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## ***Independent Advisory Panel on Deaths in Custody***

**Minutes of the Independent Advisory Panel (IAP) Meeting held on Tuesday 17<sup>th</sup> May 2011 in Room 4.12a, Clive House, 70 Petty France, London SW1H 9EX between 10.00am- 1:00 pm**

**Attendees:** Lord (Toby) Harris of Haringey (Chair), Laura McCaughan (Head of Secretariat), Matt Leng (Deputy Head of Secretariat), Simon Armson, Deborah Coles, Dr Peter Dean, Professor Philip Leach, Professor Richard Shepherd, Professor Stephen Shute and Alice Balaquidan (Minutes).

### **1. Welcome**

The Chair welcomed the Panel members to the tenth meeting of the Independent Advisory Panel (IAP) on Deaths in Custody.

### **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 provided the names of those cases where concerns on the transfer of detainees were recorded during the coroner's inquest.

#### **(ii) Summary of Recommendations from Rule 43 Reports**

The Head of Secretariat reported that she had not yet received the overview from the Panel members of the relevant issues from the Rule 43 summary report for their respective workstreams. Panel members thought it would be helpful to see an updated summary table, as it had previously been agreed this would be circulated for each meeting. The Head of Secretariat apologised for this oversight, and agreed to circulate the latest summary.

#### **Action 1:**

- **The Secretariat to re-circulate the latest collated summary of the Rule 43 reports.**

#### **Action 2:**

- **Panel members to provide an overview of the relevant issues from the Rule 43 summary as they relate to each workstream.**

**(iii) Article 2 Compliant Investigations – NPSA good practice guidance**

The Head of Secretariat informed the Panel that meetings had been held between Department of Health (DH) officials, Simon Armson and Professor Philip Leach regarding the potential for updating the National Patient Safety Agency (NPSA) good practice guidance on Independent Investigation of Serious Patient Safety Incidents in Mental Health. The meeting also covered an update on plans to disband NPSA – although the timescale and location of its functions had not been confirmed. DH officials were keen to engage with the IAP on how the proposed recommendations to revise the NPSA's good practice guidance could be taken forward under the new arrangements.

The Head of Secretariat also reported that the proposed research into the quality of SHA commissioned investigations of deaths in secure mental health settings had been discussed with Care Quality Commission (CQC) and procurement of research would follow as part of the development to this workstream.

**(iv) Proposed Abolition of the Post of the Chief Coroner under the Public Bodies Bill**

The Chair had written to the Coroners and Burial Unit (CBU) in the Ministry of Justice (MoJ) to outline the IAP's concerns over the proposed abolition of the Chief Coroner's post, and received a reply on 10 May. The MoJ were proposing alternative models for standard setting, guidance and oversight of coroners, which they thought could be achieved by a Ministerial Board to decide on priorities for action at a national level. The government planned to press ahead with abolition of the role of Chief Coroner – although the Bill would return to the House of Lords in the Autumn, and may be faced with further opposition.

The Chair stated that the Head of Offender Safety, Rights and Responsibilities Group (OSRRG) had recently met the Head of CBU, on behalf of the Ministerial Board, to discuss how the IAP recommendations made in relation to the Chief Coroner post could be taken forward if the post was abolished. Ministers were adamant that there would be no new funding available for this post and that alternative mechanisms must be explored.

Panel members expressed their disappointment at the government's decision to press ahead with abolition, and were concerned that this would be a missed opportunity to improve delivery of inquests into deaths in custody and capitalise on learning to prevent future deaths. Dr Dean thought that lack of resources would continue to cause difficulties, and significant change was unlikely without intervention from MoJ, akin to the investment made on military deaths.

The Chair noted that the IAP had taken all appropriate steps to raise objections to the Public Bodies Bill, and he suggested that the issue of coronial reform should be a standing agenda item for future IAP meetings. This would enable the Panel to effectively monitor developments.

**Action 3:**

- **The Secretariat to include coronial reform as a standing item on the agenda for future IAP meetings.**

**(v) Custodial Sectors Approach to Implementing the Corporate Manslaughter Act (CMA)**

At the last IAP meeting in March 2011, the former Head of Secretariat informed the Panel that a further scoping work was needed to understand the custodial sectors' plans for the implementation of the CMA. This was to enable the Panel to determine whether there were any implications for further work and to identify potential areas the Panel should address in order to ensure that custody sectors were meeting their duties under the Act.

The Deputy Head of Secretariat had produced a paper, following information received from all Co-sponsors of the Ministerial Council and the Youth Justice Board setting out preparations for implementation. He reported that the responses from the UK Border Agency (for the ex Her Majesty's Revenue and Customs custody suites at airports/sea ports) the Department Health (for secure in-patient mental health hospitals) were less comprehensive than the other custodial sectors.

