

## Independent Advisory Panel on Deaths in Custody

### Minutes of the Independent Advisory Panel meeting Wednesday 7 May 2014 102 Petty France, London

**Attendees:** Lord Harris of Haringey (Chair),  
Deborah Coles  
Professor Philip Leach  
Professor Richard Shepherd  
Stephen Cragg QC  
Matilda McAttram  
Dinesh Maganty  
Dr Meng Aw-Yong  
Darrick Jolliffe, Research Team (University of Greenwich)  
Zubaida Haque, Research Team  
Michael Fiddler, Research Team  
Laura McCaughan, Secretariat  
Kishwar Hyde, Secretariat  
Alice Balaquidan, Secretariat

**Apologies:** Professor Graham Towl

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#### Welcome and introductions

1. Lord Harris welcomed everybody to the twenty-second meeting of the Independent Advisory Panel on Deaths in Custody and was delighted to see so many Panel members round the table. He introduced Laura, head of the Secretariat, who had recently returned from maternity leave. Apologies had been received from Professor Graham Towl.
2. Most of the panel members had attended the meeting of the IAP Independent Review the previous month and Lord Harris felt that it was worth reiterating the difference between the two aspects of the Panel's work. He explained that the mainstream Panel's remit was to look at deaths in custody across all the custodial sectors. This Panel also had different arrangements from the Review Panel in that it organised delivery of its work programme into a number of projects, referred to as workstreams, with a panel member leading on each of the streams.
3. Lord Harris explained that although the Panel was expanded by two extra members, he was aware that time constraints still applied as they would each be required to work the equivalent of one day per month on mainstream Panel projects.

## Work of the Panel

4. Lord Harris referred to the paper prepared by the Secretariat on the work of the Panel to date. Some discussion took place around the limits of the Panel's remit; Lord Harris agreed that there were several instances of deaths of individuals in state care which were on the boundaries of the remit but were not included, and there were not enough resources to take on additional work on these. However, Stephen Cragg advised that there had been a recent Supreme Court judgment about the Mental Capacity Act, which may bring a greater number of older adults in care home settings under the legislation and therefore within the remit of the Panel's work. The Panel agreed to consider Stephen's advice on the judgment and discuss with Department of Health as required.

### **Action 1: Stephen Cragg QC to supply information on recent Supreme Court judgment about the Mental Capacity Act.**

5. Laura McCaughan then summarised the background, governance arrangements, the role of the Secretariat and the sponsorship arrangements from the paper. Panel members noted that an update was required to members' biographies in *Annex A, Membership of the IAP, para 4*.

### **Action 2: Secretariat to update/amend biographies for Panel members for uploading onto website.**

6. Laura went on to explain that most of the 45 recommendations made to the Ministerial Board had been accepted, although several of these were accepted in principle and had been difficult to progress.

7. Some discussion took place about engagement with stakeholders; currently the Panel reports to stakeholders via a quarterly newsletter (although no newsletter had been produced since July 2013 due to lack of resources in the Secretariat team) and members discussed whether something different or additional was required.

8. Deborah Coles expressed concern that there was no follow-through once a recommendation had been tabled and agreed at the Ministerial Board other than Secretariat activity. It was suggested that Lord Harris may wish to set up meetings with the co-sponsors to receive updates and progress on agreed actions.

### Use of Physical restraint (led by Prof Richard Shepherd)

#### *Develop common set of principles for the use of restraint across all custodial sectors*

9. Richard Shepherd was unsure whether these had been adopted in practice by the range of custodial organisations. Following up on implementation would be a significant focus of this workstream in 2014/15. Dr Meng Aw-Yong expressed an interest in this work, and agreed to discuss it with Professor Shepherd

10. The outcome of the Independent Advisory Panel on non-compliance management, which reported to Immigration on how to handle restraint on aircraft, was not yet known. Professor Shepherd had been a member of the Panel and thought the final report had been submitted to Ministers. Lord Harris and Deborah Coles others expressed concern that use of the new restraint belt would need to be monitored closely. It was agreed that the Panel should find out the status of the final report and decide whether they wish to pursue activity in this area.

**Action 3: Secretariat to ask Immigration about the status of the Panel on the non-compliance management report.**

*Reporting & monitoring mechanisms for restraint*

11. Lord Harris explained that ACPO were about to promote new Approved Professional Practice on custody which would extend the definition of custody back to the point of arrest on the street and would include guidance on recording the use of restraint. While this was welcome, there remained a lack of clarity about what police would be required to record about use of force, and whether subsequent custody sergeant reports would be accurate. There was also no requirement for the police to record details of individuals who were arrested but subsequently not taken into police custody (for example, taken to mental health hospital).

