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Independent Advisory Panel on Deaths in Custody

Minutes of the Independent Advisory Panel (IAP) Meeting held on Wednesday 7 December 2011 in Conference Room 3, Clive House, 70 Petty France, London SW1H 9EX between 10.00am - 1:30 pm

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

1. Welcome

The Chair welcomed the Panel members to the twelfth 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

Laura McCaughan reported that there were two outstanding action points from the last meeting for:

1. The Secretariat to share the summary table of Rule 43 reports with the custodial sectors in discussion about their individual learning structures and;
2. The Secretariat to approach the various learning boards and committees with a series of common questions to examine their approach to learning from deaths in custody.

These actions had been rolled into the research being undertaken by Mendas, who were analysing the impact of Rule 43 letters on how the custody sectors learn from deaths in custody. Mendas would be interviewing a range of stakeholders to assess the systems in place for promoting learning, during which they would cover many of the common questions raised by the Panel. They would also undertake an in depth analysis of a sample of cases. Once this had been completed, the Secretariat would be feed back suggestions for improvements to existing boards and committees through formal recommendations to the Ministerial Board.

4. IAP stakeholder consultation event 2012

The Chair confirmed that the IAP's second consultation event would be held on 2 March 2012 at Broadway House Conference Centre Tothill Street, London. Crispin Blunt MP, the Parliamentary Under-Secretary of State for Prisons and Probation would deliver the key keynote speech and Andre Rebello, Honorary Secretary of the Coroners' Society of England and Wales would speak about inquests and learning from deaths in custody. The purpose of the event would be to briefly reflect on some of the Panel's key achievements in its first term and to enable stakeholders to influence the Panel's future work programme. He added that a draft agenda had been circulated by the Secretariat outlining the proposed structure for the day.

The Panel raised some concerns about the timing of the event, although this was the only date on which at least five members were available. They acknowledged that the Q&A session would be an important mechanism to begin dialogue with attendees about the Panel's work and that it was important that the session was structured to maximise their participation. The Chair asked the Secretariat to develop proposals to encourage this. **ACTION 1: Secretariat to ensure the structure of the Q&A session maximises attendee participation.** The Panel questioned the need for workshops to be held on all workstreams. They proposed fewer workshop sessions so that Panel members lead only one and to ensure they were themed to reflect future work priorities. The Panel would then be able to use sessions to consult with attendees about the priorities and identify any gaps. The Chair asked the Secretariat to devise a list of potential workshop themes to discuss at the Panel's strategic planning meeting on 31 January 2012. **ACTION 2: Secretariat to devise a list of possible themes for the workshop sessions for the strategic planning meeting on 31 January 2012.**

Matt Leng had circulated an end of term report outline to the Panel for comments. Professor Philip Leach suggested the report should contain information about the status of IAP recommendations made to the Board to help chart the Panel's progress. **ACTION 3: Secretariat to include details about the status of the Panel's recommendations made to the Board for the end of term report.** He also suggested re-ordering the Panel's achievements to highlight the statistical analysis of all deaths in state custody, research on Rule 43 research, and the review of the medical theories on restraint deaths. **ACTION 4: Secretariat to re-order the list of the Panel's achievements for the end of term report.** Matt said that he would be circulating a draft copy of the report to the Panel for comments at the end of January 2012. The final report would be published on the Panel's at the end of February 2012 and circulated to attendees of the stakeholder consultation event.

5. Coronial Reform Update

The Chair reported that on the 23 November 2011, the Government announced it would not be abolishing the office of the Chief Coroner. However, they had decided not to implement the provision for the Chief Coroner to hear appeals against coroners' decisions. Laura McCaughan suggested a further meeting between the Panel and policy leads in the Ministry of Justice (MoJ) to discuss the timing for appointment of the Chief Coroner, to confirm their role in relation to death in custody inquests and to track the status of the IAP's recommendations in this area. The Chair agreed and said this meeting would ensure that the Panel's recommendations continue to be a priority for the MoJ. **ACTION 5: Secretariat to organise a meeting between the IAP and the MoJ to discuss the Panel's recommendations about the Chief Coroner, delays and learning from death in custody inquests.**

6. Preparation for the next Ministerial Board meeting in February 2012

The Panel discussed their contribution to the next Ministerial Board meeting. There were four outstanding actions relating to Professor Shepherd's restraint workstream. Professor Shepherd reported that these were being addressed. There was also an outstanding joint action for the Association of Chief Police Officers (ACPO) and the IAP from the June Board to identify how extra resources had been invested by health trusts in Section 136 places of safety. The Secretariat had examined the feasibility of identifying how resources have been used. However, this was a complex area, and the Panel had been working with ACPO to draw in the relevant organisations, including the NHS and Department of Health to ensure this piece of work complements the need to determine compliance with the ACPO/DH memorandum of understanding, which was also on action from the Board in June.

