

Independent Advisory Panel on Deaths in Custody

Minutes of the Independent Advisory Panel meeting Wednesday 10 Dec 2014 102 Petty France, London

Attendees: Lord Toby Harris (TH) - Chair,
Professor Philip Leach (PL)
Professor Richard Shepherd (RS), by phone
Stephen Cragg QC (SC)
Dinesh Maganty (DM), by phone
Dr Meng Aw-Yong (MA-Y)
Deborah Coles (DC)
Professor Graham Towl (GT)
Laura McCaughan (LM), Secretariat
Kishwar Hyde (KH), Secretariat
Alice Balaquidan (AB), Secretariat

Apologies: Matilda MacAttram (MM)

Agenda item 1. Welcome and introductions

1.1 TH welcomed everyone to the meeting. Apologies had been received from MM who was at a conference in New York; RS had unexpectedly been required to be on call but was calling into the meeting and DM was ill but was also dialling in to join in the discussion.

Agenda item 2. Minutes from last meeting (IAP [10.12.14-1](#)) and update on actions

2.1 DC had been unable to attend the previous meeting and made several comments on the minutes:

2.2 **HOMES training:** at the last Ministerial Board, DC had asked about monitoring of the new restraint package. She had been concerned to hear that although there would be monitoring there were no plans to make it open to public scrutiny. She felt that there should be systematic use of force recording across all organisations. There were further concerns among NGOs that although these methods were approved there was a need to know how often restraint methods were used. She was unclear whether the cross government Restraint Management Board had oversight of the implementation of HOMES. MA-Y was due to observe HOMES training on 18 December and would feed back to Panel members shortly after.

2.3 **Action 10.12.14-1: MA-Y to feedback to Panel about HOMES training to enable Secretariat to prepare letter for Chair.** (Secretary's note: the training session on 18 December was cancelled. MA-Y will rearrange for the new year.

2.4 The Secretariat would find out whether the RMB was still in operation and draft a letter for the Chair to send to Immigration inquiring about whether monitoring information would be published.

Action 10.12.14-2: Secretariat to ascertain whether the Restraint Advisory Board and the Restraint Management Board were still meeting.

Action 10.12.14-3: Secretariat to prepare a letter for the Chair to Immigration asking about plans to monitor use of force and whether it would be published.

2.5 **Secure Children's Homes (SCH):** PL gave the background to the IAP recommendation, made in June 2011, that the PPO should investigate deaths in SCHs and the subsequent efforts by the Panel to ensure it was taken forward. Department for Education (DfE) had experienced difficulties with implementing the recommendation and had proposed to the Ministerial Board that it should be put in place only for children in SCHs for justice purposes. Board members had not accepted DfE's proposal.

2.6 The previous DfE Minister had agreed to the recommendation in principle as had the current Minister. DfE had agreed that they would amend the Children's Home Regulations to require SCHs to inform the PPO (alongside a number of other organisations, e.g. Ofsted and the LSCB) when a death occurred of any child in a SCH. However, more guidance would be required to ensure that SCH staff would allow PPO staff to enter their premises to undertake the investigation. Although the Secretary of State for Education has a power under the Children Act 1989 to require organisations to comply with an investigation, that power would only be exercised on a case by case basis and would not fulfil an ongoing commitment to PPO investigations for all such deaths.

2.7 The overall tone of the meeting was that the DfE felt this was an important piece of work to take forward but were now struggling with how to make it happen. The Panel thought that the delays with implementing the recommendation were unjustified.

2.8 **CPS:** TH advised that following the last Panel meeting, a letter had been sent to the CPS followed by a meeting with Sue Hemming and Malcolm McAffie. The CPS had also forwarded an updated process map (not for publication at this stage). Family liaison was discussed; the CPS ordinarily offers a meeting with the family at the beginning of their involvement in the case then a further two times – this was detailed in the original process map circulated to the Panel. If a request was made by the family for a meeting they would try to be responsive. TH was pleased that the CPS took family liaison seriously. Malcolm McAffie had also spoken at length about the complexities of bringing a corporate manslaughter prosecution.

2.9 DC noted that the process map looked more like an aspirational document than a description of what actually happened. TH wondered whether it would be published on their website once it was finalised.

2.10 DC was frustrated about the lack of information about how often staff members were prosecuted and she wondered how organisations learnt lessons from the outcome of court cases and prosecutions. Panel members wondered whether the CPS published a list of cases under consideration and an analysis of their decisions to prosecute.

