

INDEPENDENT ADVISORY PANEL ON DEATHS IN CUSTODY

END OF TERM REPORT
AUGUST 2016



Contents

Foreword	3
Introduction	4
Changes to the IAP	4
Setting the scene	4
Governance and funding	6
Triennial Review – changes to Cabinet Office policy	6
Stocktake in lieu of Triennial Review	6
Progress on IAP priorities	7
Stakeholder Engagement	8
Future priorities of the IAP	9
The Independent Advisory Panel	10

Advising the Ministerial Board, which brings together:



Foreword

This report covers the period since the last end of term report in April 2015 to August 2016. It has continued to be a period of flux; two new governments have led to changes in ministerial portfolios and priorities. The delay to the planned triennial review of the Panel and retirement of several panel members have also added to the transitional nature of this period.

Overall, deaths in custody continue to be a source of wide concern, although the main increases are caused by the continuing rise in prison deaths. Deaths in other custodial locations have remained constant, or are decreasing in the case of those detained under the Mental Health Act. Considerable focus continues to be given to try to reduce deaths in prison custody and Ministers have shown their commitment by providing NOMS with an extra £10m of funding for this aim. However, the findings of various organisations – such as charities, inspectorates and the Prisons and Probation Ombudsman – point to this being an issue with multiple causes and no simple solutions.

In the other custodial sectors, the Home Office Independent Review of Deaths and Serious Incidents in Police Custody undertaken by Dame Angiolini is due to be published soon, and the Panel looks forward to reviewing her findings. The Department of Health also recently outlined to the Ministerial Board on Deaths in Custody its new investigatory approach to deaths and learning lessons.

The IAP's annual statistical analysis reports are an important tool in monitoring the number and rate of deaths across the custodial estate. We have worked with the operational services to make improvements to the range and quality of data collected in this year's report, due to be published in late 2016. Despite the importance of these efforts, the Panel is conscious that each death in custody is not a mere statistic but the death of an individual, and that their deaths affect their families and loved ones.

Juliet Lyon CBE will be taking up post as the new Chair of the IAP on 1 September 2016. We look forward to working with her and the new Ministerial team on the vital task of reducing deaths in custody.

The Independent Advisory Panel on Deaths in Custody

August 2016

Introduction

Changes to the IAP

The inaugural IAP Chair, Lord Toby Harris, left the Panel at the end of his term of appointment in September 2015. Under his leadership, reducing deaths in custody remained on Ministerial agendas and Ministers have acknowledged the debt owed to him for increasing their understanding and awareness of the subject. During his tenure, the panel made 45 recommendations to the Ministerial Board, 37 of which have been implemented either fully, partially or are in progress.

The IAP lost three other experienced members in September 2015 – Deborah Coles, Dr Richard Shepherd and Professor Philip Leach - when they also came to the end of their terms of appointment. These members had been with the panel since its earliest days and the work undertaken during this time is due in large part to their efforts.

In November 2015 the previous Secretary of State for Justice appointed Kate Lampard CBE as temporary Chair of the IAP while recruitment for a new permanent Chair was underway. Kate's main focus during her term was to review the operation of the IAP – and the wider Ministerial Council – at the request of the Secretary of State which she delivered in April 2016. Kate's temporary tenure ended in May 2016.

Juliet Lyon CBE has recently been appointed as the new permanent Chair of the IAP and will take up her position from September 2016. Juliet was most recently Director of the Prison Reform Trust and has been a member of the Ministerial Board since its inception. She brings substantial experience of offender issues and deaths in custody to the post and her appointment signals the continuing priority Ministers place on reducing deaths in all forms of custody.

Setting the scene

Deaths in custody statistics

Since the Panel published its first statistical analysis of all recorded deaths in state custody in 2011 it has become more familiar with the datasets produced by the services¹ and with the important differences between the populations in each of the settings. Although each custodial setting has different population sizes, duration of detentions, classification and data collection methods, the collation and analysis of the statistics has improved over time.

