



Ministry
of Justice



Home Office



Department
of Health &
Social Care

COVID-19 SUB-MEETING OF THE MINISTERIAL BOARD ON DEATHS IN CUSTODY – PRISONS, IMMIGRATION DETENTION AND POLICE CUSTODY - MINUTES

7 July 2020, Via Microsoft Teams

Attendees:

Lucy Frazer QC MP, Minister of State for Prisons and Probation, Ministry of Justice (Chair)

Kit Malthouse MP, Minister of State for Crime and Policing, Home Office and Ministry of Justice

Junior Johnson, Deputy Director for ALB Sponsorship, Strategy, Scrutiny Intelligence and Prison Performance, MoJ (lead co-sponsor)

Mark Williams, Head of the Police Powers Unit, Home Office

Samantha Newsham, Head of Core Police Powers, Home Office

Phil Riley, Director of Returns and Immigration Enforcement, Home Office

Phil Copple, Director General Prisons, HMPPS

Kate Davies, Director of Health & Justice, Armed Forces and Sexual Assault Referral Centres, NHS England

Fiona Grossick, NHS England

Frances Hardy, Head of Risk and Assurance, Immigration Enforcement, Home Office

Sally Grocott, Head of ALB Sponsorship, Strategy, Scrutiny Intelligence and Prison Performance, MoJ

Rachel Pascual, Deputy Director, Prison Safety, Security and Operational Policy

Keith Fraser, Chair, Youth Justice Board

ACC Nev Kemp, Police Lead (Custody), National Police Chiefs Council (NPCC)

Juliet Lyon CBE, Chair, Independent Advisory Panel on Deaths in Custody (IAP)

Seena Fazel, IAP panel member

Peter Clarke, HM Chief Inspector, HM Inspectorate of Prisons (HMIP)

Sue McAllister, Prisons & Probation Ombudsman (PPO)

Dame Anne Owers, National Chair, Independent Monitoring Boards (IMB)

Michael Lockwood, Director General, Independent Office for Police Conduct (IOPC)

Dr Kevin Cleary, Deputy Chief Inspector of Hospitals and Lead for Mental Health, CQC

Tony Hirst, Deputy Director for Joint Criminal Justice Inspections, HMI Constabulary and Fire Rescue Services (in place of Wendy Williams)

HHJ Alexia Durran, Deputy Chief Coroner (in place of Chief Coroner HHJ Mark Lucraft QC)

Katie Kempen, Chief Executive, Independent Custody Visiting Association

John Thornhill, Chair, Lay Observers' National Council

Peter Dawson, Director, Prison Reform Trust (PRT)

Frances Crook, Director, Howard League for Penal Reform

Deborah Coles, Director, INQUEST

Jacqui Morrissey, Assistant Director, Samaritans (in place of Gareth Germer).

Apologies

Justin Russell, HMCI Probation

Item 1: Welcome and apologies

1.1 The Chair welcomed Board members and Kit Malthouse MP, Minister of State for Crime and Policing.

1.2 The Chair stated that this was her first meeting of the Board, although she was familiar with its work from her former ministerial portfolio covering Legal Aid, and she was keen that the Board would keep meeting regularly, particularly as it had not met since June last year, firstly due to the General Election and then the outbreak of COVID-19.

1.3 The Chair outlined that the purpose of the meeting was for each of the custodial institutions represented - immigration removal centres, police custody and prisons – to provide an update on their response to COVID-19 and for the group to discuss any lessons learned.

1.4 The Chair outlined that this meeting would be followed in a couple of weeks by a second sub-meeting with the Minister of State for Patient Safety, Suicide Prevention and Mental Health, Nadine Dorries MP, to focus on the impact of the pandemic on secure health settings. A full readout of both meetings would be provided to all attendees.

