

Independent Advisory Panel on Deaths in Custody

Minutes of the Independent Advisory Panel meeting Wednesday 11 Mar 2015 102 Petty France, London

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

1. Welcome and introductions

1.1 TH welcomed everyone to the meeting. All Panel members were present including DM and RS who were joining the meeting by phone.

2. Minutes from last meeting and update on actions (Paper 11.3.15-1 and 2)
DC and PL noted some amendments to the previous minutes. (*Secretary's note – minutes have been amended and final version uploaded onto IAP website*).

All actions were either complete or underway. One item (10.12.14/5) about reinstating a list of notable cases would be covered substantively under agenda item 5 (Paper 11.3.15 – 6b).

LM provided updates on the action log as follows:

Action 10.12.14/1: *Meng A-Y to feedback to Panel about HOMES training to enable Secretariat to prepare letter for Chair.* The training session on 18 December had been cancelled. Meng had been unable to make the alternative date in February and was making arrangements to attend in April.

Action 10.12.14/2: *Secretariat to ascertain whether the Restraint Advisory Board and the Restraint Management Board were still meeting.* MOJ had confirmed that RAB was not operating any more but that MOJ would be setting up a new board with different focus and TORs. The Secretariat would continue to press for further information.

DC and RS voiced their concern over the gap left by the closure of the Restraint Management Board and stated that it was important to have independent monitoring of the use of force. It was agreed that TH would write to MOJ to ascertain what governance was in place now that RAB and RMB no longer existed. DC advised that the letter should be copied to YJB.

Action 1: TH to write to MOJ to ascertain what governance is in place now instead of RAB and RMB.

Action 10.12.14/3: *Secretariat to prepare a letter from Lord Harris to Immigration asking about their plans to monitor use of force and whether it would be published.* This item was on the agenda for discussion.

Action 10.12.14/4: *Secretariat to check whether cases were listed on CPS website and, if so, whether there was an analysis of these cases.* Although the CPS website contained detailed guidance on how decisions were made about prosecution, they did not publish individual case information.

Action 10.12.14/5: *Secretariat to re-instate presentation of case information at the front of quarterly data documents for Panel meetings.* This was presented later at paper IAP 11.3.15-6b

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.* The draft register was sent to Panel members 17 Feb for confirmation. Members were asked to respond if they had not already done so.

Action 10.12.14/7: *Deborah Coles to circulate Dr Lipsedge's report on excited delirium (prepared for the INQUEST Lawyers' Group) to the Panel.* DC advised that she would check with the INQUEST Lawyers Group whether she could release the report.

Action 2: DC to check with INQUEST Lawyers Group about release of Dr Lipsedge's report on excited delirium.

Action 10.12.14/8: *Secretariat to invite Jake Hard to meet the Panel.* Jake Hard had met the Harris Review on 15 January 2015 and provided an update on the HJIS. The Secretariat followed this up with a request to be kept informed of progress and issued an invitation to a future panel meeting. JH had agreed to both.

Action 10.12.14/9: *Secretariat to arrange roundtable discussion on mental health training early in 2015.* This was arranged for 23 March 2015 and invitations sent.

Action 10.12.14/10: *Deborah Coles and Matilda McAttram to work with the Secretariat to prepare briefing about equalities for the Ministerial Board in February.* TH had agreed not to table at MBDC pending further work by Panel. The item was on the agenda later to clarify actions and next steps.

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.* Development of the revised SI Framework had been delayed. The revised draft was currently being reviewed by the Senior Management and Executive Risk Management Teams. NHS E would share a copy of the final draft once it had been reviewed and agreed. LM had asked NHS E for an update on publication date.

The Panel noted that they had not seen the final version of the framework; they had only been informed about what had been changed. PL was concerned that the

published version would not deal effectively with issues raised by the Panel. It was suggested that the Panel should have a contingency plan about the next steps to take in that case.

Action 10.12.14/12: *Deborah Coles to circulate date of the Parliamentary launch of the Inquest report on deaths of detained patients.* The report was launched on 11 February. Lord Harris spoke at the event, which was also attended by the Secretariat had attended the launch event.

3. Update from Ministerial Board on Deaths in Custody (23 February)

TH provided an update on the main points discussed at the Ministerial Board on 23 February, which was chaired by Andrew Selous, Minister for Prisons, Probation and Rehabilitation.

Triennial review of the IAP: the review would be conducted in accordance with Cabinet Office guidelines. The Ministry of Justice had confirmed that it would commence in the first quarter of 2015/16. It would be undertaken independently of co-sponsors but MOJ officials undertaking the review would liaise at an early stage with the Panel and co-sponsors to ensure that they were involved appropriately.

