



Ministry
of Justice



Home Office



Department
of Health

**Minutes of the twenty-third meeting of the Ministerial Board on Deaths in
Custody
8 November 2016
Marsham Street, London (Home Office)**

Attendees:

Brandon Lewis	- Minister for Policing and the Fire Service (Chair), Home Office
Sam Gyimah	- Minister for Prisons and Probation, Ministry of Justice
Nicola Blackwood	- Minister for Public Health and Innovation, Department of Health
Anne McDonald	- Deputy Director, Offender Health & Mental Health Legislation, Department of Health
Chris Barnett-Page	- Head of Safer Custody, National Offender Management Service
Clare Checksfield	- Director, Immigration Enforcement, Home Office
John de Sousa	- Police Integrity and Powers Unit, Home Office (for Miv Elimelech)
Michael Spurr	- Chief Executive, National Offender Management Service
Nigel Newcomen	- Prisons and Probation Ombudsman
Deborah Coles	- Director, INQUEST
Kim Forrester	- Care Quality Commission (CQC)
Peter Dawson	- Director, Prison Reform Trust
Juliet Lyon	- Chair, Independent Advisory Panel on Deaths in Custody
Dame Anne Owers	- Chair of Independent Police Complaints Commission (IPCC)
Nick Ephgrave	- Chief Constable – Surrey, National Policing Lead - Custody
Lauren Moseley	- NHS England Patient Safety (for Mike Durkin)
Kate Davies	- NHS England
Peter Clarke	- HM Chief Inspector of Prisons
Lord McNally	- Chair, Youth Justice Board
Mark Cooper	- HM Inspectorate of Constabulary (for Dru Sharpling)
Andrew Tweddle	- Senior Coroner, County Durham and Darlington
Fiona Malcolm	- Deputy Chief Executive, Samaritans
Katie Kempen	- Chief Executive, Independent Custody Visiting Association
Frances Crook	- Chief Executive, Howard League for Penal Reform
Lord Toby Harris	- Chair, Harris Review (for item x)
James Martin	- Head of Civil Legal Aid, Ministry of Justice (for item 2)
Judith Bernstein	- Legal Aid, Ministry of Justice, (for item 2)
Malcolm Bryant	- Legal Aid, Ministry of Justice, (for item 2)
Andrew Fraser	- Head of Secretariat to Ministerial Council
Kishwar Hyde	- Deputy Head of Secretariat to Ministerial Council (minutes)
Angie Hinksman	- Secretariat Support

Apologies

Victoria Bleazard	- Head of Mental Health Policy, CQC
Mark Lucraft QC	- Chief Coroner
Gordon Davison	- Head of Safer Custody and Public Protection Group, National Offender Management Service

Item 1: Welcome and apologies

1.1 The Chair welcomed everyone to the meeting of the Ministerial Board on Deaths in Custody. He explained that the agenda would be re-arranged slightly to allow all parties to be present for the item on the Harris Review. The apologies were noted by the Chair.

Item 2: Minutes of previous meeting and action points

2.1 The minutes of the twenty-second meeting on 28 June 2016 had been approved by co-sponsors and were circulated prior to the meeting. The Chair invited members to raise any issues of accuracy. No issues were raised. He also reminded Board members that the minutes will be published.

2.2 The Chair noted that all action points from the previous meeting were either complete or on the agenda as substantive items. Actions that were noted were as follows:

Action 1: MOJ Legal Aid team to attend the meeting in November to provide a detailed update on funding for families at inquests.

James Martin, the head of the MOJ Civil Legal Aid team, explained that following a recent debate on the issue of funding for families in the Birmingham pub bombing inquest, MOJ Ministers were still considering their position. He reported that Ministers took the issue seriously and were trying to find a sensible way forward.

