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Independent Advisory Panel on Deaths in Custody

Minutes of the Independent Advisory Panel (IAP) Meeting held on Monday 7th March 2011 in Conference Room 2, 102 Petty France, London, SW1H 9AJ between 10.00am- 1:30 pm

Attendees: Lord (Toby) Harris of Haringey (Chair), Jane Boys (Head of Secretariat), Matt Leng (Deputy Head of Secretariat), Simon Armson, Deborah Coles, Dr Peter Dean, Professor Philip Leach, Professor Stephen Shute, Laura McCaughan (Head of Section, Prisoner Rights and Responsibilities, National Offender Management Service) and Alice Balaquidan (Minutes).

Apologies: Professor Richard Shepherd

1. Welcome

The Chair welcomed the Panel members to the eighth meeting of the Independent Advisory Panel (IAP) on Deaths in Custody. The Chair also welcomed Laura McCaughan on behalf of the Panel, who he reported would be replacing Jane Boys as Head of Secretariat whilst she was on maternity leave. Laura would take up her post with effect from 1 April 2011.

2. Minutes of the Last Meeting

The Panel agreed that the minutes of the last meeting were an accurate record.

3. Matters Arising

(i) Inquest Cases relating to Concerns on the Transfer of Detainees

Deborah Coles reported that she had yet to send a list of death in custody inquests where concerns were raised about the transfer/escorting of the individual to Peter Dean, but would do so as soon as possible.

Action 1:

- **Deborah Coles to send Peter Dean a list of cases where concerns were raised about the transfer/escorting of the individual.**

(ii) Summary of Recommendations from Rule 43 Reports

The Head of Secretariat reported that she had not yet received an overview from Panel members of the relevant issues from the Rule 43 summary report for their respective

working groups. She asked that they provide the Secretariat with a brief overview as soon as possible.

Action 2:

- **Panel members to provide the Secretariat with an overview of the relevant issues from the summary report for their respective working groups.**

(iii) IAP Website

The Head of Secretariat reported that a library of paper and electronic documents submitted by Panel members had now been created and asked for Panel members to continue to contribute relevant documents.

(iv) Information Flow through the Criminal Justice System (CJS)

The Deputy Head of Secretariat said that he had visited a police custodial suite with Professor Stephen Shute in March 2010. He reported that when an individual enters police custody, the custody sergeant asks a series of questions to identify whether the detainee is intoxicated. The detainee's responses are then recorded on a local custody system, which is then uploaded to the Police National Computer (PNC). If the custody sergeant has concerns over the levels of intoxication, a series of markers are flagged on PNC to alert police staff during shift changes.

(v) Article 2 Compliant Investigations

The Head of Secretariat reported that she had spoken to officials in the Department of Health (DH) regarding the future of the National Patient Safety Agency (NPSA). Transitional arrangements were still being confirmed, however, she said that DH were keen to engage with the IAP on how the proposed recommendations to revise the NPSA's good practice guidance on the Independent Investigation of Serious Patient Safety Incidents in Mental Health could be taken forward under new arrangements. She added that she would arrange a meeting between Professor Philip Leach, Simon Armson and Deborah Coles with DH to discuss this in greater depth.

Action 3:

- **Head of Secretariat to organise a meeting between officials in DH and Simon Armson, Philip Leach and Deborah Coles to discuss the potential revision to the NPSA's good practice guidance.**

(vi) Proposed Agenda for the IAP's National Stakeholder Consultation Event

The Head of Secretariat informed the Panel that the programme for the IAP's first national stakeholder event had been amended to ensure there were two workshop sessions instead of three to accommodate time to hear from a family member affected by the death of a relative detained in state custody. She confirmed that Panel members had also sent the Secretariat a list of stakeholders to invite to the event.

(vii) IAP's Response to the Government's Announcement regarding the Implementation of the Coroners' and Justice Act

The Head of Secretariat informed the Panel that the Head of the Offender Safety, Rights and Responsibilities Group (OSRRG) in NOMS had written to the Coroners and

Burial Unit (CBU) in the Ministry of Justice (MoJ) in December 2010 to seek assurances that the recommendations made by the IAP in relation to the appointment of Chief Coroner would be taken forward via an alternative route. The response, she received had not fully addressed the points made in relation to the progression of these recommendations and she had sent another letter seeking further information from CBU. Deborah Coles mentioned that despite the Lords vote to amend the Public Bodies Bill in order to retain the role of Chief Coroner, the Government planned to re-insert the removal when the Bill moves to the Commons. She expressed concern that the proposed abolition of this post meant that a valuable opportunity for national oversight of the coronial service to strengthen learning from death in custody cases would be lost. She added that the Chief Coroner post would help address some of the wider concerns about the current coronial system. These include the lack of effective powers available to Coroners to follow up recommendations made in Rule 43 Reports and delays to inquests.

