



**Minutes of the twenty-sixth meeting of the Ministerial Board on Deaths
in Custody
27 June 2018
DHSC, Victoria Street, London**

Attendees:

Jackie Doyle-Price MP - Minister for Care and Mental Health, DHSC (Chair)

Rt Hon Nick Hurd MP - Minister for Policing and the Fire Service, Home Office

Rory Stewart OBE MP - Minister of State for Prisons and Probation, MoJ

Nick Poyntz	- Deputy Director, Prison Safety and Security, Ministry of Justice
Frances Hardy	- Head of Risk and Assurance, Immigration Enforcement
Heidi Pearson	- Deputy Head of Police Powers Unit, Home Office
Elizabeth Moody	- Prisons and Probation Ombudsman
Deborah Coles	- Director, INQUEST
Juliet Lyon	- Chair, Independent Advisory Panel on Deaths in Custody
Michael Lockwood	- Director General, Independent Office for Police Conduct
Nev Kemp	- ACC, NPCC Custody Portfolio
Dame Anne Owers	- National Chair of Independent Monitoring Boards
Kate Davies	- Director of Health & Justice, Armed Forces and Sexual Assault Services Commissioning, NHS England
Jonathan Tickner	- Safety Lead, HM Inspectorate of Prisons
Katie Kempen	- Chief Operating Officer, Independent Custody Visiting Association
Richard Jolley	- Deputy Portfolio Director, HM Inspectorate of Constabulary and Fire and Rescue Services
Frances Crook	- Chief Executive, Howard League for Penal Reform
Charlie Taylor	- Chair, Youth Justice Board
Fiona Malcolm	- Deputy Chief Executive, Samaritans
Michael Spurr	- Chief Executive, HMPPS
Andy Herd	- Mental Health Policy, Department of Health
Richard Mason	- Deputy Director, Civil Law and Justice, Ministry of Justice
Fiona Rutherford	- Deputy Director for Legal Aid Policy
Andrew Fraser	- Head of Secretariat to Ministerial Council,
Kishwar Hyde	- Deputy Head of Secretariat to Ministerial Council (minutes),
Adrian Blake	- Policy Officer, Ministerial Council

Apologies

Peter Clarke - HM Chief Inspector of Prisons

HHJ Mark Lucraft QC - Chief Coroner

Peter Dawson - Director, Prison Reform Trust

Dru Sharpling Services - HM Inspectorate of Constabulary and Fire and Rescue Services

Item 1: Welcome, apologies and minutes

Welcome

1.1 The Chair welcomed members the Ministerial Board. She informed members that Kathy Biggar, founder of the Samaritan Listeners scheme in prison, had been very ill and died recently. The Chair paid tribute to Kathy, and said that the Secretariat would send out details of the funeral for those who wanted to pay their respects.

1.2 Apologies were received from:

- Peter Clarke, HM Chief Inspector of Prisons
- Peter Dawson, Chair, Prison Reform Trust
- Dru Sharpling, Inspector, HMICFRS
- HHJ Mark Lucraft QC, Chief Coroner

Minutes

1.3 The minutes of the twenty-fifth meeting on 28 February 2018 were approved by the departmental co-sponsors and circulated prior to this meeting. The Chair noted that the minutes have been agreed, but invited members to raise any issues of accuracy with the Secretariat.

1.4 The Chair was pleased to be able to announce that, from 1 July 2018, the new members of the IAP would be:

- **Deborah Coles**, Director of Inquest and member of the Ministerial Board,
- **Seena Fazel**, Professor of Forensic Psychiatry at the University of Oxford,
- **Jennifer Shaw**, Professor of Forensic Psychiatry at the University of Manchester,
- **Jenny Talbot**, Director of the Care not Custody programme at the Prison Reform Trust and
- **John Wadham**, Chair of the National Preventative Mechanism and a former Deputy Chair of the IPCC.

Actions:

1.5 The Chair noted that all actions apart from one were complete or on the agenda for substantive discussion. The remaining action was:

Update to be provided to the Board on counselling for bereaved families:
Minister Stewart noted that he has received initial advice from officials on this issue and expressed the hope that the departments can progress work in this area. Deborah Coles asked that bereaved families have the opportunity to describe their experiences as this work develops, and the Minister asked officials to take this forward with the assistance of INQUEST.

Action 1: Nick Poyntz to develop further advice on counselling for bereaved families, incorporating input from bereaved families

Item 2: Ministerial Board work programme on Dame Angiolini's report

2.1 The Chair explained that there were too many workstreams for the Board to discuss in detail during the meeting. The work programme – circulated prior to the meeting - outlined the status of each workstream and this meeting would specifically discuss those that would most benefit from discussion and input. She suggested that questions or comments regarding workstreams not discussed today should be relayed to the lead member or official for that area of work.

2.2 The Chair emphasised that the workstreams not under discussion at this meeting - alternatives to restraint, supporting families and assessing healthcare in police custody - are important pieces of work and looked forward to hearing the positive progress made on them at the October meeting.