Members of the Board expressed concern with the length of time taken to resolve this issue; Deborah Coles (INQUEST) explained that it was now several years since they first raised this issue and they regularly worked with families who were struggling with the costs of inquests. Funding for families for legal representation at inquests had been recommended by both the previous Chief Coroner and the Harris Review. James Martin advised that he could not give a timescale for a definitive answer. The Chair suggested that the team put together a note for circulation to the Ministerial Board before Christmas.

Action 1: MOJ Civil Legal Aid team to provide an update for circulation to the Board, before Christmas recess.

Item 4: Short report on in-year statistics, issues and capturing learning from each department (MBDC 182 – 185)

Policing update (MBDC 182)

4.1 John de Sousa reported that the latest deaths in custody statistics were released in the 2015/16 IPCC annual report. There were 14 deaths in or following police custody during this period, the second lowest recorded number over the past 12 years.

4.2 The evidence gathering phase of Dame Elish's review is complete, and the report is currently being drafted. Dame Elish met the Home Secretary on 3 November 2016 to set out her findings and the likely date of completion. John de Sousa reported that she hopes to submit her report to the Home Secretary by the end of the year.

4.3 Board members were pleased to note that the trends in police deaths are moving in the right direction but remained concerned that the same issues were underlying the deaths. Dame Anne said that the IPCC were concerned that suicides after release from police custody had increased, partly because of better recording but also because of increased vulnerability. She explained that the IPCC plan to conduct research next year into what happens before arrests which may provide greater information on the issue.

4.4 Kate Davies explained that liaison and diversion services were in place and providing a good service. They were in the process of identifying how to intervene at an earlier stage and working with the College of Policing to look at prevention models.

4.5 Juliet Lyon welcomed the drop in deaths and asked if there was research into why the numbers had fallen. Dame Anne explained that the IPCC had produced a bulletin on learning lessons from deaths in custody. Members raised the issue of restraint related deaths and Chief Constable Nick Ephgrave said that the Police were committed to working with colleagues to reduce such deaths.

Immigration Enforcement update (MBDC 183)

4.6 Clare Checksfield reported that there have been no deaths in immigration detention since the last Board meeting in June 2016. There was one death in 2016 (on 17 February where the cause of death is still to be established).

4.7 Of the 70 PPO recommendations made in fatal incident investigation reports dating back to 2010, 24 have been assessed as completed, 41 as completed and ongoing and 5 as ongoing.

4.8 Immigration Enforcement were focussed on prevention and were dealing with the recommendations resulting from the Stephen Shaw Review into *the welfare in immigration detention of vulnerable persons*.

4.9 Lord McNally stated there was still a need for the numbers of U-18s to be disaggregated from the rest.

Action 2: All services to ensure that they provide figures for deaths of U-18s in their next update for the Board.

Prisons - NOMS update (MBDC 184)

4.10 Michael Spurr highlighted the key statistics in the NOMS update. In the 12 months to September 2016 there were **324** deaths in prison custody, a *rate of 3.8 deaths per 1,000 prisoners, compared with 3.1 per 1,000 the previous year* and there were **107** apparent self-inflicted deaths, up **13%** from 95 in the

previous 12 month period. Michael Spurr acknowledged the worrying nature of these numbers. Self-harm figures for male prisoners have been rising for a number of years, and the decrease amongst women prisoners that had been seen earlier in the decade appeared to have come to an end, with the number of incidents, whilst still much lower than before, now rising again.

4.11 Michael Spurr reported that a specific suicide and self-harm reduction project is underway in NOMS, consisting of 15 work streams. It is focused on improving the identification of those at risk and the care provided to them through the ACCT system, as well as on ensuring that NOMS continues to build the research base and share learning from PPO reports and inquests.

4.12 He explained that the White Paper on Prison Safety and Reform, published by the Justice Secretary last week, announced investment to recruit an additional 2,500 prison officers by 2018. NOMS is gearing up for the challenge of recruiting these staff in addition to those required to replace leavers.