In December 2015 the Panel published its fifth annual bulletin on statistics of deaths in all state custody covering the period 2000-2014.

The main findings from this report were:

- There were 8,129 deaths between 2000 and 2014. Of these, 73% were men and 27% were women.
- The majority of these deaths (59%) were patients detained under the Mental Health Act followed by those in prison settings (34%).
- In 2014, there were 479 recorded deaths in state custody, a decrease of 15% from 2013. The largest cause of recorded death was natural causes (67%) followed by self-inflicted deaths (23%).
- From 2000-2014 there were 1921 self-inflicted deaths across all settings. 82% were men and 18% were women.
- The number of self-inflicted deaths in all settings has decreased from 2007 levels, but has steadily increased again since 2010.

¹ National Offender Management Service (NOMS), Care Quality Commission (CQC), Healthcare Inspectorate Wales (HIW), Independent Police Complaints Commission (IPCC), Immigration Enforcement, Approved Premises (AP) and the Youth Justice Board (YJB).

- In 2014, there were 111 self-inflicted deaths, a decrease of 27% from 2000 (although the numbers have fluctuated in the years over this period). Of the 111 self-inflicted deaths in 2014, 84 were in prisons where, unlike other custodial settings, the number of self-inflicted deaths has continued to increase since 2011.

The panel has worked closely with the Care Quality Commission (CQC) over the last couple of years to reconcile annual data provided to the panel. This resulted in a data cleansing exercise by the CQC with data amended for the years 2010-2013. As a consequence of this, and the removal of the numbers and details of patients who died while subject to Community Treatment Orders and Guardianship Orders, the tables on deaths of detained patients in the latest report contain a smaller number of records than those previously reported.

The Panel and secretariat have also worked with the College of Policing (COP) and the Association of Chief Police Officers (ACPO) to identify what data is collected by forces around the country and how they can be encouraged and aided to collect a more extensive breakdown of datasets. This requirement has now been included in the national police guidance.

A copy of the full IAP statistical report can be found on the IAP's website.²

² <http://iapdeathsincustody.independent.gov.uk/wp-content/uploads/2015/12/IAP-Statistical-Analysis-of-recorded-deaths-in-state-custody-between-2000-and-2014.pdf>

Governance and funding

Triennial Review – changes to Cabinet Office policy

The IAP's work is funded jointly by the Home Office, Department of Health and the National Offender Management Service (NOMS) on behalf of the Ministry of Justice. This funding pays for secretariat support, honorariums received by Panel members, and research required for IAP work such as communication activities and the production of the annual statistical report.

In the last end of term report we reported that during 2015 the IAP would be the subject of a triennial review, the Cabinet Office process for reviewing the functions and activities of Non-Departmental Public Bodies (NDPBs) and Arm's Length Bodies (ALBs). However, during summer 2015 the Cabinet Office started a review of the triennial review process. At the same time, the Ministry of Justice decided to delay triennial reviews of its ALBs while wider reforms under the new Government took shape. Departmental co-sponsors and panel members considered that a review of the IAP would be beneficial and Ministers agreed that a light touch review, or "stocktake", of the Panel should be undertaken.

Stocktake in lieu of Triennial Review

On her appointment to the post, the Secretary of State for Justice asked Kate Lampard CBE in her position as temporary chair of the Panel to lead the stocktake. She was asked to examine the operation of the entire Ministerial Council structure and consider any changes which might make it function more effectively. In preparing for the stocktake Kate Lampard consulted a wide range of interested parties and stakeholders as well as past and present panel members, members of the Ministerial Board and Ministers for the sponsoring departments.

Kate Lampard completed the review and sent it to the Secretary of State for Justice in April 2016. The paper is currently being considered by the new Secretary of State and it is anticipated that a response will be given soon.

