communications, were engaged to carry out this review. Over 40 board members spoke to the COI team at the 2004 Annual Conference, 25 attended a workshop and 30 returned a questionnaire.

The NC agreed to set up a communications review working group, comprising board members, the Secretariat and NC representatives, to take forward and develop COI’s recommendations. The working group has met regularly since then and has made progress in a number of areas including agreeing an IMB strapline, the 8 key messages which describe the role and responsibilities of IMBs for internal and external audiences, placing a number of articles in local and national publications, and producing new publicity material (posters, prisoner information leaflets etc.) which was issued to Boards this year. A public relations toolkit has also been prepared for distribution to Boards on request to help them reach out to organisations/individuals in the local community to enhance recruitment to Boards.

Finally, IMB News has been redesigned and is now a full-colour newsletter.

IMB Members handbook working group

In March 2004 the NC agreed a Handbook Working Group should be established to revise the IMB Handbook for prisons and ensure it took into account the many changes that have occurred since the last publication. 7 Board members were selected to be part of the Handbook Working Group and after a number of meetings to develop the group strategy and content of the Handbook, the new Reference Book was issued to Boards in the Spring of 2006. This was followed earlier this year by a
“pocket book” for each member containing key information required for effective monitoring. A Reference Book Review Group has now been established to ensure that the Handbook is regularly updated in the light of policy and procedural developments.

Performance Monitoring

This area of work encompasses three recommendations made by the Lloyd Review team: first that there should be a twelve month probationary period for new members; secondly that there should be informal annual reviews of all board members; and thirdly that once the annual review is in place that it would be sensible to reduce the frequency of formal reviews to once at the five year point. The NC agreed to the introduction of a probationary year and informal annual performance reviews. It has also agreed that Prison Rule 75 and Detention Centre Rule 59 should be amended to provide for formal quinquennial reappointment of all members. The probationary year process was introduced at the beginning of July 2006, having been approved by both the Prisons and Immigration Ministers (DC 09/2006 refers). Council members are currently developing guidance for Boards on implementing the annual review and quinquennial reappointment.

Freedom of Information and Data Protection

The Data Protection Act (DPA) 1998 and Freedom of Information (FOI) Act 2000 have important implications for the Boards both in terms of how they record and store information and respond to requests for disclosure of information. One of the requirements of the FOI is that all public bodies must provide a publication scheme specifying the classes of information they publish or intend to publish. Although each IMB is regarded as a separate public body for the purposes of both the FOI Act and DPA, the Information Commissioner agreed that the NC could submit a publication scheme for all boards, so long as each signs separately and accepts its own individual responsibility. The publication scheme prepared by the NC was subsequently approved by the Information Commissioner. The NC has also issued guidance on the general principles of FOI and the DPA.

Conflicts of Interest

One of the key features of IMBs is their independence from the systems they monitor. This is given statutory force by the Prison and Detention Centre Rules which provide for disqualification for membership or termination of appointment where an actual or potential conflict of interest exists. In response to an increasing number of enquiries from both prospective and established Board members, the NC issued guidance in the summer of 2006 on dealing with actual or perceived conflicts of interest (DBM 03/06).

Agreement reached on access to medical records and guidance issued.

The issue of access to prisoners’ medical records was raised by a Board member in early 2004 and, after lengthy consultation with the Department of Health, and with reference to both the Data Protection Act and the Freedom of Information Act, guidance was issued in DC 02/2005 to clear up some uncertainties about the correct protocol to adopt concerning access to a prisoner’s clinical record (IMR). The purpose of the guidance is to create a greater measure of mutual understanding concerning the role of the Independent Monitoring Board when necessary inquiries are made about the medical care of a prisoner.
Healthcare

The NC has liaised closely with Prison Healthcare over recent developments in this area. A new Healthcare Support Group comprising Board members with the appropriate experience and interest was established in 2006. The purpose of the Support Group is to develop the NC’s knowledge of healthcare matters and increase the support and guidance offered to Boards and individual members. In spring 2007 the Healthcare Support Group issued information to Boards on contingency plans in the event of a flu pandemic. The Group’s first Healthcare Bulletin was sent to Boards in May 2007.

Learning & Skills

A Support Group for Learning & Skills was established in early 2007 with a similar brief to the Healthcare Support Group. Discussions with the Department for Education and Skills, the Learning and Skills Council and some of the contracted providers and other interested bodies have taken place, and extensive research on the current provision, accessibility and delivery of learning and skills within prisons and IRCs is being undertaken with a view to producing guidance to Boards. A focused study of areas of particular concern is planned and a survey to a sample of Boards is being prepared with a view to piloting in August 2007. This study will include the availability of appropriate courses for Lifers and IPPS, particularly during current population pressures and it is hoped will form the basis of a thematic report to ministers.

Review of the use of segregation and the IMBs’ role.