4.13 Board members noted that many of the same issues were being raised in investigation reports and at inquests. Michael Spurr acknowledged the problem and noted that, as Lord Harris had stated in his report, prison policies are generally sound. The difficulty is in ensuring that they are fully implemented, and in particular in supporting staff in making the correct judgements in individual cases. He mentioned the White Paper proposals for greater accountability for prison governors and noted the benefits of the increased level of external scrutiny that will come with it.

Health update (MBDC 185)

4.14 Anne McDonald explained that her CQC colleagues were unable to attend the Board as they were presenting the findings from the Section 48 review of how NHS trusts investigate and learn from deaths to their Executive Board. The outcome and recommendations from this report would form the foundation of future NHS work plan on patient safety in mental health and learning disability services. Anne McDonald noted that the report is due to be published in December 2016 and said that the CQC have suggested it as a substantive item at the next Ministerial Board.

Action 3: CQC to present their review of how NHS Trusts investigate and learn from deaths at the next Ministerial Board.

4.15 Anne McDonald reported that changes to the notifications process have been made to reinforce that all deaths of patients subject to the Mental Health Act 1983, irrespective of whether or not the healthcare provider believes them to be from natural causes, must be reported to the Coroner immediately.

4.16 Anne McDonald said that a system was put in place in early summer 2016 to ensure that both the Minister with responsibility for mental health and the Secretary of State for Health will receive an immediate report from NHS England of any death of a person under 18 under the care of specialised child and adolescent mental health services when they occur.

Action 4: Deaths of psychiatric patients under 18 to be an item on the agenda for the next Board.

Item 3: The Harris Review and Government response

3.1 Lord Harris took the Board through the main findings and recommendations from the Harris Review. The report recommended that the objective of penal policy must be rehabilitation. Prison should be a last resort and more support is needed for young people when they came into contact with the criminal justice system. He suggested that the services should assume that all young people in custody are vulnerable. The core recommendation of the Review was the introduction of a named officer for every vulnerable individual to look after their education, safety, rehabilitation and other needs. The officer should have a small enough caseload to spend sufficient time with each individual under their care and must have the authority to take forward actions.

3.2 Lord Harris explained that he had been disappointed with the initial Government response to the Review, but that the White Paper seemed to have adopted a more positive response to many of the recommendations. He was pleased to note that rehabilitation was a central theme and looked forward to hearing more about the details of the White Paper proposals.

3.3 Michael Spurr thanked Lord Harris and said that NOMS had found the findings of the Review very helpful. He noted that most of the recommendations could be applied to the wider prison population, and that NOMS had sought to apply the insights from them in this way. The additional funding that has now been made available by the Government will allow NOMS to implement case management and individual support for prisoners in a way that is similar to that envisaged in the recommendations.

3.4 Lord McNally said that the Youth Justice Board had given evidence to the Harris Review (even though under-18s were outside the terms of reference of the Review) mainly because of the issue of maturity. He noted the importance of sharing information about young people, particularly those in transition between services. The Youth Justice Board had spoken to the Taylor Review about the lack of meaningful activity for young people.

3.5 Sam Gyimah MP said that, by reconfiguring the prison estate and making clear the purpose of prison, the Secretary of State was showing serious commitment to doing what was necessary to resolve these issues at a systemic level.

3.6 Deborah Coles was concerned that a number of the recommendations on transparency and accountability after a death has occurred were rejected. Sam Gyimah MP said that he would review the recommendations in question and the Government response to them.

Action 5: The Prisons and Probation Minister to review the relevant recommendations and Government response.

3.7 Frances Crook said that the Howard League were pleased to note that the Review had looked at the whole offender journey. She expressed concern that the judiciary is a critical actor in the process, but are not involved in discussions such as those of the Ministerial Board and do not receive feedback when a death

occurs. The Chair said that the judiciary is represented on the Criminal Justice Board and gave a commitment to raise the issue of deaths in prison custody at the Criminal Justice Board and to seek an update on relevant actions for the March meeting of the Ministerial Board.

Action 6: Minister for Policing and the Fire Service to request an update from the Criminal Justice Board for the Ministerial Board in March.

