

*Independent Advisory Panel on Deaths in Custody*

**Minutes of the Independent Advisory Panel (IAP) meeting held on Tuesday 10 September 2013 in Room 1.26, Steel House, 11 Tothill Street, London SW1H 9LJ between 10.00am - 1:30 pm**

**Attendees:** Lord Harris of Haringey (Chair), Simon Armson, Deborah Coles, Dr Peter Dean, Professor Philip Leach, Professor Richard Shepherd, Professor Stephen Shute, Claire Johnson (Head of Secretariat) and Alice Balaquidan (minutes)

Apologies: Darrick Jolliffe, University of Greenwich

---

**1. Welcome and minutes of the last meeting**

The Chair welcomed Panel members and Claire Johnson (New Head of Secretariat) to the nineteenth meeting of the Independent Advisory Panel (IAP) on Deaths in Custody. The Panel agreed the minutes of the previous meeting were an accurate record. The Chair informed the Panel that the University of Greenwich would not be in attendance today but they had provided a progress update for today's meeting and this would be discussed under paragraph 5 below.

**2. Action log**

- (i) Mechanisms for capturing information on near deaths and near misses

Claire Johnson reported that this work had been put off previously due to the Secretariat not being fully staffed and the secretariat was in a similar position again. It was agreed that the secretariat would revisit previous correspondence with custody providers and, where providers had proposed actions, write seeking an update.

- (ii) Use of force data collation

A meeting was held on 13 June 2013 involving senior practitioners from the IPCC: the College of Policing; Her Majesty's Chief Inspectorate of Prisons; Her Majesty's Inspectorate of Constabulary; and the Association of Chief Police Officers (ACPO). It was agreed that the IAP, IPCC and HMIP could feed into the current revisions to the ACPO safer detention guidance. This work was being undertaken by an ACPO led working group, chaired by Assistant Chief Constable Dawn Copley of Greater Manchester Police. The IAP, IPCC and HMIP could work with them to define a threshold and set out key data indicators for officers to follow when noting any use of restraint they have applied. This would help allow better data access for central analysis.

A further meeting between Lord Harris, Dawn Copley (APCO custody lead) and Commander David Martin (ACPO restraint lead) had been arranged for 3 October 2013. The purpose of this meeting was to get further evidence and encourage ACPO to include data collation into the new Authorised Professional Practice. Lord Harris also proposed to raise data collation again at the Board for further discussion and to get the Board's agreement to progress this issue. The recommendation was presented to the Ministerial Board meeting in October 2010 but was rejected by the Home Office in June 2011 due to concerns about increasing bureaucracy.

Deborah Coles added that the importance of use of force data collation, and the work to date, could be included in the next IAP e-bulletin with an invite to other organisations to support the IAP in this work. **Action 1: The Secretariat to include the use of force data collation as one of the main topics to be covered in the next IAP e-bulletin.**

The IAP had been invited to attend the National Prevention Mechanism (NPM) Steering Group Meeting on 1 October 2013 in Edinburgh. Professor Richard Shepherd agreed to attend on behalf of the Chair and the Panel to provide a short presentation about the IAP and its work on Common Principles on the safer use of restraint. Deborah also expressed an interest in attending. **Action 2: The Secretariat to check with the NPM organiser the allocated time for Richard to do his presentation; and to check whether it was possible for another member of the Panel to attend.**

- (iii) Cleanbreak Theatre for IAP National stakeholder conference on 27 March 2014

Claire reported that Cleanbreak theatre would be commissioned as the single bidder to perform a short play at the IAP stakeholder conference on 27 March 2014. This was discussed in more detail in paragraph 9. **Action 3: Deborah to check and confirm that Cleanbreak would be available on 27 March 2014 to perform a short play at the next IAP national stakeholder conference.**

- (iv) Equalities project

Claire met with Deborah Coles and discussed the equalities paper and how this should be taken forward. This area of work was also included in the research project and she would be speaking to the University of Greenwich and the Runnymede Trust on how this would be taken forward. **Action 4: Deborah to meet and discuss the equalities project with the University of Greenwich research team.**

- (v) National Confidential Inquiry into Suicide and Homicide could be commissioned to provide data on ACCT

Claire informed that this item should be further discussed before a written request was sent to Louis Appleby. The Chair suggested that the Panel should be clear and precise on what was to be requested to avoid any further delays. This would be further discussed in paragraph 6.