**Action 4: Secretariat to ask Alan Greene (ACPO) how it is intended that restraint records would then be available for analysis in data.**

Information Flow through the CJS (previously led by Professor Stephen Shute)

*Person Escort Record (PER) Form*

12. The Panel noted that information sharing was generally poor across the sectors. There had been issues with proper and legible completion of the PER form and work was progressing slowly on setting up an electronic system.

*Information Sharing Statement*

13. Members noted that poor information sharing was consistently indicated in deaths in custody and there was great difficulty in generating changes to staff behaviour to improve practice. The Panel agreed to consider how to encourage organisations to make these changes. This item was on the agenda for discussion later – see para 34.

Cross Sector learning (Led by Deborah Coles)

14. The Panel had made several recommendations about delays to inquests, some of which had been agreed and there was now a need to progress these. Deborah commented that the Chief Coroner had made less progress than had been hoped particularly regarding the quality of coroners' reports – which was in part due to a lack of resources for his office. Furthermore the guidance for coroners on how they should undertake investigations following the death of a detained patient had not yet been produced.

Article 2 Compliant Investigations (Led by Professor Philip Leach)

15. Philip Leach expressed concern that structural issues had not moved on since 2011 when the Panel had made recommendations to the Ministerial Board to expand the Prisons and Probation Ombudsman (PPO) terms of reference to cover any deaths in secure children's homes and to ensure improvements to the quality and timeliness of clinical reviews.

**Action 5: Secretariat to follow up on progress to expand PPO terms of reference to cover any death in a secure children's home and also chase an update on improvement to clinical reviews.**

*Independent investigations of deaths of detained patients*

16. Panel members were concerned that the guidance for mental health trusts on how they should undertake investigations, which was due to be released last December, was still being worked on and a draft would not be produced until summer. They hoped to have an opportunity to comment on the guidance before it was published.

17. Dinesh Maganty was keen to be involved in this work and would be able to facilitate joined up working between patient safety and NHS commissioning bodies.

18. Matilda McAttram expressed an interest in the Article 2 workstream.

Deaths of Patients Detained under the Mental Health Act (MHA) (previously led by Simon Armson)

19. It was agreed that analysis of the data on natural cause deaths to analyse the circumstances of individual deaths remained necessary. Matilda expressed an interest in this workstream.

20. Both Dinesh and Meng agreed to work together to follow up on progress.

Family Liaison Work (led by Deborah Coles)

21. This work needed reviewing given the length of time since publication of the common principles on family liaison following a death in custody. There was a need to check how the principles had been embedded in each of the organisations.

Equalities (led by Deborah Coles)

22. Deborah Coles agreed to review activity on this proposed workstream with the Secretariat to follow up on the draft scoping paper and to decide which areas to focus on.

23. Matilda stated she was interested in working with Deborah on this.

**Action 6: Secretariat to liaise with Deborah Coles to progress work on both Family Liaison and Equalities.**

24. Lord Harris suggested that a schedule of work areas be drawn up with Panel members allocated alongside each area. This could then be followed up at the next meeting.

**Action 7: Secretariat to update workstreams paper and allocate Panel members for discussion at next meeting.**

**Minutes from last meeting (Paper IAP 7.5.14-2) and update on actions**

25. Minutes of the March IAP meeting were agreed and updates on actions noted.

26. Laura advised that she had requested that the triennial review be postponed to a later date because of the timing of the Independent Review, which was due to deliver in spring 2015.

**Update on Research Projects**

27. Lord Harris gave a brief background to how and why the research contract had been awarded, for the benefit of new Panel members. The contract with the University of Greenwich and the Runnymede Trust had been in place since July 2013. Lord Harris welcomed and introduced the members of the Research team. He then handed the floor to Darrick Joliffe.

*Statistical Analysis report for 2012*

29. Darrick explained that the statistical report had been produced and sent to the organisations with responsibility for data collection on deaths in custody, which had since come back with comments. The research team had several issues with the data submitted by CQC which made it difficult to disaggregate. Laura explained that the CQC collected and input data in a different way from the other sectors and that they had conceded that the quality of their data had been poor. They had undertaken a data cleanse exercise at the end of 2013 which changed the figures previously provided for deaths in 2012. It was agreed that it was important to publish the 2012 figures as soon as possible because of the time lag, even if the data was not as robust as was hoped. The data would be annotated to show concerns about disaggregation; on balance, this would be the best way of resolving the quality issues.

30. It was further agreed that the 2013 analysis would be published on time and that there should be a roundtable in the near future with the data providers to resolve such issues on how the data is provided to the Panel. Lord Harris explained that for the next report he wanted comments and comparisons across the data and that there should be recommendations made about collecting population data.