Progress on IAP priorities

The Panel's terms of reference set out the range and scope of any new workstreams and projects. The terms of reference are to:

1. Act as the primary source of independent advice to ministers and service leaders (both through the Ministerial Board and where appropriate directly) on measures to reduce the number and rate of deaths in custody
2. Consult and engage with relevant stakeholders in order to collect, analyse and disseminate relevant information about deaths in custody and the lessons that can be learned from them
3. Commission relevant research
4. Carry out thematic enquiries into areas of concern, in co-operation as appropriate with the relevant oversight and investigative bodies
5. Issue formal guidance (and where appropriate set common standards) on best practice for reducing deaths in custody, both on its own authority and where appropriate under the authority of the Ministerial Board
6. Monitor compliance with such guidance and standards
7. Where appropriate, make recommendations to ministers for changes in policy or operational practice, which would help to reduce the incidence of deaths in custody.

Working within this remit, the panel have undertaken planning on a number of thematic enquiries designed to identify key findings in certain populations of those in custody or detained under the Mental Health Act:

- **Self-inflicted deaths of those detained under the Mental Health Act:** a thematic review of Serious Incident reports of all deaths of detained patients in hospitals is planned to identify themes and trends from a regional and national level.
- **Self-inflicted deaths of IPP prisoners:** prisoners who received indeterminate sentences for public protection (IPP) prisoners have long been recognised as a group with an elevated risk of suicide – the reasons for this include the uncertainty around release dates. With approximately 4,000 people in custody serving an IPP sentence analysis of this group could help map and mitigate a significant area of risk.
- **Older prisoners:** it was considered beneficial to look further into the risk of suicide among prisoners as they get older. As the prison population ages, analysis of this group may provide useful insights to help reduce overall self-inflicted deaths.

The IAP have, in conjunction with a working group of practitioners and policy makers in the field, issued guidance on the identification and management of Acute Behavioural Disorder.

The panel are continuing to liaise with the services on operational practices, such as the Police Approved Professional Practice consultation; the Person Escort Record (PER) improvement project and Remote Vital Signs monitoring technology.

The Panel will also be considering monitoring former standards they have published, such as the Family Liaison Common Principles, the Restraint Common Principles and the Information Sharing Statement.

Stakeholder Engagement

Learning Lessons workshop

This workshop arose from IAP discussions on sharing information and learning that needs to take place in organisations. Lord Harris hosted a working group meeting in May 2015 with attendees who were responsible for leading on learning lessons in each of the services. The meeting was attended by a range of stakeholders including the Youth Justice Board, the Home Office, Her Majesty's Inspectorate of Constabulary and Her Majesty's Inspectorate of Prisons, Independent Police Complaints Commission, National Offender Management Service, NHS England and the Police.

The group explored examples of what had worked well, leadership and confidence, professional judgement, assurance structures and training. All attendees felt that there should be mechanisms for disseminating information, beyond the sharing of policy and information papers. Several organisations had local arrangements to manage this issue but all agreed that there was scope for further improvement.

After some discussion the panel agreed to facilitate further cross sector talks and work up a proposal for a literature review. The panel will be returning to this to explore possible future work as part of the Panel's overall work programme.

Acute Behavioural Disorder Conference

The IAP, in association with the Clinical Forensic and Legal Medicine Section of the Royal Society of Medicine held a conference on 7 November 2015. The aim of the day was to develop a definition of Acute Behavioural Disorder (ABD), also known as Excited Delirium, and its management with the following objectives:

- Discuss the pre-hospital and medical management of ABD
- Review the cause of death in ABD
- Discuss the legal issues of a death in custody
- Explore the impact of restraint on ABD
- Discuss the use of restraint techniques in particular TASER on restraint

It was a unique and useful meeting, bringing together for the first time ambulance personnel, police officers, custody officers, emergency medicine doctors, pathologists, psychiatrists, lawyers, IPCC, coroners and toxicologists to examine the themes.

