

INDEPENDENT ADVISORY PANEL ON

# DEATHS IN CUSTODY



**Welcome to the tenth E-bulletin from the Independent Advisory Panel (IAP) on Deaths in Custody, which provides an update on the work that has been taken forward by the Panel since November 2012.**

In January 2013, we consulted on our common principles on the use of restraint. On behalf of the Panel, I would like to thank all those who responded to the consultation for their valuable comments. The Panel agreed to publish the principles as a statement of what it believes to be safest way to manage use of physical restraint, and to prevent deaths. We will be presenting these to the Ministerial Board in June 2013.

In February 2013, the Ministerial Board on Deaths in Custody met for the twelfth time and was chaired by Richard Bradshaw, Director of Offender Health. Damian Green, Minister of State for Policing and Criminal Justice was unable to chair as he had been required to attend a Parliamentary Committee session on the Crime and Courts Bill. I presented the Panel's family liaison common standards which were endorsed by the Board. The Panel will now be working with organisations to implement them to improve family liaison services following a death.

The NHS Commissioning Board (NHSCB) assumes full statutory responsibilities on 1 April 2013. The Panel looks forward to receiving information about how the Care Quality Commission's responsibilities on detained patient deaths map onto the wider NHS systems for responding to patient safety incident reports for psychiatric in-patients. There are also a number of Panel recommendations with relevance to the work of the NHSCB and we will be working with them to progress our work.

This E-bulletin also provides an update on the IAP's stakeholder meetings with the IPCC, Chair of the NHS Commissioning Board and the Independent Commission on Mental Health and Policing. There is also an update on the progress of the six IAP projects; as well as details of a forthcoming meeting with CQC. There is also a summary of news items towards the end.

As always, should you wish to comment on any of the issues raised or have any questions, please contact the **Secretariat** who will pass them on to me and the other members of the Panel.

Thank you,

*Toby Harris*

# CONTENTS

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Independent Commission on Mental Health meeting	3
Independent Police Complaints Commission (IPCC) Review of Article 2 investigations	3
Meeting the Chair of the NHS Commissioning Board (NHSCB)	3
IAP stakeholder analysis	3
Ministerial Board on Deaths in Custody	4
Update on IAP Projects	4
Upcoming IAP stakeholder meeting	7
IAP Learning Library	7
Contributing to the IAP's Website	7
News	8

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### **Independent Commission on Mental Health meeting**

The Chair and Simon Armson met with Lord Victor Adebawale, the Chair of the Independent Commission on Mental Health and Policing on 11 December 2012. The Commission's terms of reference covered an examination of cases in the last five years in which there had been death or serious injury of people with mental illness after contact with the police. This was wider than the IAP's terms of reference in that it covered those individuals who died but were never in police custody as well as those who had suffered serious injury. They discussed the Panel's common principles on the use of restraint, Section 136 of the MHA and liaison and diversion schemes.

### **Independent Police Complaints Commission (IPCC) Review of Article 2 investigations**

Lord Harris and Professor Philip Leach met with Dame Anne Owers, Chair of the IPCC in December 2012 to feed back on areas of concern to the Panel as part of the IPCC's review of its work on cases where Article 2 of the ECHR is engaged. The Panel also responded to the public consultation and supported the IPCC's efforts to address recruitment of investigators from a range of backgrounds and not just former police officers. The Panel also thought it would be helpful to clarify the policy as to when Article 2 was engaged (and an independent investigation would be carried out) on death in custody cases. The IPCC report on the review, including recommendations, will be published later in 2013.

They also took the opportunity of discussing the Panel's aims to develop a justification for requiring police

forces to submit use of force data for analysis centrally, which would lead to a more accurate picture of how often use of force is applied and on whom. The data could be used to prevent deaths in custody. The IPCC are supportive of this work and attended the IAP's use of force working group meeting, involving police practitioners, on 15 March 2013. There was also a discussion about the IAP's family liaison common standards, which the IPCC have agreed to implement for their investigators (further details of both pieces of work can be found in the IAP project update section).