Department of Health and Social Care update

Review of the Mental Health Act

2.3 The Chair explained that the Board was previously updated on the consultation on the independent review of the Mental Health Act being led by Sir Simon Wessley. The review had been asked to address concerns about rising rates of detention, racial disparities in detention, and concerns that the Act was out of step with a modern mental health system.

2.4 The review published its interim report on the 1 May 2018, highlighting priorities for further investigation, including:

- strengthening the rights of people detained under the Act to improve dignity and respect and the wellbeing of carers and service users;
- reducing harm and making least restrictive practices the default;
- providing greater access to services for those that need them and ensuring service users and carers are supported to be as fully involved in treatment as possible;
- Reducing disparities between groups with protected characteristics; and
- Ensuring professionals are better able to deliver their expertise.

2.5 The review aims to publish its final report later in the year. The Chair encouraged Board Members to liaise with the Review if they have evidence they want to submit.

Deprivation of Liberty Safeguards (DoLS)

2.6 The Chair raised DoLS, noting that the Independent Review of the Mental Health Act interim report revealed that the overlap of the Mental Health Act, the Mental Capacity Act and Deprivation of Liberty Safeguards may cause confusion on which framework is the most appropriate to apply. The Chair

explained that the Government will seek to bring forward legislation to reform DoLS when parliamentary time allows.

Mental Health Units (Use of Force) Private Members' Bill

2.7 The Minister reported that good progress had been made on the Bill which had completed Committee Stage, with Report Stage and Third Reading to follow on 6 July, after which it would progress to the House of Lords. The Chair thanked all those who had contributed to, and supported, the work and expressed her satisfaction at the wide-ranging supporting this bill has enjoyed.

Review of the Safety and Security Directions in High Security Hospitals

2.8 The Department of Health and Social Care is running a public consultation on the Directions for the safety and security arrangements for the three high security hospitals in England. Board members were encouraged to contribute to the consultation which closes on 23 August. The Chair explained that a formal response to the consultation will be published later this year and we hope the revised Directions and associated guidance will come into force from summer 2019.

Diversion from, and alternatives to, custody for offenders

2.9 DHSC continued to support the rollout of NHS England's Liaison and Diversion services across England and expect the full rollout of the scheme will be complete by 2020/21. DHSC is also working with the Ministry of Justice, NHS England and Public Health England to develop a new Community Sentence Treatment Requirement Protocol. This is designed to ensure that access to mental health and substance misuse services improves for vulnerable offenders. The Protocol is being tested in five areas across England – Milton Keynes, Northampton, Plymouth, Birmingham and Sefton and DHSC hope to report back shortly on the outcome.

Children and Young People's Mental Health Green Paper

2.10 The Government published the Green Paper in December last year. The main proposals included creating a new workforce of Mental Health Support Teams to support children and young people with mild to moderate mental health conditions, trialling a four-week waiting time standard for access to children's mental health services in the NHS, and having a lead in schools for mental health. Responses to the consultation called for faster roll-out and wanted government to do more on supporting children's mental health in the wider public, not just focussing on education settings.

2.11 The response to the consultation will be published shortly and will set out how DHSC are planning to implement the Green Paper proposals.

2.12 Members reminded the Board that issues concerning deaths in mental health settings were raised at the last meeting. There was also a discussion on the clarity of the figures provided on mental health deaths. In particular the age of children is not disaggregated in the DHSC departmental update. DHSC undertook to review the way the figures are presented and agreed to include the information in future updates.

Action 2: DHSC to review their figures, and include disaggregated figures on age in the next update to the Ministerial Board.

2.13 Other Board members raised concerns about the possible unauthorised detention of vulnerable people in police custody suites and prisons as places of safety because there was nowhere to release them to. Michael Spurr explained that, if Governors were taking this action, they would be going beyond their legal powers and are discouraged from the practice.

Legal aid

2.14 Fiona Rutherford (MoJ) explained that the Lord Chancellor's Exceptional Funding Guidance for Inquests had been amended (on 13 June¹) to reflect:

- a clear starting presumption that legal aid should be awarded for representation of the bereaved at an inquest following the non-natural death or suicide of a person detained by police or in prison; and
- that in exercising the discretion to disregard the means test, consideration should be given to the distress and anxiety caused to families of the bereaved in having to fill out complex forms to establish financial means following the death of a loved one.

2.15 Deborah Coles welcomed the change in guidance and advised that Inquest will be monitoring the impact of the new proposals on families over next few months.

2.16 The second part of the Legal Aid paper concerned the evidence-gathering process of the wider review of legal aid for inquests. The call for evidence is due to be published in mid-July. Fiona Rutherford explained that – by the October Board – the call for evidence will have closed and the consultation timeline will be in train. Deborah Coles asked if the timescales for the wider review are fixed given the consultation period runs across the summer. Fiona Rutherford explained that this is to ensure that the work is completed as quickly as possible.