Dr Peter Dean stated that death in custody cases were becoming more complex as they had to ensure that they were compliant with Article 2 of the European Convention on Human Rights. Currently, the lack of resources and funding available to Coroners meant that there were limitations as to what Coroners could achieve and that the potential abolition of the Chief Coroner would hinder the coronial service further.

Deborah suggested that it would be helpful if a letter could be drafted from the Chair of the IAP on behalf of the Panel, to the CBU outlining these concerns.

Action 4:

- **Head of Secretariat to write a letter for the Chair of the IAP to send to the CBU to outline the Panel's concern regarding the potential abolition of the Chief Coroner's post.**

(viii) The Death of Jimmy Mubenga

The Chair confirmed that he had written to UKBA to request further information on the scope of the restraint review currently being undertaken. Deborah Coles drew the Panel's attention to an article in the Guardian newspaper on 8 February 2011, which contained allegations that G4S managers were repeatedly informed that asylum seekers who had been refused permission to reside in the UK and who became disruptive on flights were subject to techniques which required the placing of the detainee's head between their knees, heightening the risks of positional asphyxia. This raised questions about whether these concerns were reported to the UK Border Agency (UKBA) prior to the death of Jimmy Mubenga. It was previously reported that Mr Mubenga, who had died whilst being deported to Angola had allegedly been restraint by escort staff from G4S shortly before his death. She added that it was important that UKBA liaised with other criminal justice agencies to ensure the restraint review they were undertaking was as joined up as possible and to sufficiently identify the known risks concerning the use of restraint.

(ix) Implementation of the Corporate Manslaughter Act

The Head of Secretariat informed the Panel that further scoping work was needed to determine whether there are any implications for the work of the IAP, following the implementation of the Corporate Manslaughter Act. She understood that the implementation date for NOMS was planned for 1 April 2011 however, more work was needed to identify implementation dates for the other sectors.

Action 5:

- **Secretariat to produce an overview paper on each custody sector's plans to prepare for the implementation of the Corporate Manslaughter Act.**

4. Cover Arrangements for the Head of Secretariat to the Ministerial Council on Deaths in Custody

The Chair informed the Panel that Jane Boys would be leaving her post as Head of Secretariat on 31 March 2011 as she was due to go on maternity leave and would not be returning to the role because her substantive post in DH had been made surplus. He had sought suggestions from the Co-sponsors of the Ministerial Council and from Ministerial Board members to identify potential replacements. Laura McCaughan, currently Head of Section for Prisoner Rights and Responsibilities in NOMS would replace Jane. She would be working part-time, Monday to Wednesday.

Deborah Coles expressed her concern that the new Head of Secretariat had been selected from NOMS and how this could undermine the independence of the Secretariat. She enquired as to whether the post of the Head of Secretariat would be publicly advertised in spring 2012 should the Ministerial Council continue for another term. The Chair stated that if Ministers agreed that the Ministerial Council was to continue, then the issue regarding advertising the post of the Head of Secretariat would be re-visited. He added that he felt it was important that the post was externally advertised to promote a greater sense of independence.

Deborah queried whether the reduction in hours would place further pressures on the Secretariat's resources given their current pressures on servicing the Ministerial Board and the IAP. She suggested it may be helpful if one of the Co-sponsoring departments performed the Secretariat role to the Board. The Chair said it was difficult to distinguish a separation in duties, given the fact that the IAP are the principal contributors to the Board's agenda. He added that he could raise this at the meeting with the Co-sponsors in May 2011; however with the ongoing reductions in departmental posts, it was unlikely that this request would be met.

5. Preparation for the Sixth Ministerial Board on Deaths in Custody on 16 March 2011

The Chair reported that Professor Stephen Shute and Simon Armson were due to present their initial findings and emerging recommendations from their respective workstreams to the next Ministerial Board.

Simon Armson reported that his paper contained five recommendations for the Board which concentrated on natural cause deaths of patients detained under the MHA. His paper drew on analysis conducted by Offender Health (OH) of the data held by the Care Quality Commission (CQC), which had shown there was a high incidence of deaths due to myocardial infarction and pulmonary embolism amongst young people. He added that his paper represented a work in progress and that further work was still to be undertaken in relation to unnatural causes of death among patients. The Chair stated that the paper had identified significant issues around the lack of adequate care provision in a secure mental health setting. He added that in future, it would be helpful if draft papers produced by the IAP for the Ministerial Board were circulated amongst Panel members for comments.