It was agreed by the outgoing NAC that a review of the effect on Boards and prisons of the revised PSO 1700 which was introduced in November 2003, should be undertaken at least 6 months after its implementation. In June 2004 the NC issued to each board a questionnaire on how well the new PSO was being implemented in their prison. The NC met with the Director General in December 2004 to discuss the results and to highlight concerns. It also met with the Department of Health and raised the issue of healthcare input into the segregation of prisoners. Both took NC concerns on board and the Director General agreed that there were some inconsistencies in the wording of PSO 1700. The NC was given the opportunity to comment on subsequent changes made to the PSO.

Guidance issued on foreign nationals prisoners and the IMBs’ role.

The NC shares the concerns of a number of IMBs about the treatment of foreign nationals prisoners who currently represent 1 in 8 of all prisoners. Guidance on monitoring the care and treatment of foreign national prisoners was issued in DCs 26/2004 and 08/2005 and in IMB News.

More recently, the NC has been concerned that the Government’s response to the failure to deport foreign national prisoners at sentence-end was creating another, rapidly worsening problem. Individual Boards had provided evidence of prisoners in open conditions and due for release being transferred to closed establishment with little or no notice. In addition, the problem of prisoners being kept in prison beyond the end of their sentence, which the NC had raised with the Home Secretary at the end of 2005, was now being exacerbated. The NC therefore wrote to the Home Secretary in early June 2006 to register its concerns.
The promised improvements have failed to materialise and the NC has raised its concerns in a number of meetings with NOMS and the Criminal Casework Directorate of the BIA and in a report submitted to the Prisons and Immigration Ministers in April 2007 (see IMB website www.imb.gov.uk).

Inter Board Exchanges

Work is currently underway to establish groups of Boards from similar establishments for the purpose of discussing common issues and sharing concerns and good practice. Some Boards have already benefited from belonging to such groups, e.g. those attached to the High Security and Juvenile estates, and the NC is keen to ensure that all Boards can benefit in the same way.

Immigration Holding Rooms

In July 2005 the Prisons & Probation Ombudsman, with the support of the Chief Inspector of Prisons and Immigration and Nationality Department, recommended that the IMB remit should be extended to all 34 immigration holding centres in Great Britain. The NC accepted that, as independent monitors, IMBs were in principle the most appropriate bodies to scrutinize these centres. A project group was established to examine various practical issues including the frequency of detainees being held within the holding centres and what IMBs would be expected to monitor against. National Council and IRC Forum representatives visited various centres in order to assess the need to provide independent monitoring of these places and how it might be most efficiently provided. These visits showed clearly that some form of independent monitoring was required and that IMBs have the necessary skills and knowledge to undertake this role. The Project Group agreed that dedicated Boards were needed to undertake this work.

The Immigration Minister has since approved the proposal to create four new IMBs to monitor the 34 immigration holding rooms. The standards against which the Boards will monitor the welfare of detainees have been obtained from the Immigration and Nationality Directorate (IND) and will be included as part of the training to be given to members monitoring these new locations. The highest profile area and the one which IND wanted to see monitored first is Heathrow and the Heathrow Board, made up of dual members from local IRC and prison boards, was established in Spring 2007. Work on establishing a Board for the North and West Midlands is now underway and will be followed by Boards in the South East and in London.

Deportation with Assurances

Under the terms of Memoranda of Understanding established with the Governments of Jordan, Lebanon and Libya and an Exchange of Letters with Algeria (and other countries in the future), the UK will have to demonstrate that it has an independent monitoring framework in place to prevent any human rights abuses to UK nationals deported here from those countries. The deportees in question will be those suspected of, accused of, or convicted of terrorist offences. The monitoring arrangements will focus on the care and treatment of any such individual returned:
to custody in the UK;
• to conditions of a control order in the UK;
• to liberty in the UK; or
• to stand trial in the UK.

The escorting of deportees to the UK will also be monitored.

At the request of the Home Office and Foreign & Commonwealth Office, the National Council has agreed to act as the co-ordinating body for the UK’s independent monitoring framework. The framework will comprise:

• Independent Monitoring Boards in England and Wales
• Association of Visiting Committees in Scotland
• Independent Monitoring Boards in Northern Ireland
• The International Bar Association
• NACRO

During late 2006 and 2007 the National Council has been working with its Framework partners and the Home Office to agree how the independent monitoring framework will operate in practice.

Conferences, Seminars, Meetings etc.

In addition to working with the Secretariat to organise the IMB Annual Conference, members of the NC have attended a number of conferences and seminars organised by other bodies involved in the care and treatment of offenders, including the annual conferences of the IMBs in Scottish and Northern Ireland. Meetings have been held with representatives of, amongst others, the Prison Service, NOMS, Department of Health and the Youth Justice Board and a former member of the NC represents the Council at the Ministerial round-table on suicide.

In the 2004 the NC submitted written evidence on prison education to House of Commons Select Committee for Education and to the National Audit Office on the impact of overcrowding in prisons.