### **Meeting the Chair of the NHS Commissioning Board (NHSCB)**

Lord Harris met with Professor Malcolm Grant, the Chair of the NHSCB, Anne McDonald, Deputy Director Mental Health Care Pathways (DH) and Professor Louis Appleby, National Director for Health and Criminal Justice (DH) in December 2012 to identify how NHS commissioning of healthcare provision in prisons and police custody would develop as part of the Board's responsibilities. Lord Harris also discussed areas of the Panel's work which had relevance to the NHSCB and the Panel looks forward to building relationships with the Board in relation to patient safety and offender health in due course.

### **IAP stakeholder analysis**

In December 2012, the Secretariat conducted an analysis of the IAP's stakeholders to enable the Panel to engage effectively with them and to identify new engagement approaches. The results of this analysis were discussed at the Panel meeting on 6 March.

They agreed on additional ways to engage stakeholders and the Secretariat has incorporated the plan into an updated version of the IAP Stakeholder Strategy (available to download [here](#)). This will be refreshed annually.

The analysis also highlighted potential confusion with the website registration process, which we have now resolved. A letter was sent to all those individuals who had registered on the website asking them whether they would also like to join the Practitioner and Stakeholder Group (PSG). If you have previously registered with the IAP website and would like to join the PSG, please contact Alice Balaquidan on [alicia.balaquidan@noms.gsi.gov.uk](mailto:alicia.balaquidan@noms.gsi.gov.uk).

There are now over 150 members of the PSG, drawn from inspectorate and investigative bodies, lawyers, Third Sector organisations, families, academics and practitioners from the custodial sectors. The Panel would like to encourage practitioners from a range of organisations, particularly mental health settings, as well as families to join the group.

### **Ministerial Board on Deaths in Custody**

The twelfth meeting of Ministerial Board on Deaths in Custody was held on Thursday 18 October 2012. Lord Harris presented the IAP's family liaison common standards (further details of which are discussed in the [IAP update section](#) and available to download [here](#)), which were endorsed by the Board. He also provided an update on implementation of the IAP's recommendations. The Department of Health (DH) and Care Quality Commission (CQC) outlined their positions in relation to investigations of deaths of patients

detained under the Mental Health Act (MHA) and the Prisons and Probation Ombudsman (PPO) presented their Learning Lessons Bulletins (available to download [here](#)).

The Prison Reform Trust presented 'Fatally Flawed: Has the state learning lessons from the deaths of children and young people in prison' (available [here](#)). INQUEST, who co-authored the report, were unable to attend the Board meeting so it will be discussed further at the next meeting in June 2013. Additional updates were also heard from the National Offender Management Service (NOMS) and DH on progress with implementing the recommendations from the review of unclassified prisoner deaths in 2010/11 (the report is available to download [here](#)). INQUEST also submitted a paper on the use of the emergency response belt as a mechanical restraint.

### **Update on IAP Projects**

Below is a summary of the progress made by the IAP since the last E-bulletin:

#### ***Research and analysis***

The Panel has obtained approval to procure a contractor to deliver a programme of research and analysis in 2013/14-2014/15. This will enable the Panel to develop an evidence base for reducing deaths in all state custody and to support recommendations made to the Ministerial Board. A range of research and analysis projects have been incorporated into the programme, including the plans for a systematic review of mental health and deaths in custody. A request for proposal was issued on the Ministry of Justice e-sourcing portal, with bids due by 25 April. Following

a process of evaluation and bidder presentations, the Panel hopes to announce the successful bidder in May and to commence the contract shortly after.

### ***Cross Sector Learning and coroner reform*** **– Deborah Coles**

Since November, the Panel has liaised with Ministry of Justice and the Chief Coroner's office to follow up on the recommendations it made in October that Rule 43 reports should be made more readily accessible to promote learning from deaths in custody. Plans are underway for the Chief Coroner's office to develop a database and the Panel will look forward to contributing to how this work can be taken forward. The Panel will also be formally responding to the consultation on implementation of coroner reforms in Part 1 of the Coroners and Justice Act 2009. The consultation document can be found [here](#).