The review would take approximately three months to complete and it was anticipated to report by October 2015. The first stage of the review would be to consider whether the function of the IAP was still required, and if so, to identify the most efficient and effective way of delivering it. This would be followed by a submission to Ministers with recommendations and the outcome would be communicated by Written Ministerial Statement.

Appointment of a new Chair to replace TH would follow the outcome of the review.

TH suggested that the Panel should discuss their input into the review at the next meeting in June and that it would be helpful to have a member of the review team attend to explain more about what would happen. TH had recently contributed to an Impact Analysis of the IAP, in which he had suggested that it would be more consistent for the IAP to be sponsored by MoJ and that there would need to be a discussion of the scope of the Panel in future, including consideration of the Mental Capacity Act and Deprivation of Liberty Safeguards.

Action 3: Secretariat to ensure there is time for discussion about the Triennial Review on the agenda for the Panel's next meeting and to invite the MOJ ALB Governance team, undertaking the Triennial Review, to attend the meeting for a discussion about what they will be doing.

PPO investigations in secure children's homes (SCHs): The DfE advised the Board that they had agreed to change the children's home regulations to enable PPO investigations of deaths in SCHs. This is due for implementation from April.

Immigration data review and HOMES training: TH fed back on an agenda item about a review of immigration data and publication of the HOMES training manual.

DC stated that the Panel had been concerned about the lack of transparency in data on the use of restraint for a long time and that this information should be in the public domain. The Panel needed to know how often restraint was used in order to take a

view on its safety. DC had also raised this issue at the MBDC in her capacity as co-director of INQUEST but she thought that the Panel also needed raise it. RS supported DC's concerns; he explained that much of what the Panel was trying to achieve relied on appropriate data collection and publication.

TH also explained that he had met Stephen Shaw for a preliminary discussion about the review he was undertaking of the welfare of immigration detainees. They had agreed to keep in touch as the review progressed.

CQC MHA Report 2013/14: TH directed Panel members to the detail in Paper 11.3.15-7.

Learning to prevent deaths in custody: The Board had agreed to further work on learning lessons across sectors. TH would host a working group made up of learning leads in services and regulatory bodies to look at a) how cross sector learning would be identified and disseminated and b) to take a view on best practice in organisational learning, and how this could be used for each of the services to ensure lessons were embedded to prevent future deaths. The purpose of the discussion would be to bring together people who held responsibility for learning lessons. It was noted that in most organisations the policies were of correct but there were inadequacies in implementation.

Equality & Human Rights Commission Inquiry: Preventing Deaths in Detention of Adults with Mental Health Conditions: PL noted that there was a recommendation in the report about the Panel ("*We recommend that the review of the role of the Independent Advisory Panel on Deaths in Custody (IAP) in 2015 should reflect the impact of their work to date and consider how they could ensure their initiatives are integrated into the working practice of detention settings. The Equality and Rights Commission (the Commission) will feed into this review*") which would probably be considered as part of the Triennial Review.

4a) IAP work update (Paper 11.3.15–3)

LM directed the Panel members to the update paper and highlighted the following work strands:

Restraint:

The Panel had requested data from CQC about use of Taser on mental health wards; this had shown that although they had been used a small number of times, the number of instances in which police were being called, and the use of force which followed, was of concern.

MA-Y and MM were attending the Taser Expert workshop the following week. It was suggested that it would be useful for them to feedback after the meeting.

Action 4: Secretariat to set up telephone meeting with MM and MA-Y to feed back from Taser Expert Group.

TH explained that although there was no proven case of a death resulting from the use of Taser, there was a clear public interest in this issue and the rise in its use meant that the Panel should be ready to undertake work in this area when required. There was evidence of use of Taser in detention, both in police custody and hospitals, which was not in-keeping with the original intention for its use in open spaces.

MA-Y stated he was happy to arrange for Panel members to observe the national Taser training workshop. Workshops were held over three days but a half-day's observation would be sufficient. Panel members should contact MA-Y if they were interested in attending.

Action 5: Panel members to contact MA-Y if they wished to attend/observe Taser training.

Information Flows:

TH explained the background to the workstream on Person Escort Record (PER) for the newer Panel members. LM suggested that it was time to meet with HMIP to discuss how to influence NOMS activity and to encourage them to move things forward. TH suggested obtaining a progress report first and to ask for sight of the new forms that NOMS had produced.

The Panel had met Jake Hard, Clinical Lead for the Health and Justice Information System (the project to re-procure SystemOne) in January 2015 as part of the Harris Review. They had been reassured that requirements for information sharing between clinical and other staff were included.

