

**Minutes of the twenty-eighth meeting of the Ministerial Board on Deaths
in Custody
6 June 2019
DHSC, London**

Attendees:

Jackie Doyle-Price - Parliamentary Under-Secretary of State, Department of Health and Social Care, Chair

Rt Hon Nick Hurd MP - Minister of State for Policing and the Fire Service, Home Office

Robert Buckland QC MP - Minister of State for Prisons and Probation

Paul Maynard MP - Parliamentary Under Secretary of State – Courts & Legal Aid
(for item 2)

Nick Poyntz - Deputy Director, Prison Safety and Security, Ministry of Justice

Richard Kelly - Deputy Director, Serious Mental Illness and Offender Health,
DHSC

Frances Hardy - Head of Risk and Assurance, Immigration Enforcement

Heidi Pearson - Deputy Head of Police Powers Unit, Home Office

Elizabeth Moody - Deputy Prisons and Probation Ombudsman

Deborah Coles - Director, INQUEST

Juliet Lyon - Chair, Independent Advisory Panel on Deaths in Custody

ACC Nev Kemp - NPCC Custody Portfolio Lead

Sarah Clifford - Head of Policy and Communications, IMB

Natasha Plummer - Vice Chair, Independent Custody Visiting Association

Frances Crook - Chief Executive, Howard League for Penal Reform

Catherine Shaw - HM Inspectorate of Prisons

Peter Dawson - Director, Prison Reform Trust

Steph Roberts-Bibby - Chief Operating Officer, Youth Justice Board

Britte Van Tiem - Programme Manager, Samaritans

Phil Cople - Director General, Prisons

Michael Lockwood - Director General, Independent Office for Police Conduct

Fiona Grossick - NHS England

Fiona Rutherford - Acting Director, Access to Justice, Ministry of Justice

Dominic Lake - Deputy Director for Administrative Justice, Coroners, Burial,
Cremation and Inquiries

Derek Winter - Deputy Chief Coroner

Andrew Fraser - Head of Secretariat to Ministerial Council,

Apologies

Wendy Williams, HM Inspectorate of Constabulary and Fire and Rescue Services

Sue McAllister, Prison and Probation Ombudsman

Dame Anne Owers, National Chair, IMB

Charlie Taylor, Chair, YJB

Peter Clarke, HM Chief Inspector of Prisons

Kate Davies, Director of Health and Justice, NHS England

Katie Kempen, Chief Executive, Independent Custody Visiting Association

Phil Riley, Director of Returns & Immigration Enforcement

Item 1: Welcome, apologies and minutes

Welcome

The Chair welcomed members of the Ministerial Board. Apologies were noted from those unable to attend (see above).

The Chair explained that there had been a discussion about the work programme at the last meeting and that Board members had requested a more balanced approach across the sectors. The work programme had therefore been updated with more workstreams on mental health and prisons.

Minutes of the last meeting

The Chair stated that the minutes of the twenty-eighth meeting on 27 February 2019 were approved by the departmental co-sponsors and circulated prior to this meeting. She invited members to raise any issues of accuracy with the Secretariat.

Juliet Lyon pointed out that the wording of the Board's work should be on preventing, not minimising, deaths.

Deborah Coles explained that minutes were being sent out late and that Board members were no longer being asked for their agenda items. The Chair asked members to engage with the secretariat if they want items added to the agenda in future.

Item 2: Update on Legal aid/Inquests

Minister Maynard gave a brief summary of the update paper which had been circulated prior to the meeting. He explained that the means test review will cover all inquests - not just deaths in custody. He emphasised that the nature of inquests was inquisitorial, and that the coroner should be in control of the proceedings, not lawyers.

Deborah Coles raised the experience of the family of a 17-year-old who were asked to contribute to the costs of her inquest. She also noted that the Government's assertion that inquests were inquisitorial rather than adversarial was undermined by the lawyers hired by Government. Deborah said that she was looking forward to meeting with Minister Maynard to discuss the issues in more detail.

Minister Hurd expressed concern that legal aid representation for families was the number one issue raised by them in the Angiolini review and real change had not been delivered. He asked Minister Maynard and the legal aid team to assure themselves that there was sufficient pace in the process. The Chair explained that this issue formed part of the wider concern of how the state interacts with people when they have been failed by the state.

Michael Lockwood (DG – IOPC) was concerned that inquests are a very vulnerable time for families, that learning could be better obtained if families are represented, and gave an example of a family who had to crowdfund their representation at an inquest. Board members agreed that custodial sectors should see the inquest process not as a place to defend their reputations and their actions but a place to get to the truth.

ACC Kemp noted that, although inquests are meant to be inquisitorial, the potential culpability aspects of the process mean that this is not always the case. Minister Buckland reminded the Board of the Government's duty of candour, and that this also extends to inquests.

Item 3: Work undertaken to prevent the deaths of detained patients under the MHA

Richard Kelly summarised the paper circulated to the Board. The main elements of the paper were:

- Reducing the risk of people ending up in custody during a mental health crisis
- Diverting those with mental illness from custody
- Supporting people on release from custody

Richard Kelly explained that the Mental Health Act review had been published and contains over 150 recommendations – some of which the Government has already accepted. There are specific recommendations about reducing deaths in custody and Richard will be picking these up with members of the Ministerial Board and the IAP. There is a big emphasis on learning disabilities and autism within the department, and the CQC are reviewing restraint and seclusion for people with learning disabilities and autism. Richard also gave a brief account of Places of Safety reductions, the lack of use of Community Service Treatment Requirements (CSTRs) and asked what changes the Board would like to see from the CQC in terms of their statistics.