A working group was set up following the meeting to develop guidance on the management of ABD. This was published in early 2016 and a copy can be found here:

<http://iapdeathsincustody.independent.gov.uk/wp-content/uploads/2016/08/Acute-Behavioural-Disturbance-RCEM-guidelines-for-management-of-ABD-250416.pdf>

Other engagements:

- Lord Harris met Stephen Shaw, Chair of the Review of Welfare and Safety in Immigration Remand Centres for a preliminary consultation on his review.
- Lord Harris met with all the departmental leads from the custodial sectors to discuss how they would be implementing the Information Sharing Statement in their policies and encouraging their operational staff to comply. The panel will continue to monitor this going forward.
- Kate Lampard met Dame Angiolini early in the consultation stage to discuss input into her review on deaths and serious harm in police custody (due to report in summer 2016).

Future priorities of the IAP

The stocktake of the Panel and subsequent change of Government has meant that the Panel have reserved significant new additions to the work programme while the future remit and priorities of the Panel are being clarified. The anticipated Ministerial response to Kate Lampard's stocktake and Juliet Lyon's impending tenure as new Chair of the Panel will provide the context for a review and reset of the work programme for the rest of the financial year. One expected outcome of these changes will be an effort from the Panel to align their priorities with those of the Ministerial Board which should enable closer collaboration on departmental priorities and strategies to reduce deaths in custody.

Despite this transitional period, work continues to progress on the annual statistical analysis report referring to all deaths in state custody during 2015. The report is anticipated to be published in late 2016, although it is envisaged that next year's report publication date will be brought further forward to late summer 2017.

Further to the Panel's continued focus on domestic death in custody statistics, it is also taking an interest in what international data exists on deaths in custody in other countries. While acknowledging that the contexts and comparability of the data will vary, the Panel hope to be able to collect international data to investigate the option of comparing with the IAP collated data in the future.

A continuing focus for the panel will be the key task of synthesising existing research. As the Panel's remit covers the operational services of three separate departments with varying populations and risk factors, this will be an important ongoing responsibility considering the synergies and shared learning points from the large amount of research available. This role can help ensure that relevant learning from one sector or department is shared to the benefit of all.

The Independent Advisory Panel

Former Panel Members

Lord Toby Harris, Chair of the Independent Advisory Panel from 2008 to 2015.

Lord Harris was made a Life Peer in June 1998 and is Chair of the Labour Peers. He is Chair of the All-Party Parliamentary Group on Policing, Treasurer of the Parliamentary Internet Communications and Technology Forum, and was a member of the Joint Select Committee on the National Security Strategy from 2010 – 2014. He has been a member of Haringey Council and was its Leader from 1987 to 1999 and Chair of the Association of London Government from its formation until 2000. He was the first Chair of the Metropolitan Police Authority, the Home Secretary's Representative between 2004 and 2012 and a member of the Executive of the Association of Police Authorities from 2000 to 2006.

Kate Lampard CBE, Interim Chair of the IAP from November 2015 to May 2016

Kate Lampard spent 13 years in practice as a barrister before moving into the public sector where she held a number of non-executive appointments. She has undertaken investigation and consultancy work and worked on a lessons learnt report for the Secretary of State for Health arising from the publication of the Jimmy Savile investigations. She has previously been chair of the South East Coast Strategic Health Authority, and a non-executive director and vice chair of the Financial Ombudsman Service Limited. She is now the Chair of the Responsible Gambling Trust and a trustee of the Esmee Fairbairn Foundation.

Deborah Coles

Deborah Coles is the Director of INQUEST, a charity providing expertise on contentious deaths and their investigation with a particular focus on custodial

deaths. She leads its policy, legal and strategic work and is called upon as an expert to numerous committees and inquiries including the IPCC Review on investigation of Article 2 deaths and Baroness Corston's review of women in the criminal justice system. She has expertise in specialist areas including coronial reform, policing, human rights compliant investigations, family engagement, traumatic bereavement, juvenile and youth justice, race and gender and criminal justice. Deborah was a member of the Independent Advisory Panel from 2009 to 2015, leading its work stream on cross sector learning, equalities and family liaison.