### ***Family liaison – Deborah Coles***

The family liaison common standards were developed in response to feedback from bereaved families at listening days which suggested that organisations were failing to work together to communicate clearly about their role and the information they would be responsible for passing on to families. The document is the first attempt to publish a set of standards setting out the minimum expectations for families.

Following a series of meetings with NOMS, UKBA, IPCC, PPO, YJB and DH, an agreed version of the common standards was presented to the Ministerial Board on 12 February, and it was endorsed by members. We have published the standards on our [website](#) and they will be proactively communicated to the practitioner & stakeholder group, which includes bereaved families. Custodial organisations and investigatory bodies have been asked to implement

use of the standards using their own communications channels and policy approval methods.

The Panel is considering feedback from the organisations in order to decide whether to hold an event for family liaison staff to raise awareness of the standards and to share good practice.

### ***Mental health – deaths of those detained under the Mental Health Act (MHA) including Section 136.*** **– Simon Armson and Dr Peter Dean**

Since November, the Panel has been pursuing procurement of a supplier to deliver all the research and analysis needed in the remainder of its second term. The systematic review of the role of mental health in deaths in custody has been added to that programme, for delivering in 2013/14.

The Panel has been exploring data on deaths of detained patients, particularly in light of the figures in the statistical analysis for up to 2011, which showed an increase in self-inflicted deaths of women detained under the MHA since 2009, and unexplained figures on use of restraint in the seven day period before the death. The Chair of the Panel and Simon Armson are due to meet the Care Quality Commission on 4 April to discuss these findings and explore the reasons behind the apparent increase in self-inflicted deaths. The re-analysis of natural cause deaths will also be discussed at that meeting.

On 30 January 2013, the Secretariat attended the Royal College of Psychiatrists (RCPsych) working group on Section 136 (S136) of the MHA. Representatives from the Association of Chief Police Officers (ACPO), DH, Her Majesty's Inspectorate of Constabulary (HMIC), CQC, Metropolitan Police Service, Royal College of Nursing, Health and Social Care Information Centre and the College of Social Work were in attendance.

The RCPsych presented their draft guidance for commissioners of services in relation to S136. It contained guidance on appropriate places of safety, staffing of health based places of safety, care pathways for S136 detainees, the conveyance of detainees and good practice guidance for handover periods between agencies. There was also a discussion about a proposed S136 data collation agreement between ACPO and the NHS Information Centre to identify routes to better data collation on S136 outcomes following initial police detention.

The Panel will continue to attend the RCPsych meetings and will consider the outcome of the joint HMIC and CQC thematic inspection of Section 136 – due to be published in Spring 2013 - in order to identify any further priorities in this area.

#### **Article 2 Compliant Investigations – Professor Philip Leach**

The Panel received the report prepared by PPO and Offender Health on pilots in Strategic Health Authority (SHA) clusters to develop an effective working model for use by the NHS Commissioning Board when commissioning clinical reviews of deaths in prison. The report showed that the new processes had improved quality and timeliness – mainly due to improved communication - although there were continuing problems with a lack of clinicians to undertake the reviews. The Panel is awaiting feedback on the status of the proposals about how the Commissioning Board will approach clinical reviews in future.

The Department for Education and Youth Justice Board have agreed an interim solution on funding of PPO investigations, should there be a death in a secure children's homes (SCHs), pending formal agreement.

#### **Investigation of deaths of detained patients**

Since November, CQC provided a sample of redacted serious untoward incident reports on deaths of detained patients to the Panel. The Secretariat has completed an analysis of the reports, which was discussed at a meeting on 19 February. The Panel agreed that the analysis of the small sample was sufficient to highlight areas for improvement – particularly in relation to the involvement of external investigators and expertise; and ensuring learning from reports is implemented and shared. The Panel will be completing a paper with recommendations for the next Ministerial Board on 18 June. In the mean time, the Panel hopes to develop its relationship with the patient safety Directorate of the NHS Commissioning Board to support this important project.