3.7 Fiona Malcolm said the Samaritans were concerned about the sense of isolation experienced by many young people in custody, and expressed her hope that this would be at least partly resolved by the increased numbers of prison officers promised in the White Paper.

3.8 The Chief Inspector of Prisons welcomed the White Paper recommendations on local leadership as he explained there was a gap between NOMS policy and its implementation by governors in prisons. He is concerned about the number of occasions on which recommendations are accepted but not acted on.

3.8 The Chair asked for an update on delivery of the proposals in the White Paper for the meeting in March.

Action 7: MoJ / NOMS to provide an update on delivery of the proposals in the White Paper for the March Ministerial Board.

Item 5: National Suicide Prevention Strategy (MBDC 186)

5.1 Andrew Herd (Department of Health) introduced the agenda item by noting that the Prime Minister's first speech referenced the importance of mental health. He said that the Secretary of State for Health had similarly prioritised mental health and suicide prevention.

5.2 Andrew Herd explained that the national suicide rate decreased slightly in 2015 for the first time since 2012 but it is too early to draw any conclusions from this. He also noted that over the past two years there had been a levelling off in numbers of suicides by men in the general population but an increase in those by women. There was a significant rise in self-inflicted deaths in the prison estate. The adult mental health survey revealed rising self-harm in the general population, offenders similarly exhibited these increased risks. The rate of suicide in prison is twelve times higher than in the general population. In mental health services suicides in hospital had reduced but rates in people supported by community mental health services had increased.

5.3 The National Suicide Prevention Strategy was published in 2012. While the content is still generally sound, Ministers asked for it to be strengthened in key areas in response to the rising suicide rate and to help drive local delivery. The Department of Health were expecting to publish the strengthened strategy shortly. Guidance was sent out in October 2016 to local authorities about formulating and implementing their suicide prevention strategies.

5.4 Kate Davies and Deborah Coles welcomed the strategy and asked how it could be implemented within the community and how lessons could be learnt. This would be part of further planning once the strategy is published.

Item 6: Update on IAP (MBDC 187)

6.1 Juliet Lyon CBE noted that as she was appointed Chair of the IAP on 1 September 2016 this was her first Ministerial Board in the role. She explained that she had spent the last two months discussing the priorities for the IAP with key stakeholders and panel members, and had suggested an immediate piece of work on the increase in prison deaths to Sam Gyimah MP. She noted that she was also due to meet Dr Philip Lee MP on 23 November 2016 to discuss the rise in the number of deaths of women in prisons and how the IAP could help with the work to address this.

6.2 Juliet was pleased that the IAP worked across the three departments, and said that it was important to look at the cultural differences across the three. She noted that NOMS does not adopt targets in the same way as the Police and NHS do, and that this may be something that is worthy of further consideration. She said that the IAP will also monitor the various reviews taking place within the different sectors and their outcomes. She concluded by saying that she was keen to work strategically with the sectors, and asked for the Board's assistance in recruiting high quality panel members to assist her. The recruitment process will start shortly, with the aim of making appointments by April 2017.

Item 7: Updates from Members

PPO Bulletin (MBDC 188)

7.1 Nigel Newcomen, the Prisons and Probation Ombudsman, briefly described his recent Learning Lessons Bulletins on dementia-related deaths and homicides and mentioned that his Annual Report had also been issued since the last Ministerial Board. Care for prisoners with dementia has become an increasingly pressing issue as a result of the growing number of older prisoners and he expressed his view that NOMS should put in place a specific strategy for this group.

7.2 His second report on homicides, commissioned by the previous Minister, concludes that there was no specific pattern to the deaths but that there was still some learning to be done on reducing the unacceptable level of violence in prisons. There was general acceptance among Board members that the Bulletins included valuable learning, but that the challenge remains to translate this into the practice of staff in a difficult operational context.

Item 8: Any Other Business and date of next Ministerial Board on Deaths in Custody

8.1 There was no other business. **The next meeting will be held on 16 March 2017 at the Department of Health.**