Dr Richard Shepherd

Dr Richard Shepherd is Consultant Forensic Pathologist at St George's Hospital in London and Royal Liverpool Hospital and a leading forensic pathologist in the field of deaths during restraint, with experience of deaths in all forms of custody, including natural, suicidal and homicidal causes. Richard was a member of the Independent Advisory Panel on Deaths in Custody from 2009 to 2015, leading the IAP work stream on the use of physical restraint.

Professor Philip Leach

Professor Philip Leach is Professor of Human Rights Law at Middlesex University, a solicitor, and Director of the European Human Rights Advocacy Centre. He is a former Legal Director of Liberty and has extensive experience of representing applicants before the European Court of Human Rights. He is on the Editorial Board of European Human Rights Law Review, a Trustee of the Media Legal Defence Initiative and a member of the Legal Advisory Board of the Human Dignity Trust. Philip was a member of the Independent Advisory Panel on Deaths in Custody from 2009 to 2015, leading on its work relating to Article 2-compliant investigations.

Current panel members

Juliet Lyon CBE, Chair of the Independent Advisory Panel from September 2016 onwards

Juliet was the Director of the Prison Reform Trust from 1999 to 2016. Previously, Juliet was associate director of Trust for the Study of Adolescence. On commission to the Prison Service, she produced the first specialist training for staff working with young people and with women in custody. She worked for fifteen years in mental health, managing Richmond Fellowship halfway houses, and in education, first as teacher in charge of a psychiatric unit school and then as head of community education in a comprehensive. Early in her career she was a registered foster parent. Juliet has acted as independent advisor to, amongst others, ChildLine, the Social Exclusion Unit, the Haliday review of the sentencing framework, the Corston review of vulnerable women in the criminal justice system and the Bradley review of mental health and learning disability. Up to 2010 Juliet was a Women's National Commissioner for England and Wales. She is currently secretary general of Penal Reform International and vice president of the British Association for Counselling and Psychotherapy.

Stephen Cragg QC

Stephen Cragg is a barrister specialising in public law, and human rights and sits as a part-time judge for the mental health review tribunal. Stephen has been a member of the Independent Advisory Panel on Deaths in Custody since 2014.

Matilda MacAttram

Matilda MacAttram is founder and director of Black Mental Health UK (BMH UK), a human rights campaign group established in 2006 to raise awareness and address the stigma associated with mental illness in the UK's African Caribbean communities. Matilda has been a member of the Independent Advisory Panel on Deaths in Custody since 2014.

Dr Dinesh Maganty

Dr Dinesh Maganty is Lead Consultant for intensive care for Birmingham and Solihull Mental Health NHS Foundation Trust Secure Care Services and a member of the National Clinical reference group for Health and Justice for NHS England. Dinesh has been a member of the Independent Advisory Panel on Deaths in Custody since 2014.

Dr Meng Aw-Yong

Dr Meng Aw-Yong is a practising Forensic Medical Examiner and Medical Director for the Met Police and is currently working in Emergency Medicine at Hillingdon Hospital. Meng has been a member of the Independent Advisory Panel on Deaths in Custody since 2014.

Professor Graham Towl

Professor Graham Towl is Pro Vice Chancellor, Student Experience, at Durham University. He is a Professor of forensic psychology and former Chief Psychologist at the Ministry of Justice. Graham has been a member of the Independent Advisory Panel on Deaths in Custody since 2014.

INDEPENDENT ADVISORY PANEL ON DEATHS IN CUSTODY

Clive House, 4th Floor, Post Point 4.16
70 Petty France, London SW1H 9EX

Email: iapdeathsincustody@noms.gsi.gov.uk

Website: www.independent.gov.uk/iapdeathsincustody