Making inquests more sympathetic

2.17 The Inquests Team were asked to provide a further update at this Board with a focus on the timescales for the options identified. Richard Mason (MOJ) explained that the Board paper collates the work currently both planned and underway in this sphere, notes the dependencies this work has with other stakeholders such as the Chief Coroner and gives timings for the intended work. The work includes:

- *Considering how to control the number of lawyers involved in inquests* - the team will come back to the board in October with ideas on how the services can restrict the number of lawyers involved.
- *Training for coroners* – coroners undertake mandatory training every year. Richard Mason explained that the two-day session next

¹ <https://www.gov.uk/government/publications/legal-aid-exceptional-case-funding-form-and-guidance>

year will focus on behaviour during inquests. Richard Mason also noted that the team were also considering reconvening the MoJ-led practitioner group which would ensure that there could be rolling conversations with key stakeholders on inquest-related issues. The team will also be continuing their work with regulators to improve actions during inquests, and will report back on progress in October.

- *Guide for coroner services* - the team have concluded that there is a need to refresh the guide to make the process clearer for families. They are planning to share the draft document with stakeholders in early October for publication by Christmas.
- *Extending support services for families at all coroners' courts* – these services do not currently cover the entire country. The intention is to launch a tender in the Autumn for the grant to extend support services for more consistency across England and Wales.

2.18 Minister Hurd asked what will have changed by October when he and the other co-chairs have to report to the Prime Minister on the progress made since the publication of the Angiolini Review. Richard Mason said that the revised 'Guide to Coroner Services' will have been circulated in preparation for publication by Christmas, and a paper discussing what is possible on delawyerling inquests will be complete. The team will also include details on training for Coroners, outlining the dates and deliverables involved.

2.19 Board members discussed the issue of ensuring inquests are as sensitive to the needs of the families as far as possible. Michael Spurr noted that Coroners are key to this, given they are the ones in control of the court. Minister Hurd asked Richard Mason for some early advice on what Ministers could ask departments to set out in their instructions to lawyers.

Action 3: Richard Mason to produce a paper for the October Board outlining the next phase of this work including dates and deliverables for outputs scheduled for after October.

IAP's recommendations model

2.20 Juliet Lyon, Chair of the IAP, referred to the paper circulated to the Board which set out all the work that had been done in this area. The IAP have been leading work on considering how best to help the custodial services focus on, and embed, the most important recommendations made to them. Juliet Lyon explained that embedding the learning will be the real challenge. Developing the model will be one of the main, initial tasks for the new panel when they meet in July. Deborah Coles noted the need to develop better organisational learning and explained that families want to know what has actually changed following a death in custody.

2.21 Juliet Lyon said that the IAP have also been considering a Prison Safety Impact Assessment to try to ensure that the safety implications of policy changes are explicitly considered. Kate Davies recognised the need for accountability and Dame Anne noted that there is a difference between stopping people committing suicide and stopping people feeling suicidal.

IOPC paper on timeliness of investigations

2.22 At the February Board, Michael Lockwood (DG – IOPC) offered to bring a paper on the timeliness of investigations to this Board. The recommendations put to the Board in the IOPC paper were to:

- Note the work being undertaken by the IOPC to improve the timeliness of its investigations;
- Consider multi-agency options to investigate opportunities to improve the timeliness of the end to end process, and the experiences of families and officers; Michael Lockwood stated that his office were making improvements internally but there are several other investigatory bodies which they could work with. During the past year the IOPC had closed 60% more cases than the previous year.
- Consider options for collecting further service user insight across the system, to build a common view of where improvements can be made; it was important to be timely but not at the expense of quality.

2.23 Michael Lockwood explained the work the IOPC has undertaken so far to improve the timeliness of their investigations but explained that the IOPC also required help from other organisations, such as the CPS, to make further improvements. Minister Hurd welcomed the improvements to timeliness and encouraged the IOPC to continue these efforts.

Item 3: Custodial services updates

3.1 Representatives from the Home Office and DHSC referred Board members to the written updates provided for the Board. Michael Spurr highlighted the following from the HMPPS update: while the numbers of deaths may be less than the year before, the underlying issues of self-harm remain as well as the increasing issue of the impact of drugs on the health and death rates of prisoners. He emphasized the need to work across sectors to help make things better.

3.2 Juliet Lyon thought it could be useful to have a more detailed breakdown on prison deaths data, particularly on drug-related deaths. Michael Spurr explained that it can be difficult to disaggregate drug-related deaths but he would speak to colleagues to see what can be done for the next Ministerial Board.

Action 4: HMPPS to review how drug-related deaths are recorded for the next Board.

3.3 Jonathan Tickner raised the number of resuscitations a year in prisons (about 130 in a year). The Board recognised the importance of saving these lives, and Deborah Coles asked if more learning could be gathered from such near misses.

Item 4: AOB

4.1 There was no other business

Item 5: Date of next meeting and close

5.1 The Chair thanked Board members for attending and encouraged everyone to continue working to deliver the Board's work programme before the next meeting.

5.2 The next meeting will be chaired by Minister Rory Stewart from 10am – 12pm **on 10 October 2018** in conference rooms 1a and 1b in 102 Petty France.