#### **Use of Physical Restraint – Professor Richard Shepherd**

In January 2013, the Panel consulted on their common principles on the use of restraint with the Youth Justice Board, CQC, DH, NOMS, Association of Chief Police Officers (ACPO), UK Border Agency, Independent Restraint Advisory Panel and members of the PSG. The responses raised some important questions for the Panel as to whether it would be possible to ensure agreement of the principles across organisations. The feedback and options were discussed at the Panel meeting on 6 March 2013 and the Panel agreed to publish the common principles as a statement of what it believes to be a safer way to manage use of physical restraint, and to prevent deaths. An updated version with a supporting communications plan will be submitted to the next Ministerial Board to determine a way forward.

The Secretariat attended a very positive meeting with police practitioners and the IPCC on 15 March to develop a justification for requiring police forces to submit use of force data for central analysis. Attendees reported how they used the data to change use of force policies and procedures to lead to safer restraint practices. The data was also used to determine whether current restraint equipment was effective and represented value for money. A meeting will now be organised involving more senior practitioners, including the Chair of the IPCC (who is supportive of this work) and the College of Policing, to agree the justification, before the Panel report to the Ministerial Board later in 2013.

### ***Information Flow through the Criminal Justice System – Professor Stephen Shute***

At the Ministerial Board in February 2013, NOMS provided a brief update on their response to the HMIP PER thematic report (available to download [here](#)). A fuller discussion will take place at the Board in June 2013 where the Panel will determine whether any further work is needed in this area.

The Panel, in partnership with the YJB, are in the early stages of examining the effectiveness of information flows between Youth Offending Teams in the community and Secure Training Centres, Secure Children's Homes and Young Offender Institutions for managing risk of self harm. This work will be further developed throughout 2013.

The Panel are also considering, as part of their work on ACCT, whether the process is sufficient to meet the specific needs of children and young people in prison and to consider how they would conduct an analysis of Rule 43 reports and narrative verdicts into

the 98 deaths analysed in *Fatally Flawed*. The decision whether to progress this work is pending the outcome of discussions at the Board in June 2013, when *Fatally Flawed* will be discussed in greater detail.

### **Upcoming IAP stakeholder meeting**

On 4 April 2013, Lord Harris, Simon Armson and Deborah Coles will meet with the CQC to discuss a number of findings in relation to deaths of detained patients from the second IAP statistical analysis of all recorded deaths in state custody (available to download [here](#)). An update on this meeting will be provided in the July edition of the E-bulletin.

### **IAP Learning Library**

The Secretariat acts as a hub for the sharing of learning and information about the means of preventing deaths in custody. In June 2011, the Secretariat launched the **IAP's Learning Library**, which contains learning documents from the criminal justice agencies, which may have cross sector applicability. We are committed to developing this tool. If you think there are documents that should be included in the library, please contact the Secretariat via [iapdeathsincustody@noms.gsi.gov.uk](mailto:iapdeathsincustody@noms.gsi.gov.uk).

### **Contributing to the IAP's Website**

The IAP's intention is that everyone with an interest in preventing deaths in custody should have the opportunity to contribute to the IAP's work. If you have a relevant news story or research article that you feel may be of particular interest to stakeholders,



please feel free to contact the Secretariat at:  
[iapdeathsincustody@noms.gsi.gov.uk](mailto:iapdeathsincustody@noms.gsi.gov.uk).

## News

### ***Justice Select Committee publish report into youth justice***

The Justice Select Committee published their report into youth justice on 14 March 2013. There is a section focussing on deaths in custody and the use of force.

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/news/youth-justice1/>

### ***PPO Learning Lessons bulletins***

The PPO have created a series of learning lessons bulletins which identify broader lessons from a number of cases and help services to improve and ultimately avoid preventable deaths.

<http://www.ppo.gov.uk/other-reports-and-publications.html>

### ***IAP Meeting 6 March 2013***

The seventeenth meeting of the Independent Advisory Panel (IAP) on Deaths in Custody took place on Wednesday 6 March 2013. At this meeting, the Panel received feedback from the Ministerial Board on Deaths in Custody meeting in February 2013, an update on the procurement of future Panel research, details about the stakeholder engagement analysis, discussed their projects and work plan for 2013/14 including the physical restraint common principles and the analysis of serious untoward incident reports following deaths of detained patients.