Minister Doyle-Price said that she was pleased that the NHS Long Term Plan includes more information on learning disabilities and autism, and close working with other areas in the criminal justice system. Minister Buckland agreed that it is better to deal with the situation before it becomes a custodial matter, and emphasised his support for CSTRs.

Board members asked if the CQC review of seclusion/restraint for people with learning difficulties covers prisons and children, and that it should include them if not. Juliet Lyon explained that the IAP are near completion on their analysis of the Magistrates Association survey and noted the lack of knowledge of mental health issues and use of CSTRs by Magistrates.

Deborah Coles asked what was happening about learning from specific investigations /inquests and about the recommendations in the MHA review about improving the independence and accountability of such investigations.

Deborah Coles was also concerned about the CQC data which stated that there were 119 undetermined deaths since 2012, and asked if these should have been resolved by now. She asked if the CQC captures data on deaths of children de facto deaths, if they are not specifically detained under the MHA and asked that future agendas look at how to capture the recommendations from coroner reports and what is being done to resolve them. Juliet Lyon was concerned that the figures provided by the CQC on the number of deaths may not reflect the full picture given that some patients will no longer be under the MHA at the time of their deaths if they are transferred to general hospitals.

Action 1 – Secretariat to ensure that the next Board agenda includes a section on PFDs

Board members noted that, although the number of young people in custody has reduced, the situations they are in are not always positive. Frances Crook expressed concern that young people were unable to access mental health support and about the apparent complacency in the system. Others noted that there were fewer young people in custody but that the levels of stress remain high. The PPO raised the issue of the level of staffing in mental health and that only those with a mental health illness were receiving treatment. Sarah Clifford (IMB) said that more push was needed on getting people from prisons into secure hospitals and Minister Doyle-Price advised that the issue required greater efficiency in the system, rather than simply more beds.

Action 2 - DHSC to provide a paper on transfers from prisons to healthcare to be prepared for the next Board meeting

Item 4: Work undertaken to prevent the deaths of those in prisons
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Phil Copple started by agreeing with Juliet Lyon that the Board and all custodial sectors should be about preventing, rather than reducing, the numbers of deaths.

The paper circulated by Phil prior to the meeting highlighted the range of current activities in prisons to prevent deaths. Phil emphasised that there were significant environmental factors at play which require a whole-prison approach to manage such as debt, drugs and transfers. At its core was the additional investment of £100 million which has been used to recruit extra officers. The new custody model has improved staff support and safety and the focus is on prisoners as individuals and their needs including family contact, and peer support – a new toolkit will help with this.

He highlighted some more of the new work such as the Drugs Strategy had been published and HMPPS were doing more work to take forward work from PPO/Coroners reports. He also noted that the ACCT pilot was underway with its evaluation taking place at the start of the next calendar year. He stated

that there continues to be a need to improve elements of the process including compliance with the processes.

Minister Buckland pointed to the new ACCT document and “*ACCT User Guidance and the Early Days & Transitions Toolkit*” guidance which were much more usable and user-friendly than previous iterations. He said he had no complacency on the need to ensure that work continues to prevent deaths. Peter Dawson stated that services should ask the people impacted by their policies (such as prisoners and their families) if improvements had been made.

Juliet Lyon referenced the IAP paper on the health impacts of Indeterminate Sentences for Public Protection which was sent to Board members and advised that these prisoners are at greater risk of self-harm and self-inflicted deaths. The IAP have made several recommendations in the paper about how to address some of the concerns. This paper would be going to Ministers in the next few days, and the IAP is keen for efforts to be made to protect this group of prisoners.

Deborah Coles asked about the training for new recruits; Phil confirmed that it was classroom based and interactive in all areas. Deborah went on to ask about bereaved families and about staff following an inquest having the opportunity to reflect; Phil responded that it was happening but taking longer than expected.

Item 5: Update on the police use of restraint workstream

Heidi Pearson began by emphasising that de-escalation should always be tried first and physical restraint should be the last option. She explained that the paper she had circulated to the Board had looked at three options - Conducted Energy Device (CED), i.e. Taser, physical restraint with Rapid Pre-Hospital Tranquillisation (RPT) (formerly described as chemical sedation), and the combined use of CED and RPT. Heidi noted that there are considerable challenges to rolling out CEDs more extensively, so further work with colleagues is being undertaken to see how possible this would be (without pre-empting whether this would be recommended). She stressed that RPT would only be applicable for cases of Acute Behavioural Disturbance (ABD), and they are awaiting a medical evidence review on it before taking this work further.

Board members emphasised the importance of verbal de-escalation and raised the need to consider any psychological damage that could be caused by the alternative under consideration.

Item 6: Custodial updates

Immigration Enforcement

Frances Hardy reported that there had been no deaths in custody this year but there had been one last year. However, there were some ongoing inquests relating to deaths which occurred between 2012 and 2017. Frances said that Morton Hall is taking part in the ACCT pilot, and the Home Office public consultation on the Removal Centre Rules closed on 4 June 2019. She noted that IE was consulting with the IAP on developing a strategy to prevent deaths and was grateful to them for their work to date, particularly on how to use data better.

Police

Heidi Pearson explained that the statistics were the same as those at the last Board (as the annual IOPC statistics had not been released yet); new statistics will be published in July. She was happy to pick up any issues with members outside of the meeting.

Item 7: Any other business

Juliet Lyon announced that the application process for the Winston Churchill Memorial Trust travel fellowships is open until 17 September 2019. Suicide prevention, as well as emergency resuscitation and palliative care were now included as subject matters.

The Chair noted that repeat issues are coming before the Board and suggested that the next Board be structured to take account of this.

**Date of next meeting: 10am – 12pm, 12 November 2019.
Room 5.28b, MOJ, 102 Petty France.**