Action 6:

- **Secretariat to ensure that all future papers produced by the IAP for the Ministerial Board are circulated to Panel members for discussion in advance of the Board.**

6. Provisional view on what each working group might seek to complete by 31 March 2012

The Chair invited the members of the Panel to provide an overview of the key pieces of work they intended to complete by 31 March 2012. It was important to identify what could be achieved by the end of IAP's first term, and whether any procurement activity would be required, as well as work that should be carried over to a second term, should the Ministerial Council continue.

(i) Cross Sector Learning

Deborah Coles reported that a procurement exercise was currently underway to commission an organisation to undertake an analysis of Rule 43 Reports and narrative verdicts relating to deaths in state custody in order to identify how existing systems in place for sharing learning from these deaths could be strengthened and any key learning points for cross sector dissemination. This work is due to commence at the beginning of April 2011 and a report of the main findings and recommendations was expected in October 2011.

Furthermore, the Secretariat had been collating the responses from the coroners' questionnaires, which was issued in August 2010 to obtain accurate data on the numbers of outstanding inquests into deaths in custody and the reasons for any particular delays. The returns were currently being analysed to highlight some of the delays and the IAP were looking to develop a series of recommendations with the Coroners Society to address some of these delays.

(ii) Article 2 Compliant Investigations

Professor Philip Leach reported that he was undertaking discussions with the Prisons and Probation Ombudsman (PPO) and the Department of Health (DH) regarding the research quality of investigating clinical reviews. He was proposing to write a paper, which outlined each sector's approach in ensuring that investigations into deaths in custody were Article 2 compliant. Deborah Coles suggested that given the cross over between her group and Philip and Simon Armson's group, there may be value in undertaking a joint piece of research into the investigation of deaths in secure mental health settings to ascertain whether these were compliant with Article 2 of the ECHR. Philip agreed and suggested that he would raise this during an upcoming meeting with the Care Quality Commission (CQC).

Action 7:

- **Professor Philip Leach to specify the proposed research into the investigation of deaths in secure mental health settings to ascertain Article 2 compliance.**

(iii) Risks relating to Transfer & Escorting of Detainees

Dr Peter Dean reported that he had met with officials from the North Yorkshire Police in December 2010. At this meeting, a number of specific issues were highlighted in relations to the restrictions on movement in the back of police vans, which can potentially cause problems in road traffic accidents or when detainee needs to be

restraint. Concerns were also raised about the lack of specific guidance on risk assessment procedures for the transfer of detainees in police response vehicles. He proposed that a questionnaire should be issued to the remaining police forces to identify whether the issues faced by the Metropolitan Police Service (MPS) were replicated nationwide. He had also met with the London Ambulance Service (LAS) to discuss whether guidance was required for escort staff on the administration of prescribed medication to the detainee. Peter Dean also recognised that there was significant overlap with his workstream and that of Professor Stephen Shute's. The Chair suggested that progressing the questionnaire should be a priority, as well as to explore whether there was any guidance on how to handle a detainee's medication during transportation.

(iv) Deaths of Patients detained under the Mental Health Act (MHA)

Simon Armson reported that his workstream would be progressing three main areas of work. Firstly, he would be following through the recommendations which were being presented to the Ministerial Board on 16 March 2011. Secondly, he would assess the available evidence on unnatural cause deaths to understand where the IAP's focus should be for future work; and thirdly to work together with the relevant IAP workstreams particularly in relation to cross-sector learning (for the Rule 43 analysis), Article 2 compliant investigations and the risks relating to the transfer of detainees.

(v) Information Flow through the Criminal Justice System (CJS)

In the absence of Professor Stephen Shute, the Deputy Head of Secretariat reported that this workstream would be focussing on taking forward the recommendations contained within the Ministerial Board paper, which was due to be presented on 16 March 2011, with the relevant agencies and departments.

(vi) Use of Physical Restraint

In the absence of Professor Richard Shepherd, the Deputy Head of Secretariat reported that a key piece of work for this workstream was the review of the medical theories and research relating to restraint related deaths. He informed the Panel that Caring Solutions (UK) Ltd, following an open procurement exercise, was chosen to undertake this work. The review commenced in February 2011 and a final report, summarising the key findings would be presented to the Ministerial Board in October 2011.

This work will feed into the development of a series of common principles, which it is hoped the custodial sectors will adhere to as a minimum in order to bring about an improvement in operational practices to reduce the number of restraint related deaths in the future. These principles are due to be presented to the Ministerial Board for endorsement in early 2012.