### ***Update on the implementation of MMPR***

The Ministry of Justice, the National Offender Management Service and the YJB have published an update on behaviour management and restraint-related developments in the secure estate for under-18s. It provides details on the implementation of Minimising and Managing Physical Restraint (MMPR)

<http://www.justice.gov.uk/youth-justice/custody/behaviour-management/behaviour-management-and-restraint-update>

### ***MoJ invites comments on proposed coroner reforms in Part 1 of the Coroners and Justice Act 2009***

The Ministry of Justice are inviting individuals and organisations to comment on the proposed implementation of the coroner reforms in Part 1 of the Coroners and Justice Act 2009. The consultation runs from 1 March 2013 to 12 April 2013.

<http://www.justice.gov.uk/news/features/improving-inquests>

### ***Third annual report of the UK's NPM 2011/12 published***

The HM Inspectorate of Prisons have published the third annual report of the UK's National Preventative Mechanism (NPM) for 2011-12. NPM consist of 18 organisations designated to fulfil the UK's obligation to independently monitor the treatment of and conditions for people in state detention. The purpose of monitoring is to prevent ill-treatment in all places of detention from prisons to children's homes to secure hospitals. The report addresses the use of force and restraint, which has been highlighted as a key concern by NPM members, escorting of detainees between places of detention and contains a number of recommendations to improve services.

<http://www.justice.gov.uk/downloads/about/hmipris/npm-2012.pdf>



***Family Liaison Common Standards and Principles***

The IAP has published family liaison common standards and principles, which were written in partnership with a range of custodial organisations, investigatory bodies and Department of Health. The standards were endorsed by the Ministerial Board on Death in Custody at the most recent meeting on 12 February.

<http://iapdeathsincustody.independent.gov.uk/news/family-liaison-common-standards-and-principles/>

***Latest IAP Death in Custody Parliamentary Log***

The Independent Advisory Panel (IAP) on Deaths in Custody Parliamentary Log provides a summary of all Parliamentary business concerning deaths in state custody since 1 April 2009. The log includes information on Parliamentary Questions and Debates, and Written Ministerial Statements from the UK Parliament and devolved assemblies.

<http://iapdeathsincustody.independent.gov.uk/news/iap-death-in-custody-parliamentary-log/>

***CQC's Mental Health Act Annual Report 2011/12***

The Care Quality Commission (CQC) published their third annual report on its role in monitoring the use of the Mental Health Act. The report is based on findings from visits made by CQC's Mental Health Act Commissioners to mental health patients throughout 2011/12. Chapter 3 covers restrictive practices on wards and detail on CQC's findings about use of physical restraint.

<http://www.cqc.org.uk/public/reports-surveys-and-reviews/reports/mental-health-act-annual-report-2011/12>

***Safety in Custody Statistics Quarterly Bulletin July-September 2012***

The Ministry of Justice and the National Offender Management Service (NOMS) have published their quarterly statistical bulletin on deaths, self harm and assaults in prison custody. The publication contains statistics relating to these incidents between July and September 2012 in England and Wales. NOMS monitors deaths, self-harm and assaults in prisons and has a range of related measures to help monitor overall safety.

<http://www.justice.gov.uk/downloads/statistics/prison-probation/safety-custody/safety-custody-sep-2012.pdf>

***IAP Meeting 5 December 2012***

The sixteenth meeting of the Independent Advisory Panel (IAP) on Deaths in Custody was held 5 December 2012. The Panel discussed their work plan for 2013/14 and procurement of future Panel research, the recommendation for the Panel the INQUEST and Prison Reform Trust report 'Fatally Flawed', planning for the IAP's consultation event on 17 October 2013, briefing on Gov.uk website change, updates on key Panel projects, and preparation for Ministerial Board meeting on 12 February 2013.

<http://iapdeathsincustody.independent.gov.uk/news/iap-meeting-5-december-2012/>

***Bulletin of eleventh Ministerial Board***

The eleventh bulletin of the Ministerial Board was published in December.

<http://iapdeathsincustody.independent.gov.uk/news/bulletin-of-eleventh-ministerial-board-published-today/>

***Next Issue***

The next e-bulletin will be published in July 2013.