Deborah Coles thought the sector responses were too generic and thought there should be more detail on the processes for implementation and maintaining accountability for the CMA. For example, sectors could provide more detail on the governance structures in place for implementing the Act, as well as the terms of references for the various committees listed which have responsibility for sharing learning. Professor Shute agreed and said it was important that the IAP were connected to the work of these committees to ensure that the Panel receives up to date information on deaths in custody. The Head of Secretariat agreed to provide a briefing pack for the Panel, outlining the terms of reference and activities of the various committees and boards within the Co-sponsor departments, with proposals on how the Panel might engage with each of the sectors.

The Chair noted that the circular from DH was sent out three years ago and there was no indication as to what has happened as a result of the circular. The Head of Secretariat agreed to ask DH for a copy of the circular to share with the Panel, and for more information on what had happened since its publication. The Panel could then take a view on whether any further information was required from DH in relation to the CMA.

**Action 4:**

- **The Head of Secretariat to provide a briefing pack for the Panel, outlining the terms of reference and activities of the various committees and boards within the Co-sponsor departments, with suggestions as to how the Panel might engage with sectors.**

**Action 5:**

- **The Head of Secretariat to request a copy of the circular sent by DH about the Act.**

**(vi) IAP's First National Stakeholder Consultation Event – Follow Up**

The Head of Secretariat reported that a letter of thanks was sent from the Chair to the family member who spoke at the event about the effect of the death of his relative whilst in prison. The Chief Executive of the National Offender Management Service (NOMS) had listened to the concerns raised, particularly about family liaison, and met with lead officials to discuss potential improvements. He has since written to Governors, reminding them of the importance of offering personal condolences to families affected by the death of a relative whilst in prison custody. He also asked governors to write to families following receipt of the report on the investigation conducted 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. Deborah Coles enquired as to whether the Panel could have sight of this letter, and the Head of Secretariat agreed to circulate it.

**Action 6:**

- **The Head of Secretariat to circulate a copy of the letter from the Chief Executive of NOMS to governors about family liaison following a death in custody.**

**(vii) The Roles and Responsibility of Private Sector Custodial providers**

The Head of Secretariat had not yet arranged a meeting between Professor Leach and the procurement leads of the Co-sponsors of the Ministerial Council to enquire about how accountability for Article 2 and subsequent investigations was handled in major contracts. She would discuss this further with Professor Leach in order to target those procurement leads with knowledge of relevant major contracts.

**Action 7:**

- **The Secretariat to identify which procurement leads to meet to discuss how major contracts cover accountability for Article 2 and subsequent investigations.**

**(viii) Proposed Visit to Observe a Deportation Process**

The Deputy Head of Secretariat reported that UKBA had confirmed that Panel members could witness two deportation flights in June 2011, in order to understand the procedures for transferring detainees between immigration removal centres and airports. Deborah Coles thought it would be important to specify expectations and agree the role of the Panel Members during the visit, especially if difficulties were to arise. The Panel agreed that although they would raise concerns with staff at the time, their role would be to observe. The Chair suggested that Secretariat should identify a set of ground rules with UKBA before the visit.

**Action 8:**

- **Deputy Head of Secretariat to liaise with UKBA to identify the roles and responsibilities for observers.**

**4. IAP Work plan 2011/12 and Communications and Stakeholder Management Strategy**

**(i) Workplan - evaluation of the Ministerial Council and the IAP Panel Members**

The Head of Secretariat informed the Panel that an evaluation of the Ministerial Council had been included in the IAP work plan for 2011/12. The purpose of this exercise was to gather evidence and feedback about how the Council had performed since the 1 April 2009. This would then be used to inform a Ministerial submission, due to be sent to Ministers in the autumn. Panel members would shortly receive a letter from the Co-sponsors outlining the evaluation process, and how they might contribute, as well as seeking an early indication as to whether Panel members wished to continue in their roles, if invited to do so. The Secretariat would be seeking feedback from a range of stakeholders on the Council's performance – including Board members, Panel members and the practitioner & stakeholder group. UKBA had agreed to provide resource to assist with the collation of this feedback.

The Head of Secretariat reported that the work plan included a second consultation event, planned for March 2012. However, this would only take place if Ministers agreed to the continuation of the Ministerial Council. Professor Richard Shepherd reported that the work to develop a comprehensive set of common principles for the use of restraint across the custodial sectors could take longer than the three months outlined. Instead, a series of high level messages around restraint may be more achievable.

Professor Shute added that he was due to attend a series of meetings to develop the recommendations he made to the Ministerial Board in March 2011. He questioned whether any new work streams would be created, should the Panel continue for another term. Deborah believed that a strategic planning meeting, to identify future IAP priorities should be held in September 2011. She also expressed concern about the under-representation of individuals from Black and Minority Ethnic (BME) groups on the Panel. The Chair acknowledged Deborah's concerns and explained that it would be for the Co-sponsors to demonstrate fair and open appointment of Panel members.