Item 2: Immigration detention update and discussion

2.1 The Chair introduced Phil Riley, Home Office, to give an update on immigration detention. Phil stated that the response to COVID-19 within the immigration detention estate had been largely positive, with the service able to respond quickly and decisively to the challenges raised. Only 300 people were currently in detention. There were some who could not be released, such as Foreign National Offenders. There had been two cases of COVID-19 but no fatalities. The Home Office (HO) had introduced measures across the estate including reverse cohorting, using single occupancy rooms only, Skype calls and increasing telephone credit, though each removal centre had developed a different regime according to their needs. HMIP inspections had found that the response was positive and proportionate. Moving forward to the recovery phase, HO had now started returning individuals to their home countries; there had been six chartered flights for voluntary returns. Social visits would be slowly reintroduced from August onwards.

2.2 Juliet Lyon was pleased to hear about the strengthened relationships between detainees and staff and the increased detainee-to-staff ratios which had created a safe and calm environment and an atmosphere of care around mental wellbeing. Deborah Coles asked how the HO had responded to the Prince Fosu inquest. Phil responded that the Department had failed him but that lessons had been learned; Minister Malthouse said that the Home Office would be issuing a Detention Services Order soon on mental vulnerability and immigration detention. The Minister emphasised the need to retain dynamism in continuing to manage the response to the virus.

2.3 Minister Malthouse raised the issue of testing for COVID-19. Phil replied that tests were not mandatory and could not be enforced. The Chair explained that the prison service was also discussing testing with DHSC. Dame Anne Owers stated the IMBs had concerns that signs of mental health issues were not being picked up, and asked that sectors avoid using the phrase 'dirty protest' as this undermined the seriousness of potential poor mental health.

2.4 NHS England welcomed the reduction in the immigration population and were working with colleagues to determine healthcare needs. Peter Clarke agreed the increase in headroom was beneficial and asked about consistency across removal centres; HO stated that it was a conscious decision that each Immigration Removal Centre identified their own regime. Juliet Lyon agreed that IAP would look at mental capacity, mental health, expression of the term 'dirty protest', and lessons following the Prince Fosu inquest.

Action 1: IAP to look at mental capacity, mental health, expression of the term 'dirty protest', and lessons following the Prince Fosu inquest and bring back to the Board

Item 3: Police custody update and discussion

3.1 The Chair introduced Samantha Newsham, Home Office, to give an update on police custody. Samantha explained HO was not aware of any COVID-19-related deaths in police custody and outlined work carried out in custody suites to keep them safe and hygienic. The IOPC last published statistics on police custody deaths in September 2019 and HO will be working with them to get better and more frequent data. In response to the pandemic, HO had set up a working group, which has met twice weekly from the end of March, to monitor issues in police custody, and the CPS had published a protocol which has allowed the police to prioritise offences. Focus has been on enabling solicitor interviews to take place quickly and virtually. The Police Powers Unit will continue to build on the relationships developed during the last few months; the operational working group continued to meet weekly and monitoring of protocols continued. More widely, HO were supporting ICVA to develop a pilot to improve engagement and monitoring of police custody. They continue to work on the response to the Angiolini review.

3.2 Michael Lockwood, IOPC, explained that providing data annually allowed for a complete picture and no distortion of figures due to unique events. All data was validated by police forces and the Office of National Statistics. He was keen to know whether there was any learning to be shared from trend lines. IOPC were interested in "near misses" cases, and were pleased to report that timeliness of investigations dealt within 12 months had increased to 91%.

3.3 Katie Kempen, ICVA, stated that ICVA would welcome the presence of inspectorates in police custody. She was also pleased to see that HMICFRS were running fieldwork as part of their COVID thematic again.

3.4 Deborah raised the timeliness of some investigations produced by policing and mental health sectors in comparison to HMPPS good practice. She welcomed the reduction in delay of investigations but suggested delays were still an issue for families dealing with CPS and inquests. She raised ongoing issues around the policing of black communities and was also concerned about the lack of progress on the recommendations made by the Angiolini review into deaths in police custody and asked that it remain on the agenda going forward.