Action 10.12.14-4: Secretariat to check whether cases are listed on CPS website

and, if so, whether there was an analysis of these cases. (*Secretary's Note: Although the CPS website contains detailed guidance on how decisions are made about prosecution, CPS has confirmed they do not publish individual case information.*)

2.11 **Taser Data:** DC had recently had sight of the Children's Rights Alliance report which highlighted an alarming use of tasers against children.

2.12 **Quarterly data updates:** discussion took place about whether these data updates should be covered as substantive agenda items at future meetings. Although it was agreed that quarterly data was not good for picking up themes and trends about deaths in custody, it was important intelligence for the Panel to understand the context of their work. TH suggested that the quarterly data could be augmented with up to date case information by reinstating the briefing document about deaths that were covered in media reporting. DC agreed to support the Secretariat by sending information produced by INQUEST.

Action 10.12.14-5: Secretariat to re-instate presentation of case information at the front of quarterly data documents for Panel meetings. (*Note: this information may be recent than the data provided*).

Action log (Paper 10.12.14-2)

2.13 LM advised that all actions from the previous meeting would be covered as substantive agenda items, except for the following two.

(i) **Secretariat to work with GT on strategy document for next Panel meeting.**

This was ongoing. The Secretariat would work with GT to produce a strategy document to support the IAP workplan for 2015/16. This would be discussed the next meeting. GT and LM would liaise on the details.

(ii) **Secretariat to prepare a paper for Panel on options for analysis of PFD reports**

All PFD reports were now published on the Chief Coroners' website and they had agreed to mark up deaths of detained patient cases under the custody heading. At the last Ministerial Board, members agreed that there was a need to look at learning across all organisations and that TH should lead on this piece of work. The Secretariat was coordinating responses from organisations and would prepare a paper for TH to present to the Board in February. LM advised that in the course of this work, she had discovered that several of the same people were meeting in different forums to discuss the same issues. DC suggested that the paper should include themes identified in the INQUEST briefing for the Ministerial Board on learning from inquests and their corresponding publication.

Agenda item 3. IAP Code of Practice and Register of Interests (Paper 10.12.14 – 4)

3.1 TH advised that a copy of the IAP Code of Practice had been circulated prior to the meeting and all Panel members were reminded that they needed to note the contents and adhere to the Code.

3.2 TH also reminded members that they needed to update their entry on the Register of Interests as previously requested. This Register was separate, and in addition to, the form which members had completed for the Harris Review (HR). LM explained that the information provided by members to the Harris Review Secretariat could be used to extract relevant items for the IAP Register of Interests. The Secretariat

would undertake that work, for those Panel members who had not yet provided an update, and send it to Panel members to check.

Action 10.12.14-6: Secretariat to extract information from Harris Review register of interests for inclusion on IAP Register of Interests and send it to Panel members for checking.

Agenda item 4. IAP work update (Paper 10.12.14 – 5a & 5b)

(i) **Restraint:** Clinical Forensic & Legal Medicine Section Conference: Concordat on managing restraint

4.1 MA-Y stated that he had agreed to run a seminar on restraint on 17 October 2015. The issue of excited delirium was on the agenda. The meeting would be held at the Royal Society of Medicine (RSM). The Panel agreed that they would be in favour of running the seminar jointly with the RSM provided that no costs were incurred by the Panel. The Secretariat would provide a list of contacts to MA-Y to ensure a range of experts were invited, including those responsible for implementing the Positive and Safe programme for mental health service users.

4.2 DC explained that the INQUEST Lawyers Group had recently considered a summary paper prepared by Dr Maurice Lipsedge on the subject of excited delirium, which RS thought was an excellent document. DC agreed to circulate his paper on the subject to the Panel. DC suggested that the meeting could be widened to include other disciplines, such as coroners because the use of the term excited delirium was highly contentious. DM confirmed this and thought that it was sometimes used to describe the cause of death but that this masked the underlying causes, which may have been due to excessive use of force.

Action 10.12.14-7: DC to circulate Dr Lipsedge's report on excited delirium (prepared for the INQUEST Lawyers' Group) to the Panel

4.3 MA-Y and RS would develop the seminar together and would consider widening the invitation to cover a range of disciplines.