**Action 9:**

- **The Secretariat to include strategic planning section on the agenda for IAP meeting on 7 September 2011.**

**(ii) Update on the Communications and Stakeholder Management Strategy**

The IAP Communications and Stakeholder Management Strategy document was launched in May 2010 to manage the way the IAP engages with stakeholders. The Deputy Head of Secretariat reported that there had been a number of key communications achievements since its publication, including delivery of the IAP website and production of the mid-term report. He had updated the strategy to ensure its continued relevance to stakeholders this strategy and to record additional IAP communications activity planned for 2011/12.

Deborah Coles asked for an update on the publication of the comprehensive death in custody statistics. The Deputy Head of Secretariat would be producing the paper for publication in July, and was still in consultation and seeking guidance from various agencies on how to present their data.

**5. Article 2 Complaint Investigations**

Professor Philip Leach reported that the Chair had received the response from Secretary of State in April 2011, setting out the Government's position on the recommendations contained in the Forum for Preventing Deaths in Custody report Article 2 -compliant investigation of Deaths in Custody. Although the timing of the response was not ideal, as it seemed to close off some of the proposed recommendations that were due to be presented at the next Ministerial Board meeting in June 2011, the report had been modified to reflect the response.

Professor Leach presented the draft paper, which set out difficulties and gaps across the custodial sectors arrangements for investigating deaths in custody, and compliance with Article 2 European Convention on Human Rights (ECHR). He added that there was considerable overlap between his work and other IAP work streams, particularly on cross sector learning and deaths of patients detained under the Mental Health Act He had been working alongside other Panel members leading those workstreams to ensure their work was complementary.

The paper covered four main areas: (1) deaths of those detained under the Mental Health Act (MHA); (2) deaths in prison; (3) children who die in (transfer to or from) secure children's home (SCHs); (4) inquests and contained nine recommendations. The Panel were supportive of the report and recommendations. Simon Armson suggested that the recommendation about CQC involvement in review of deaths of detained patients could be developed even further – by proposing that they have a specific role in either commissioning or undertaking independent investigations in certain circumstances. Panel members thought that production of guidance for custody sectors on Article 2 investigations should be delayed, pending further work on the type of information that should be contained.

Professor Leach agreed to circulate an updated version to the Panel for further comment prior to the Board. The Chair reminded Panel members that sufficient consultation time with the relevant bodies and agencies needs to be factored in to any completion date for papers for the Board.

**Action 10:**

- **Professor Leach to amend paper taking account of Panel feedback and circulate for further comments.**

## **6. Risks Relating to Transfer and Escorting of Detainees**

Dr Peter Dean reported that he was also due to present his paper and findings at the Ministerial Board meeting in June and that he was to meet the Deputy Head of Secretariat to discuss the paper after the meeting. There were also significant overlaps with the other workstreams particularly on information flow and the use of restraint, which had been referenced. Dr Dean highlighted that the lack of adequate information sharing for the detainee being transferred was problematic in providing effective continuity of care. He also highlighted issues around the lack of standardised detainee transportation in the police, which could make monitoring standards difficult.

His workstream had also identified issues around the transfer of detainees subject to Section 136 of the MHA and the difficulties of securing admittance of intoxicated or violent individuals to a healthcare place of safety. Further issues included the difficulties of restraining young people in vehicles and concerns over UKBA deportation flights. Peter stated that his work stream had developed a number of potential recommendations to address these issues and had identified further work that he would like to explore after the Board meeting.

Deborah suggested that the cases she had mentioned earlier where the transfer of the individual was highlighted as a concern may be good case studies to augment the recommendations. Simon Armson added that it may be helpful to contact the CQC to identify a potential approach to the Section 136 issues highlighted in the paper. Peter agreed that he would have a final draft of his paper to circulate to the Panel to seek any further comments.

**Action 11:**

- **Dr Dean to circulate the amended draft paper for Panel comments.**

## **7. Deaths of Young People in Prison**

Deborah Coles reported her concerns that there had been a number of deaths of young people in the past few weeks. All five were self inflicted deaths. The Chair

stated that there appeared to be no other common factors. Deborah Coles thought the Panel may wish to take a view after the investigations into these deaths had been completed, particularly to identify any learning from such deaths that could be shared across sectors to attempt to avoid similar deaths in future.

#### **8. Any Other Business**

Professor Shute asked for clarification as to whether he was expected to attend the next Ministerial Board. The Chair confirmed that he would provide an oral update on Professor Shute's behalf. Once new work had been started as a result of these meetings, he would be expected to attend the Board to present the outcomes and any further recommendations.

#### **9. Date, Time and Venue of Next Meeting**

The Chair confirmed that the next IAP meeting would be held on the 7 September 2011 between 10.00am and 1.00pm in Conference Room 8 in Clive House.