7. Feedback on the IAP's First National Stakeholder Consultation Event

The Chair thanked the Secretariat team for their efforts in organising the first national stakeholder consultation event, which was held on 1 March. He reported that the event was attended by over 100 delegates from the practitioner and stakeholder Group, members of the Ministerial Board and Co-sponsors of the Ministerial Council. Crispin Blunt MP, Minister of State for Prisons and Probation provided the key note speech and attendees also heard from a family member, who provided an overview of the experiences faced by families following a death in custody.

The Head of Secretariat reported that Chief Executive of the NOMS met with officials to discuss current approaches to family liaison services within prisons. He asked officials to write to Governors to reiterate the importance of offering personal condolences to families affected by the death of a relative whilst in prison custody and asked officials to write to families following receipt of the report into the death by the Prisons and Probation Ombudsman's (PPO) and again at the conclusion of the Coroner's Inquest to inform them of action is being taken to address any recommendations made by the PPO or the Coroner.

The overall feedback received from the delegates had been very positive. Deborah Coles suggested that a summary of feedback on the day should be posted on the IAP website. The Head of Secretariat explained that this would be done as part of the next E-Bulletin, which was due for publication at the end of March. It was suggested that a similar event should be organised in 2012, to coincide with the end of the IAP's first term.

Action 8:

- **The Head of Secretariat to draft a letter from the Chair of the IAP to Angus Kinloch to thank him for his contribution to the event.**

Action 9:

- **The Head of Secretariat to include a second event for 2012 in the revised IAP work plan**

8. The Roles and Responsibilities of Private Sector Custodial Providers

Philip Leach informed the Panel that he was concerned about the lack clarity in terms of accountability for Article 2 compliance within private sector custodial providers. Deborah Coles agreed and stated that with G4S bidding to run prison establishment and police custody suites, it was necessary to look at the monitoring of contract compliance to find out what was captured in these contracts and to identify whether they routinely included an output or standard to perform against. The Chair suggested that in the first instance, an explanatory meeting with the procurement leads from the Co-sponsors of the Ministerial Council would be useful in order to identify what was captured in the contracts.

Action 10:

- **The Secretariat to organise a meeting with Professor Philip Leach and the procurement leads from the Co-sponsors of the Ministerial Council to gain more understanding about how accountability for Article 2 is captured in their contracts.**

9. Family Liaison Work

Deborah Coles wanted the Panel to note the contribution she had made on family liaison work in addition to her cross-sector learning work stream. At the meeting with all relevant organisations in September 2010 about family liaison, it was agreed that that IAP would explore the development of a basic leaflet for bereaved families outlining the different roles of organisations following a death in custody and signposting them to additional information sources of support and advice. She also reported that PPO and IPCC were committed to this area of work. The INQUEST handbook had been published, which provided information and sources of support for bereaved families about the inquest process. Deborah would send additional

handbooks to the Head of Secretariat for distribution. The Chair explained that this was an important area of work for the Panel and should be progressed in 2011/12. Crispin Blunt MP had expressed an interest in this following the stakeholder event, so there was Ministerial support for taking things forward.

10. Any Other Business

(i) Prosecution of Police Officers

Philip reported that the IPCC's eleven year study of deaths in or following police contact between 1998/99 and 2008/09 reported that there had not been a successful prosecution of a police officer following the death of an individual in or following police contact. Philip added that he would be keen to speak to the Crown Prosecution Service in relation to this. Deborah Coles suggested that in the future work plan for the IAP, there may be value to undertake an analysis of the steps taken by the IPCC in cases leading to the prosecution of a police officer to gain a better understanding of the prosecution process.

(ii) IAP Members Visits

Deborah Coles asked whether any more IAP visits were planned. The Deputy Head of Secretariat informed the Panel that Richard Shepherd had been liaising with the appropriate officials at the UKBA to organise a visit to observe an immigration deportation. Stephen Shute informed the Panel that he had recently visited a police custodial suite with the Deputy Head of Secretariat to witness how an individual's health and risk of self-harm / suicide information is collated. He stated there may be value in visiting a magistrate's court to witness how this information is processed by the courts once it has been received from the police.

Action 11:

- **The Deputy Head of Secretariat to identify suitable dates for a visit to witness a UKBA deportation flight.**

(iii) Update on the Mental Health Family Listening Event

The Chair informed the Panel that the Mental Health Family Listening Day, which was to be organised by INQUEST following an open procurement exercise, would be held on 5 April 2011. Philip Leach confirmed that he could only attend the morning session due prior engagement and Peter Dean was unable to attend due to coronial work.

11. Date, Time and Venue of Next Meeting

The Chair confirmed that the next IAP meeting would be held on the 17 May 2011 between 10.00am and 1.00pm in Room 4.12a in Clive House.