(ii) **Information flows:** NOMS implementation of HMIP recommendations on Person Escort Record (PER) (Paper 10.12.14 – 6)

4.4 LM explained the background to the HMIP thematic on PER, which was published in October 2012. NOMS had sent an update on implementation of the recommendations to the Secretariat, which the Panel was invited to consider. Some progress had been made with implementing Regional Forums to encourage multi-disciplinary learning about information sharing and to improve the quality of information provided on PERs. NOMS had also designed new version of the PER form which they hoped to pilot early in 2015. The Panel would need to keep a watching brief on this topic to understand its impact on improving information sharing.

4.5 LM advised that she had been contacted by Jake Hard, Clinician Lead for the Health and Justice Information System (HJIS), which was the programme to re-procure and replace SystmOne. He had asked to speak to the Panel about HJIS given their plans to join it to community and partner organisations' systems to ensure information sharing. Understanding the development of IT projects aimed at supporting information sharing would be a key area for the Panel in the next financial year. Panel members welcomed the suggestion.

Action 10.12.14-8: Secretariat to invite Jake Hard to meet the Panel. (Secretary's note: a meeting has been arranged for 15 January 2015.)

(iii) **Mental health** training roundtable

4.6 A commitment was made at the last Ministerial Board meeting to hold a roundtable meeting to follow on from the University of Greenwich mental health literature review. The Secretariat would arrange the roundtable for January. The aim of the meeting would be to capture activity taking place across all organisations in relation to staff attitudes and mental health training. All Panel members declared an interest in attending the meeting.

Action 10.12.14-9: Secretariat to arrange roundtable discussion on mental health training early in 2015.

(iv) **Equalities** workstream – next steps including cross over with use of force and IPCC project

4.7 LM presented the background to this piece of work. The Panel had previously aspired to present a scoping paper on the different protected characteristics in relation to deaths in custody. The Secretariat had produced a short paper, which was now out of date. The Secretariat met with MM and DC in November to discuss priority areas for further investigation, and subsequently checked for gaps in data collation across the organisations. All organisations collected information about deaths broken down by the protected characteristics of age, gender and race. Furthermore the stats on restraint related deaths were also broken down by these characteristics demonstrating that there were no gaps to report on the statistical information about deaths in custody. NHS England also confirmed that they collected information on the Liaison and Diversion project for these characteristics.

4.8 DC stated that there was a clear public interest in the disproportionality in the use of force against black men and there had been a number of contentious deaths of black men who also had mental health problems. DC suggested that the Panel should also look at women and the rates of self-harm; and the number of self-inflicted deaths of women detained under the Mental Health Act (MHA).

4.9 LM advised that there was a need to understand other pieces of work being carried out in this area, for instance, the IPCC were conducting a project on use of force, to which PL and RS were contributing. PL confirmed that the study would be looking at race although it was not due to report until July 2015 (*Secretary's note: publication date confirmed with Lindsay Harvey at IPCC*).

4.10 Panel members raised several issues that could be explored: there was a need to find out what services, such as Liaison and Diversion, were doing to divert black males from custody and the reasons behind the propensity to restrain some groups more than others. There was also a need to look at the seriousness of injuries sustained by those detained by the police as a way of understanding the safety of restraint.

4.11 It was agreed that the panel would prepare a briefing paper setting out their position on equalities for presentation to the next Ministerial Board meeting. TH suggested that this should be followed by two workshops to look in more detail at (i) the reason why certain groups were more likely to be restrained and (ii) whether the threshold (in terms of seriousness of offence or mental health diagnosis) for entering the CJS or being detained under the MHA were different for particular groups.

Action 10.12.14-10: DC and MM to work with the Secretariat to prepare briefing about equalities for the Ministerial Board in February.

(v) **IAP Annual Statistical Update 2013**

4.12 TH advised that the IAP Annual Statistics report for 2013 had been drafted and was nearly complete. GT had been working with the Secretariat to liaise with the University of Greenwich. There were still some issues to be ironed out, for instance, the inconsistency of the three-year period data and showing percentages for small numbers. GT and LM would have a final discussion about the report after the meeting. Panel members would be able to see the near-final report before it was published.

(vi) **Investigations of deaths of detained patients**

4.13 TH met Mike Durkin, Director of Patient Safety at NHS England (NHS E) in November who outlined potential changes to the structure of NHS E and the patient safety function. They had also discussed the system wide approach to improving safety, such as Patient Safety Collaboratives. TH had also asked Mike Durkin what was being done in practical terms to learn from deaths of detained patients, and Mike was considering how an analysis could be undertaken. The Secretariat would follow this up with his office in due course.