The report of the second family listening day would be presented on 7 February 2012, with a cover paper setting out the Panel's recommendations for improvement. Lord Harris would also update the Board update on the work being undertaken by Mendas, who were analysing the impact of Rule 43 reports on custodial sectors' learning from deaths in custody. An update on work being undertaken by Her Majesty's Inspectorate (HMI) of Prisons and HMI Constabulary on analysing information contained on Person Escort Record (PER) forms would also be presented at the Board, although the final data report may not be ready.

Professor Leach discussed the outstanding recommendations from this paper to the Board in June 2011. He had recommended that the Prisons and Probation Ombudsman (PPO) should investigate deaths of children in secure children's homes. This had been followed up with a series of meetings but the work had stalled whilst the Department for Education (DfE) obtained legal advice. They had committed to providing an update in advance of the Board. The Secretariat would monitor progress with DfE and ensure they are invited to a future Board if they were unable to provide a full response.

7. Update from the Panel members on workstreams

(I) Feedback on roundtable discussion about Section 136 resourcing

The Chair reported that he had chaired a roundtable discussion on 21 November 2011. Deborah Coles, Simon Armson and Dr Peter Dean had also attended, along with Association of Chief Police Officers (ACPO), Care Quality Commission (CQC), Her Majesty's Inspectorate of Constabulary (HMIC), Independent Police Complaints Commission (IPCC), Metropolitan Police Service, Offender Health and Royal College of Psychiatrists. The purpose of the meeting had been to discuss the Panel's concerns about how resources were deployed to enable detention of individuals under Section 136 of the Mental Health Act (MHA) in places of safety.

There had been a consensus from attendees that police custody was not the best place to detain a person under Section 136. There was a lack of evidence about how extra resources had been used by health to create places of safety in health settings, and there were anecdotal accounts that provision was limited due to pressure on staff resources. In these circumstances police custody would be the next best place for detainees. Both CQC and IPCC thought data on section 136 detentions could be more accurate, especially around the outcome following initial contact with the police. Dr Dean thought that more accurate data would help inform an evidence base to

develop future plans for Section 136 detentions. ACPO and IPCC had agreed to discuss how data on Section 136 detentions could be included into the annual custody data returns.

Simon Armson thought the CQC review of section 136 suites across London would be a useful source of information for driving forward this agenda. Deborah Coles raised concerns that the problems with provision had been known for some time but services were no further forward in delivering improvements. Lord Harris explained that the issue would be raised at the next Ministerial Board, and ACPO would provide information on compliance with the memorandum of understanding. In addition, HMIC and CQC would report on whether they were willing to undertake a thematic review of section 136 provision.

(II) Deaths of detained patients

Simon Armson reported that he was continuing his discussions with the Department of Health and CQC to take forward the recommendations he made to the Board in March 2011. The Chair had met with officials from the Department of Health to take stock of all relevant IAP recommendations, particularly in relation to the mental health workstream and Article 2-compliant investigations. This had been a productive meeting, although there are fundamental difficulties in progressing recommendations that relate to patient safety whilst health governance remains unconfirmed, and the NHS Commissioning Board is not in place.

The Chair wrote to Dame Jo Williams, Chair of the CQC, on 9 November 2011 following up on a previous exchange about how they were planning to take forward recommendations made by the Panel. A reply had been delayed due to CQC's modernisation of the mental health monitoring function. The Secretariat would follow this up with CQC in due course.

Prior to the Panel meeting, Simon met with Paul Jenkins, the Chief Executive of Rethink Mental Illness to discuss the Panel's recommendations on the physical health of detained patients. Rethink were keen to contribute to the Panel's work and to consider how it could be included in their project to produce more detailed guidance to support the DH strategy 'No Health without Mental Health'. A further meeting was being scheduled with Rethink to take this work forward.