3.5 Tony Hirst, HMICFRS, outlined that they had suspended their investigations but these would recommence soon, and detailed how video remand hearings had been a vital tool in maintaining the flow of cases. Samantha stated she would follow-up with the IOPC on

data, HMICFRS on video access and with the IAP on Angiolini. The Chair expressed an interest in understanding the blockers around investigating police custody suites.

3.6 Nev Kemp explained that custody numbers had exceeded those of last year which had put a strain on custody staff though there had been lots of proactive work. There was no consistent set of performance figures – they were working on developing these and would include near-misses.

Action 2: Police Powers Unit to work with IOPC and NPCC to improve data collection and notifications to ensure patterns of police custody deaths can be identified.

Action 3: Police Powers Unit to work with IAP on next steps concerning the Angiolini Review, with the view to delivering substantive update on progress to the next Board meeting.

Action 4: Board secretariat to support ICVA to learn lessons from the response of professional scrutiny bodies such as HM Inspectorate of Prisons.

Action 5: NPCC to share information around findings on solicitor remote access with Ministerial Board co-chairs.

3.7 The Chair reiterated the importance of transparent and thorough data collection, both in terms of published data and Management Information provided to ministers and senior officials. Minister Malthouse reaffirmed the need for better and more timely data about deaths on state premises. The Chair agreed that updates on recommendations made by the Angiolini review should be on all future Ministerial Board agendas.

Item 4: Prison custody update and discussion

4.1 The Chair introduced Phil Copple, HMPPS, and Junior Johnson, MoJ, to give an update on prisons. Phil explained that the Prison Service management of risk was about COVID-19 but also mental health and general health. Extra funds, iPads, compassionate calls and secure video visits had all been made available; distraction packs had been issued and engagement and care provided for those who were struggling with mental health issues. The service had supported alternative ways of working with PPO and other scrutiny support.

4.2 HMPPS had sought to follow the best scientific advice which had informed their actions during the pandemic and fed into the National Framework providing guidance for the recovery phase. Prisons remained a high-risk environment, vulnerable to outbreaks, but were following PHE advice to begin controlled relaxation. A testing strategy would enable the service to respond in targeted ways. Staff morale remained high, and the service was planning for future scenarios, including another wave. Examples of learning which had been identified were:

- a) Use of technology to enable contact.
- b) Managing safety, self-harm, violence and stability in prisons.
- c) Strengthened partnerships through greater focus on relationships.
- d) Increased public pride and appreciation for HMPPS.
- e) Successfully testing remote and home working for staff.

4.3 Frances Crook expressed concern that community evidence about increased deaths from cancer and other non-COVID causes could be replicated in prisons. Kate Davies, NHS England, assured the Board that all patients in prisons had still been going to hospitals for their care and that monitoring was faster in prisons than in the community.

4.4 Juliet Lyon said the IAP had prepared a paper on natural deaths which they were setting in a COVID-19 context; she praised the work of staff in the prison service but stated that the compassionate release process should be reviewed. She outlined how a Safety Impact Assessment could be used to consider future policy decisions from a policy perspective, which Phil supported, and raised the need to ensure safe housing on release. Professor Seena Fazel, a member of the IAP, highlighted using a strategic approach to communications. The Chair agreed to put Seena in touch with HMPPS Communications to discuss further a strategic comms approach.

Action 6: HMPPS Communications to discuss implications of research carried out by Dr Seena Fazel on strategic approaches to prisoner communication during contagious outbreaks.

Action 7: HMPPS to follow-up with Prison Reform Trust on future plans for the use of prisoner video calls in the context of future visits.

4.5 Peter Dawson welcomed the improvements to technology but stressed that in future a video call should not be considered equivalent to a visit. Jacqui Morrissey stated that prisoners had reported feelings of profound isolation and loss of regular activity to the Samaritans and that anxiety had increased since the first months of lockdown.

Item 5: AOB

4.6 There were no AOB items.

4.7 The Chair thanked Board members for attending and for their ongoing work. She expected to see updates on the following at future full Board meetings:

- Timings of statistics
- Angiolini review
- Near-miss cases
- Mental health
- Communications with those in custody