Article 2:

DC wanted it noted that INQUEST had noticed that inquests of natural cause deaths of detained patients were being rushed through, and there was no requirement to sit with a jury. This led to a risk that inquest into such deaths lacked quality and may not be fit for purpose.

Mental Health:

The mental health training roundtable was taking place on 23 March 2015. MM expressed her interest in attending and LM agreed to resend her the invitation. PL would also be attending. The event would be exploring ways in which organisations trained staff to work effectively with detainees who had mental health needs, as well as how staff mental wellbeing could be promoted to help build resilience. Mind would be attending to discuss their innovative Blue Light project, which supported emergency services staff with their own mental wellbeing.

Equalities:

TH explained that, having missed the deadline for reporting to the last Ministerial Board, the aim was now to agree specific activity in a statement for the next Board meeting in June. DC agreed that equalities was an important piece of work and the Panel's emphasis would be on concerns about circumstances surrounding BME deaths and the numbers of self-inflicted deaths of women detained under the MHA.

PL stated that the document needed to take note of the Young Review¹ and the recent PPO bulletin on deaths of Travellers². Panel members suggested several reports and strands of work for inclusion in the statement, such as the HMIC report³ published the previous day on BME deaths, self harm statistics, serious injuries sustained prior to deaths, deaths post-release, Muslim prisoners and the Young review.

TH summarised the discussion by stating that the paper would cite important work which had already taken place on the subject followed by a general statement of how

¹ http://www.youngreview.org.uk/sites/default/files/clinks_young-review_report_dec2014.pdf

² http://www.ppo.gov.uk/wp-content/uploads/2015/01/PPO_LLB_FII7_Final.pdf

³ <http://www.justiceinspectores.gov.uk/hmic/publication/the-welfare-of-vulnerable-people-in-police-custody/>

the Panel thinks agencies should respond to deaths in which equalities issues were a factor. The Panel would then engage with experts on what areas of work to take forward.

Action 6: Secretariat to include reference to additional reports in equalities statement and re-circulate to Panel members for drafting changes in advance of publication on the IAP website.

IAP strategy document:

It was agreed that this should be stalled pending the Triennial Review. It was likely that the TR process would crystallize what the Panel should be doing in the coming year.

TH asked everybody to note the forward look document (Paper 11.3.15-4) which documented all upcoming Ministerial Council meetings and activities and asked the Panel to let the Secretariat know if they would like to attend any meetings.

Action 7: Panel members to advise Secretariat of meetings they are attending for forward look.

4b) IAP workplan 2015/16 (Paper 11.3.15-5)

TH explained that the workplan for the coming year would be presented at the co-sponsor meeting on 17 March. The workplan was the Panel's opportunity to demonstrate its priorities and the areas in which they believe they can add value. He thought this would be a good opportunity to have a discussion about how the panel wanted to engage and work with the Secretariat, in order to be productive. The Panel agreed that monthly meetings between IAP and Secretariat to discuss specific workstreams and drive forward delivery on the agreed action plans would be the best way forward.

Action 8: Secretariat to arrange bilateral meetings with IAP members on a monthly basis to enable delivery of their workstreams.

LM talked through each workstream in detail, including activity which would be commissioned from a contractor. Panel members noted amendments and additions to the plan and provided assurance that they would lead the activity specified against their name. LM would update the plan with the new information.

MA-Y advised that the Clinical Forensic & Legal Medicine Section Conference on managing restraint, being held in conjunction with the Royal Society of Medicine, had now been put back to 7 November 2015. He would bring a draft plan of the conference to the next Panel meeting.

Action 9: MA-Y to present draft of Clinical Forensic & Legal Medicine Section Conference at next meeting.

5. Quarterly data, notable cases and update on relevant policy; reviews and reports (Papers 11.3.15-6a, 6b & 11.2.15-7)

AB had prepared a list of notable cases covered in the media since the last Panel meeting (paper 6b). The Panel noted the comprehensive nature of the document and thanked AB for her work in putting it together.

MA-Y noted the statistics showed an upward trend in the number of deaths in prisons but was aware that NOMS had acknowledged the rise.

LM updated the Panel about her discussion with CQC to ensure the Panel were clear about the caveats about their quarterly data being provisional. She was also working with them on the annual data they provided to the Panel for its statistical publication to reconcile those figures with the number of deaths reported in the CQC Mental Health Act annual report. There was a disparity, which led CQC to be concerned that they may have been reporting data on deaths of patients subject to community treatments orders.

6. Any other business

There was no other business noted.

7. Date, Time and Venue of Next Meetings:

- Tuesday 9 June 2015 10am-1.30pm
- Wednesday 9 September 2015 10am – 1.30pm
- Tuesday 8 December 2015 10am – 1.30pm