- (vi) Meeting with the Chief Coroner

The Secretariat contacted the Chief Coroner's Office again on 8 September to ask for possible dates when the Chief Coroner could attend and meet the Panel. His office assured that dates were to follow very soon. If no dates were forthcoming, the Panel agreed to write a formal request to the Chief Coroner for a meeting to be arranged as

this was holding back some of the IAP's work and a number of recommendations relating to the Chief Coroner's remit. **Action 5: The Secretariat to speak to the Chief Coroner's office again. If no dates were provided, the Head of Secretariat to draft a letter for the Chair to send to the Chief Coroner to formally request a meeting with the Panel.**

(vii) Home Office Taser Data

Claire reported that there had been a delay in the Taser data publication but a Home Office contact informed the Secretariat that the data was due for publication today, 10 September 2013.

(viii) GOV.UK

Lord Harris and the Secretariat met with the MoJ Digital team on 16 July 2013. The Digital Team agreed to amend the IAP exemption request, which was re-submitted on 2 September. If the request was allowed the exemption request would then be sent to the Cabinet Office for approval.

### **3. Response to the independent commission on mental health and policing report**

Lord Victor Adebawale published his report of the independent commission on mental health and policing on 10 May 2013 ([http://www.wazoku.com/wp-content/uploads/downloads/2013/06/Independent\\_Commission\\_on\\_Mental\\_Health\\_and\\_Policing\\_Main\\_Report.pdf](http://www.wazoku.com/wp-content/uploads/downloads/2013/06/Independent_Commission_on_Mental_Health_and_Policing_Main_Report.pdf)). The independent commission was established at the request of the Metropolitan Police Commission in September 2012 to review the work of the Metropolitan Police Service (MPS) in relation to people who died or seriously injured during or following police contact or in police custody. The commission was also asked to develop recommendations to inform MPS conduct, response and action where mental health was, or was perceived to be a key issue. Whilst the report focussed on the MPS, the recommendations would have national implications for policing and mental health.

The Panel welcomed the report but were concerned on how the recommendations could be taken forward and how the progress would be monitored. The Panel agreed to provide a joint response to the report and proposed that there should be an action plan for the recommendations. Claire informed that the Metropolitan Police Service had yet to provide their response. **Action 6: Secretariat to check whether a formal response from the Metropolitan Police had been made or published. The Chair also offered to write to the Deputy Mayor for a response.**

Deborah suggested that the report should be included in the agenda for the next Ministerial Board meeting to discuss whether a national strategy could be established. This would be a good opportunity to engage and to raise the issue with Norman Lamb MP (Minister of State for Care and Support), who would be chairing the next Board meeting. The Chair added that this was a significant and an important report with its wider implications and the priority this subject would have on the Government's agenda. The IAP should highlight the issues at the next Board meeting and to ask the various organisations in the group what they intended to do in response. **Action 7: The Secretariat to include the Independent Commission on Mental Health and Policing Report in the agenda for discussion at the next Ministerial Board meeting.** The Chair also informed the panel that he intends to include this issue on the agenda for short questions and debate in the House of Lords.

Richard Shepherd also suggested writing to both the commissioning group and the mental health commissioning group in London to ask about their response and what they intend to do about the report. The key issue was about places for people with acute mental health problems. There should be a diversion for people to be taken out from police stations to ease the burden on police cells and resources. **Action 8: Secretariat to draft letters from the Chair to go to ACPO, Deputy Mayor and NHS England to find out what they intend to do with Lord Adebowale's report and recommendations on mental health and policing.**

IPCC investigations were being reviewed due to concerns regarding the quality of their investigations. Deborah informed that there had been developments on a number of cases involving individuals with mental health problems and where the families had been active the Government had agreed to meet with them.

In June 2013, Her Majesty's Inspectorate of Constabulary, Her Majesty's Inspectorate of Prisons, the Care Quality Commission and the Healthcare Inspectorate Wales published a report on their review on the use of police cells as a place of safety for people with mental health needs. The review examined the extent to which police custody was used as a place of safety under section 136; and identified the factors which either enable or inhibit the acceptance of those detained under section 136 into a preferred place of safety, such as a hospital or other medical facility. Deborah suggested that the panel might **consider setting up a new workstream and could be discussed at the strategic planning day (Secretary's note).**

#### **4. Rule 43 report issued by coroner following Jimmy Mubenga inquest**

Deborah reported that the Rule 43 report on Jimmy Mubenga inquest had been published on the INQUEST website and asked that the Panel should also receive a copy of the Coroners' report. She informed that the expectation would be for rule 43 reports to be made public except in cases with exceptional circumstances. The Coroner was frustrated that so little happened since Mr Mubenga's death in terms of addressing some of the underlying issues in relation to unlawful use of restraint, lack of first aid training, ethical and racism remarks.