**Action 8: Secretariat to arrange a roundtable of data suppliers and University of Greenwich to discuss preparation for 2013 statistical analysis report.**

*Literature Review on Mental health*

31. Since the submission of the first draft, Darrick had been asked to conduct some further research into attitudes of staff towards those in their care with mental health issues. He explained that this had been difficult as there was little information in existence about attitudes and that if panel members knew of any such research he would be interested in seeing it. A draft would be provided for Panel members soon.

*ACCT report*

32. The summary of UoG's work on ACCT had been completed, including reference to analysis of the 16 most recent HMIP reports as to how they dealt with ACCT. Relevant reports, from NOMS and PPO would need to be taken into consideration alongside UoG's findings. Lord Harris had checked with Nick Hardwick who advised that HMIP were now not going to undertake a thematic inspection of ACCT. Lord Harris stated that the Panel now needed to make a decision on how to take this work forward.

33. Lord Harris advised the research team that their next priority would be to produce the 2013 Statistics report. Darrick and Laura would work together to look at future projects for the research team once Panel projects for 2014/15 had been confirmed.

**Agreeing how to follow up to the information sharing statement dissemination should be targeted in each custodial organisation**

34. Lord Harris advised the Panel that dissemination of the statement had not been very effective. He had received agreement from the Ministerial Board to write out again and to re-circulate the statement as necessary and the Panel needed to consider how and who to write to. A discussion followed about what this entailed; it was felt that frontline staff needed specific examples relating to their circumstances to help them. Laura explained that the original task of dissemination had been handed over to organisations but UoG's work had shown that the statement was not

recognised by staff, and could not be viewed as having changed behaviour or practice. The Panel did not have resources to help on the ground level and would need to consider how to progress this area. It was agreed that Lord Harris should hold follow-up meetings with each of the sectors to identify how the work could be taken forward.

**Action 9: Lord Harris to meet with organisations to encourage use of information sharing statement to improve practice.**

**Feedback from the IAP Stakeholder Event**

35. Lord Harris noted that overall the feedback from the event was positive and that most attendees had been pleased with the arrangements for, and content of, the day. Panel members noted the range of comments about Clean Break which were mainly positive. More generally there were several useful suggestions and the additional feedback points were useful as well.

36. It was noted that there had been a lack of senior stakeholders at the event, particularly from the co-sponsoring organisations, and that this would need to be addressed before the next consultation day.

**Department of Health - restraint guidance – Positive and Proactive Care: Reducing the Need for Restrictive Interventions**

37. Lord Harris explained that this item was simply for information. Deborah asked what issues the report raised for the work of the Panel. Laura explained that the item was on the agenda for the next Ministerial Board meeting; it was agreed that Panel members should pass on their questions to Lord Harris who would raise them at the meeting.

**Action 10: Panel members to forward comments to Lord Harris in preparation for his brief for the next Ministerial Board meeting on 17 June.**

**Quarterly death in custody data returns Jan-March 2014**

38. Laura explained that NOMS had not supplied statistical information for the most recent quarter as they would now only provide data that had been verified; this was due to requirements of statistical accreditation. Laura was working with NOMS to identify how unconfirmed figures might be made available for meetings. Panel members were disappointed by this news; Deborah explained that the information about each death was in the public domain and was easily available on other websites. She was concerned that this lack of information frustrated the work of the Panel. Laura explained that although each death was announced, the statistical detail of each had to be checked and disaggregated data would not be published as quickly as a list of those who died. Laura would continue to discuss the issue with NOMS.

**Action 11: Secretariat to discuss provision of most recent data with NOMS.**

39. The Panel noted that the death in custody figures for those who died in prison had continued to rise. Lord Harris stated that he would be raising a point at the Ministerial Board in June that these were the highest figures since records began. This was a dramatic change and the Board would need to consider this as a matter of urgency. Deborah also stated that she would be raising the issue at the Board and asking for a Ministerial response.

### **Any other business**

40. There was no other business to report.

### **Dates of next Meetings**

- Wed 10 September 2014 @10am – 1.30pm
- Wed 10 December 2014 @ 10am – 1.30pm

### **Actions arising from meeting**

**Action 1: Stephen Cragg QC to supply information on recent Supreme Court judgment about the Mental Capacity Act.**

**Action 2: Secretariat to update/amend biographies for Panel members for uploading onto website.**

**Action 3: Secretariat to ask Immigration about the status of the Panel on the non-compliance management report.**

**Action 4: Secretariat to ask Alan Greene (ACPO) how it is intended that restraint records would then be available for analysis in data.**

**Action 5: Secretariat to follow up on progress to expand PPO terms of reference to cover any death in a secure children's home and also chase an update on improvement to clinical reviews.**

**Action 6: Secretariat to liaise with Deborah Coles to progress work on both Family Liaison and Equalities.**

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