(III) Article 2 compliant investigations

Professor Philip Leach reported that he was pursuing the recommendations he made to the Board in June 2011. In September 2011, he met with Professor Louis Appleby, the National Clinical Director for Health and Criminal Justice at DH, to discuss research on the quality of independent investigations of deaths. This revealed that independent investigations were mainly commissioned in relation to homicides committed by mental health service users and there appear to be very few Strategic Health Authority's (SHAs) commissioned independent investigations of self-inflicted deaths of detained patients. He added that he was working with Simon Armson to devise a series of research questions into independent investigations. Laura McCaughan said that the Department of Health had suggested a potential route to enquire about the number and type of investigations via the SHAs, and a questionnaire was being developed by the Secretariat to capture this information.

Professor Leach reported that a pilot was underway in the North West SHA to look at some of the practical issues behind the delays to producing clinical reviews for PPO investigations of prison deaths. He added that the PPO's latest data on clinical

reviews showed continuing problems with timeliness between July and September 2011 and the Secretariat would follow this up with the PPO to check on progress.

(IV) Information sharing statement

Professor Stephen Shute reported that he had presented his information sharing statement to the Ministerial Board on 18 October 2011. The statement was supported by the Board who thought it was sensible was of ensuring information sharing of a detainee's risk of self-harm/ suicide and healthcare records. It would, however, have to be endorsed by service leaders for the custodial sectors before being communicated to staff.

The Secretariat was organising a meeting with the Chief Executive of the General Medical Council to seek their endorsement of the statement. This would complement the endorsement already received from the Information Commissioner. Approaches would then be made to the custodial sectors to gain their support and to identify how best to use their internal communications to ensure the statement reaches practitioners. Between 2012 and 2014, the Panel will monitor whether the statement has been implemented and evaluate the impact it has had on information sharing practices. The Chair thought it would be helpful to engage the IPCC and PPO to assist in identifying whether the statement was being implemented. **ACTION 6: Secretariat to include the investigation bodies to the proposed monitoring mechanisms for the information sharing statement.** Deborah Coles thought the model of monitoring and evaluating the impact of a piece of work was good and should be applied to all IAP recommendations in future.

Her Majesty's Inspectorate of Prisons and HMIC had completed their initial analysis of Person Escort Record (PER) forms and their corresponding custody records during inspections of police custody suites. They would then track how this information was recorded onto P-NOMIS as offenders leave police custody and enter prison – subject to resolving problems with access to the data. Professor Shute would be meeting both inspectorates on 26 January on 2012 to discuss the findings which were due for discussion at the Board in February 2012.

(V) Restraint

Professor Richard Shepherd had presented a paper outlining his response to the review of the medical theories and research on restraint deaths to the Ministerial Board in October 2011. He had identified a number of areas that he would like to take forward. In November 2011, Professor Shepherd wrote to ACPO to ask whether they would be willing to undertake a sampling exercise of police use of force data in order to develop an evidence base about its prevalence, to identify any safety issues, and to highlight good practice that could be shared across the sectors. ACPO were supportive of this request and had identified a force willing to provide an anonymous sample. As part of this exercise, ACPO were also trying to identify how many police forces collate this type of data for internal management purposes.

Professor Shepherd explained that the next step for restraint would be to develop a set of common principles on the use of restraint across all custodial sectors. The Secretariat met with the Youth Justice Policy Unit (YJPU) in the MoJ, who were undertaking a similar exercise for the secure youth estate, in order to avoid duplication or contradiction. It was agreed that the YJPU would feed into the development of the Panel's principles.

A meeting was being planned for early 2012 to bring together subject matter experts on restraint from the custodial sectors. The Panel would seek comments on the draft principles, discuss any potential additions and address any contentious issues. The agreed principles will then be circulated to service leaders to seek their approval, along with the IAP's proposed next steps for delivery. An update would be provided to the Ministerial Board meeting in February 2012 with the aim of presenting the final version to the Board in June 2012.

(VI) Family listening day

Laura McCaughan reported that INQUEST had submitted a draft report of the second family listening day for families of patients who died whilst detained under the Mental Health Act. The Chair noted that families had had negative experiences with Trusts and coroners who had failed to communicate about the process for investigation and their rights to be kept informed.