Richard stated that a panel of detention and medical experts had been set up in March 2013 by the Home Office to look at the quality and safety of the training package for officers dealing with non-compliant or violent detainees while under escort. The Home Office had contracted the National Offender Management Service (NOMS) to prepare a new training package for detention custody officers (DCO) involved in detaining and escorting people back to their country of origin.

The Panel noted that no criticism was directed at any particular contractor and there responsibilities and also raised concern about the zero contracts given to DCOs. Those responsible for commissioning the contracts were not setting the bar high enough and, even if expectations were high, they were often not being met and training, views on ethical consideration and equalities training were being compromised and overlooked. The Panel also expressed that they should do more to put pressure on those concerned and how the recommendations should be taken forward.

The Chair stated that there was little the Panel could do at this point but once the responses were received the Panel could then ask about action plans. If the

responses were inadequate the Panel could go back to the Coroner and give the Panel's view that the response was not adequate. Philip also suggested publishing the Rule 43 report in the IAP website. **Action 9: The Secretariat to publish the Rule 43 report in the IAP website.**

The Chair stated that if the rule 43 report was included in the Ministerial Board agenda, the Panel could produce a short paper to state the IAP's involvement from the start and their expectations in response to the report. The IAP would like to monitor the action plan or to ask who should be monitoring the action plan. **Action 10: The Secretariat to include the Rule 43 report Jimmy Mubenga inquest to the agenda for the next Board meeting and the IAP to produce a short paper for the Board.**

## **5. Update on research contract**

University of Greenwich was due to come and present their update on the research project but they were not in position to do that today. However, they provided a brief paper for the update of the work and some of the information sharing work. The Research team would be meeting with Stephen Shute to discuss it in more detail. Claire Johnson asked the Panel whether it might be useful and worth re-looking at the initial project to see whether they were still content and happy on what the research team were focussing on.

Deborah suggested that the Panel could undertake additional work looking at thematic issues arising from rule 43 reports and pulling these together for publication and dissemination. The Panel was waiting to meet the Chief Coroner to find out what his office plans to do about rule 43 report publications. It was not however envisaged this would be a detailed piece of work so it may be something the University of Greenwich could do on behalf of the panel. They could look the rule 43 reports that have been produced since the IAP began to identify themes and areas for further examination.

She added that the area where there was least scrutiny was deaths of those with mental health problems. Work could potentially be done looking at deaths in detention, reviewing some of the investigations and looking at some of the inquests that had taken place. This could link with some of the work looking at the SUI and this was an area that the Panel could consider and discuss at their strategic meeting. ***(Secretary's Note: Potential workstream for the Panel - to look at deaths in detention, reviewing some of the investigations, looking at some of the inquests that had taken place)***

## **6. National Study of Self-Inflicted Death by Prisoners**

The National Study of Self-Inflicted Deaths by Prisoners 2008-2010 was a collaborative study between the National Confidential Inquiry (NCI) and the Offender Research Network at the University of Manchester, NOMS and Offender Health published this year and presents findings for all self-inflicted deaths in prisons in England and Wales in 2008-2010, key longitudinal trends for the full study period (1999-2010,) and features of self-inflicted deaths by those under the age of 21. This includes information on ACCT (Assessment Custody Care Teamwork).

The Panel wanted to explore other information that could be obtained from the National Confidential Inquiry on self-inflicted deaths and what data the University of Greenwich could use in order to take the ACCT research forward. The NCI publishes

all suicides and homicides of people who had been diagnosed with mental health illness which covers deaths in hospital settings as well as in prisons.

The Chair stated that the NCI document contained the data that the Panel had already identified but it lacked real details about individual cases and therefore they would not be in a position to draw out thematic issues. The Panel wanted to know whether it was possible on the basis of the raw data held by the NCI to draw out these issues.