4.14 LM had also met operational leads in the Patient Safety Directorate to discuss their work in more detail. The Panel had not had a response to their input on the draft Serious Incidents Framework in September. This document had to be re-drafted following announcements about the restructuring of NHS E commissioning and to reflect that any independent investigations would need to be commissioned by Clinical Commissioning Groups (CCGs) instead of regional teams. The draft document paper was due to be presented to senior managers in December and the Panel would not have an opportunity to see it before it was published. LM would follow up her request to NHS E seeking a formal response to the Panel's comments on the framework.

Action 10.12.14-11: Secretariat to approach NHS E to seek a formal response to the Panel's comments on the Serious Incidents framework.

4.15 DC advised that INQUEST would be publishing a paper at the end of January on investigations into deaths of detained patient, which would be accompanied by a Parliamentary launch. She would circulate the date of publication.

Action 10.12.14-12: DC agreed to circulate date of the Parliamentary launch of the Inquest report on deaths of detained patients,

Agenda item 5. Quarterly data (Paper 10.12.14-7)

5.1 This item was discussed under agenda item 2. It was noted again that the way NOMS supplied death data to the IAP was older than another version which they published in the Safety in Custody statistics.

Agenda item 6. IAP strategy

6.1 This was discussed under agenda item 2.

Agenda item 7. Feed back from co-sponsor meeting

7.1 TH explained that he had had a very constructive meeting with the co-sponsors earlier in the week. There had been a long discussion about the link between the 2015/16 budget, the workplan, dates for the Triennial Review (TR) and Panel appointments.

7.2 The Triennial Review was scheduled to start in the first quarter in the new financial year, although it was likely to start at the end of the quarter. It would be a three month process, with the outcome known in September 2015 at the earliest.

7.3 This would have an implication for the budget allocation because co-sponsors were unsure whether to fund research and analysis for 2015/16 in the absence of certainty about the outcome of the TR.

7.4 Co-sponsors would be looking into the possibility of extending the Chair's term for a further three months to the end of Dec 2015; this would enable crossover with the new Chair. Although recruitment for the new chair would need to start before the outcome of the Triennial Review was known, there would have been initial feedback from new Ministers about their views on the future of arms length bodies like the IAP.

7.5 Co-sponsors would reconvene in February to discuss the triennial review, budgets and appointments after obtaining advice from the ALB governance division in the MoJ.

Agenda item 8. Any other business

8.1 DC advised that the Judicial Review on the guidance about funding for families to be legally represented at inquests was listed for February 2015.

8.2 She also advised that the inquest into the death of Reece Taylor was ongoing; the inquest into the death of Alex Kelly was due to conclude soon.

8.3 KH noted that the IAP End of Term report was due at the end of March 2015. She and TH would liaise about the contents early in the New Year.

8.4 LM noted that Panel members would need to work on next year's workplan in time for the next co-sponsor meeting in February, when it would be agreed. This would require Panel members to comment on the draft by correspondence.

8.5 Discussion also took place about options for the next stakeholder day, including engagement with service users and ex-offenders, as well as the need to agree whether the Panel should hold another family day.

Agenda item 9. Date of next meeting

9.1 The date of the next meeting will be xx March 2015 and will be held in room xx, 102 Petty France, London.

Actions:

1: MA-Y to feedback to Panel about HOMES training to enable Secretariat to prepare letter for Chair.

- 2: Secretariat to ascertain whether the Restraint Advisory Board and the Restraint Management Board were still meeting.
- 3: Secretariat to prepare a letter for the Chair to Immigration asking about plans to monitor use of force and whether it would be published.
- 4: Secretariat to check whether cases are listed on CPS website and, if so, whether there was an analysis of these cases. *Secretary's Note:*
- 5: Secretariat to re-instate presentation of case information at the front of quarterly data documents for Panel meetings.
- 6: Secretariat to extract information from Harris Review register of interests for inclusion on IAP Register of Interests and send it to Panel members for checking.
- 7: DC to circulate Dr Lipsedge's report on excited delirium (prepared for the INQUEST Lawyers' Group) to the Panel
- 8: Secretariat to invite Jake Hard to meet the Panel.
- 9: Secretariat to arrange roundtable discussion on mental health training early in 2015.
- 10: DC and MM to work with the Secretariat to prepare briefing about equalities for the Ministerial Board in February.
- 11: Secretariat to approach NHS E to seek a formal response to the Panel's comments on the Serious Incidents framework.
- 12: DC agreed to circulate date of the Parliamentary launch of the Inquest report on deaths of detained patients,