Simon Armson said it had been a useful event, with many poignant accounts from families whose contribution would hopefully improve practice to benefit others in future.

Deborah Coles noted that the report would highlight areas of practice from Coroners and trusts which showed it was possible to conduct a thorough investigation with appropriate involvement from families. The report would be presented along with the Panel's recommendations to the next Ministerial Board in February 2012.

(VII) Rule 43 analysis

Deborah Coles reported that following an open procurement procedure, Mendas had been selected to undertake research into the impact of Rule 43 reports on custodial sectors' learning from deaths in custody. Mendas had been sent the summary table of all Rule 43 reports received by the Secretariat. These cases had been re-analysed by the Secretariat to identify categories for the learning outcomes. Mendas were building a database of the reports for future use by the IAP, and MoJ if they so wish, and would use the initial data set to select a sample of reports for in depth analysis. Mendas would meet with a range of stakeholders to discuss how they approach learning from Rule 43 reports.

8. Strategic planning for IAP's work priorities

The Panel had identified the need to have an independently facilitated strategic planning meeting on 31 January 2012 to reflect on their achievements and ways of working in their first term and to plan effectively for the next three years. The Chair asked the Panel if they knew of a suitable individual who could facilitate. Deborah Coles had sent a suggestion to the Secretariat. Laura McCaughan was pursuing procurement of a facilitator, and explained that it would be for the co-sponsors to agree to expenditure on this type of resource. . **ACTION 7: Secretariat to identify a list of potential facilitators and pursue procurement for the IAP meeting on 31 January 2012.** The Chair asked the Secretariat to collate a list of suggested priorities for the next work programme and to circulate in advance of the next meeting. **ACTION 8: Secretariat to collate a list of potential new work and priorities and circulate in advance of the IAP's strategic planning meeting.** Lord Harris explained that the priority areas would be presented at the IAP's stakeholder consultation event in March 2012 to provide attendees with an opportunity to feed into their development.

9. Any other business

Matt Leng reported that the planned visit to witness a UKBA deportation process had been cancelled and he would continue to negotiate another visit in 2012.

Deborah Coles thought it would be helpful if the Panel could be provided with statistics on deaths in custody, for the previous quarter, at each Panel meeting. This would enable the Panel to be kept informed of any emerging issues and have an oversight of investigations produced in the period. **ACTION 9: Secretariat to devise a data template for death in custody statistics for presentation before each IAP meeting and circulate for discussion at the meeting on 31 January.**

10. Date, time and venue of next meeting

The Chair confirmed that the next IAP meeting would be held on the 31 January 2012 between 10.00 am and 4.00 pm.

Summary of actions from 7 December 2011

	Action	Progress
1	Secretariat to ensure the structure of the Q&A session maximises attendee participation.	Revised programme discussed with Lord Harris.
2	Secretariat to devise a list of possible themes for the workshop sessions for the strategic planning meeting on 31 January 2012.	Complete – suggestions circulated to Panel on 11 January.
3.	Secretariat to include details about the status of the Panel's recommendations made to the Board for the end of term report.	Underway – this will be published as a separate document on the IAP website and referenced in the report.
4.	Secretariat to re-order the list of the Panel's achievements for the end of term report.	Complete
5.	Secretariat to organise a meeting between the IAP and the MoJ to discuss the Panel's recommendations about the Chief Coroner, delays and learning from death in custody inquests.	Complete – the meeting was held on Monday 16 January 2012. Lord Harris and Deborah Coles attended. Some progress was made in taking forward the Panel's recommendations on coronial reform.
6.	Secretariat to include the investigation bodies to the proposed monitoring mechanisms for the information sharing statement.	Complete
7,	Secretariat to identify a list of potential facilitators and pursue procurement for the IAP meeting on 31 January 2012.	Withdrawn – following discussions with the Co-sponsors of the Ministerial Council, this meeting will not be facilitated.
8.	Secretariat to collate a list of potential new work and priorities and circulate in advance of the IAP's strategic planning meeting.	Complete – suggestions included in stakeholder feedback and planned work for 2012/13 on draft plan.
9	Secretariat to devise a data template for death in custody statistics for presentation before each IAP meeting and circulate	Complete – this was circulated to the Panel on 11 January 2012 for comments.

	for discussion at the meeting on 31 January.	
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