The Panel noted that there was a considerable number of people dying while on ACCT and a quarter of self-inflicted deaths were people in an open ACCT. The questions were whether an ACCT should have been closed or whether a new ACCT should have been re-opened, why prisoners had been able to take their own lives while on an ACCT and how many people who were on ACCT at any given time.

Claire arranged for Stephen to meet Ron Elder (Head of Safer Custody) to discuss ACCT and the work NOMS was planning to undertake with the University of Manchester. **Action 11: Further discussion with Ron Elder to try and clarify about ACCT and whether there would be work that the University of Greenwich could do. This would then inform the conversation with Louis Appleby.**

## 7. Update on IAP projects

- (i) Use of physical restraint on common principles

The IAP's common principles on the safer use of restraint were endorsed by the Ministerial Board on Deaths in Custody at their meeting on 20 June 2013. The principles were published in the IAP website in July 2013 and communicated directly to all members of the practitioner and stakeholder group, the inspectorates and investigatory bodies, as well as third sector organisations and monitoring agencies. Richard Shepherd reported that there were a number of critical points raised but generally he was very pleased with the responses and that a review would be undertaken in 2014.

- (ii) SUI report recommendations

The Serious Untoward Incidents analysis report was presented to the Board in 20 June 2013 and the recommendations were accepted and endorsed by the Board. Dr Mike Durkin (Head of Patient Safety, NHS England) had agreed to meet the IAP Chair towards the end of September to get an update and discuss the next steps in relation to the recommendation to produce guidance for Trusts. A project manager had been appointed to take this work forward for NHS England and to liaise with the Care Quality Commission (CQC) and the Chief Coroner's Office.

Philip Leach would like to push this forward, he was concerned that this might delay the NHS England advice and guidance, and would welcome a meeting with NHS England. The Chair informed that the CQC board would be considering it this month and he was due to meet NHS England later this month and intended to give an update at the next Ministerial Board meeting. Philip was also keen to know how long NHS England expected to take to produce the guidance and noted he would like to be involved and consulted in the drafting process rather than consulted at the end. The Chair expressed that deaths that occurred might not necessarily be adequately investigated in an independent manner and that needed to be clarified. **Action 12: Secretariat to set up a meeting between Philip Leach and the NHS England Project Manager.**

(iii) Learning from near deaths

This action was from May 2012 'Secretariat to produce a document for the first panel meeting in 2013, detailing sector's mechanisms for capturing information on near deaths (and near misses) in custody, and how they report and learn from these cases. The intention of this project was to identify mechanisms used to capture learning from near deaths and to determine any differentiation in definition of near deaths amongst the custody providers, noting that NOMS used a high threshold for near deaths to be considered in terms of Article 2.

The Panel want to progress this work but one part of the difficulty was defining the threshold for near death, the extent to which there was learning which could be picked up from this and whether there would be a systematic way that this could happen. The Chair stated that the Panel wrote to sectors about 3 years ago. He thought that the Panel could write to them again and ask what had happened since their last correspondence. He suggested re-visiting the earlier correspondence with custody providers and, where providers had proposed actions, to write seeking an update. **Action 13: The Secretariat to write to various organisation/sectors to find out and learn more information about near deaths in their area.**

(iv) Rules 43 reports

This item was discussed and covered under paragraphs 4 and 5 above.

(v) Notable cases of deaths in custody

Philip stated that Dr Casale's recommendation in relation to a review of the IPCC's investigation in the Sean Rigg case highlighted some of the fundamental issues about the whole approach of the IPCC. He suggested that this was an area that the IAP should look at more carefully and could add to the agenda for discussion at the next IAP meeting. Deborah informed that an interim report on the IPCC Review was soon to be published and that there would be a consultation event on 7 October 2013 with a view to publishing the full report in early December. She agreed with Philip about the Casale report and about what should be done and suggested that it might also be a good idea to invite Dr Casale to the IAP meeting. The IPCC had accepted all the recommendations and this would directly inform their Article 2 review but the report might not be ready for 9 December meeting. The Chair suggested that inviting Anne Owers to join the panel for lunch at the March 2014 IAP meeting would be a beneficial discussion. **Action 14: The Secretariat to invite Anne Owers to March 2014 IAP meeting.**

(vi) Quarterly deaths in custody data

The Panel noted that under the mental health act deaths 5 deaths had no stated age. They also noted there was a worrying number between April to June of 14 self-inflicted deaths for which 4 were women and ten for men compared to 5 deaths in the previous three month period.

## 8. Direction of the IAP over the next 6-18 months

(i) Panel Members Recruitment

Recruitment was underway for up to five new Panel members. The first submission went to Ministers this week and it was envisaged the posts would be advertised on 14 October, closing date 11 November with interviews scheduled for 6 January 2014.

(ii) Update on the Recruitment of Deputy Head of Secretariat

The process was taken forward very quickly and the first trawl to find a replacement had gone out as an expression of interest to those staff who had been band misaligned in the NOMS group, but no replacement was found. The next stage went to wider civil servants who were on the redeployment list and this closes on 13 September. If no one was found then it would be advertised to all staff on level transfer or on promotion with a 2 week window. If the vacancy went to this stage of the process it was not expected the post would be filled until early December or after Christmas – taking into account the sift, interviews, notice to leave and security checks.

The Panel was concerned about the secretariat resourcing and asked whether help could be sought from within NOMS or from the other sponsoring departments. Claire informed the group that if admin support was needed there was an option to go to NOMS for assistance. The work involves more on preparing briefings and papers for meetings which would require more knowledge of the work of the IAP and the Board. It was suggested that the work on briefings could be taken on by the chairing minister's office or having one minister chairing but this would mean that there would be no engagement from the other two ministers and sponsoring departments. The Chair stated that having a rotating chair was a better option but he agreed to raise the matter at the next meeting of the co-sponsors on 26 September.

The Chair informed the Panel that the publication of the IAP mid-term report would be postponed to January 2014 which would tie in and feed into the IAP stakeholder conference due to be held on 27 March 2014.

(iii) Strategic planning day

The Panel agreed to extend their meeting on December until 3.30pm to include their strategic planning discussion to enable all existing members to participate fully. The summary of discussions would be presented to existing and additional members at the scheduled meeting on 7 May 2014. This would enable the new members to fully participate in that discussion and to refresh some of the areas of work and look at some other areas of activity. The Chair asked the Panel to provide suggestions as to areas of work the Panel could develop or whether there were areas they want to re-allocate or extend. **Action 15: Panel Members to provide a list of suggestion to the Secretariat before the meeting on 9 December 2013.**

## 9. IAP Stakeholder Consultation Event – Thursday 27 March 2014

The Chair advised that Jeremy Wright MP, the Parliamentary Under-Secretary of State and Minister for Prisons and Rehabilitation would be the key speaker at the third IAP Stakeholder Event to be held on 27 March 2014. He invited members to give their views about the structure, themes and agenda for the Event.

Cleanbreak Theatre Company would give a short performance on the day. It was suggested that performers would stay in character during the themed break-out sessions to talk about their experiences during their time in custody as a way to facilitate discussions.

The Chair informed that this event would be a chance to remind people attending about the IAP and its work, to discuss about some of the issues the Panel had been involved in and the final part would be to help inform the Panel about how to go forward and issues they ought to be pursuing.

Deborah suggested that Cleanbreak could concentrate on mental health, custody and prison and the play would be around women's experience of being in prison and psychiatric detention. The Chair suggested that the themes would be further discussed at the next IAP on 9 December. **Action 16: The Secretariat to set up meeting between Deborah Coles, Claire Johnson and Cleanbreak Theatre Company to discuss and agree the themes for the play. Action 17: The Secretariat to add the IAP stakeholder event discussion at the IAP meeting on 9 December 2013.**

#### **10. Preparation for the Ministerial Board on Deaths in Custody on 22 October 2013**

The next Ministerial Board meeting would be chaired by Norman Lamb. The items planned to be discussed were as follows: the joint thematic examining the use of police custody as a place of safety for detainees subject to Section 136 of the MHA and a wider discussion on mental health; an update on the following pieces of work would be provided by the Home Office, Department of Health and CQC: (1) assessment of the availability of places of safety across England; (2) an inspection of the quality of all places of safety by the CQC and (3) the concordat to improve the treatment of people with a mental health crisis; and NOMS/DH would update on AFI deaths.

#### **11. Date, time and venue of next meeting**

The Chair confirmed that the next IAP meeting would be held on **Monday 9 December 2013 between 10.00am and 3.30pm in Room 101, Millbank House, 1-2 Millbank, London SW1A 0PW.**