

Independent Advisory Panel on non-compliance management (IAPNCM)

15 July, 10:30-12:30 hours

2MS, conference suite room 8

Minutes

Present

Karen Abdel-Hady (KAH), Daniel Albert (DA), Akash Chand (AC), David Chinn (DC), Kevin Lockyer (KL), June-Alison Sealy (JAS), Stephen Shaw (SS).

Apologies for absence

Richard Shepherd

SS relayed a message from Richard Shepherd in which he had asked AC to prepare an updated list of all meetings and events.

ACTION 1: AC to send an updated meetings list to the Panel.

KAH explained that she was present both to observe the Panel's deliberations and to update the Panel on the Jimmy Mubenga inquest and Emma Ross's replacement.

The verdict of the Jimmy Mubenga inquest was unlawful killing, unlawful act manslaughter. The jury's narrative said that one or more of the G4S Detainee Custody Officers involved pushed Mr Mubenga down which resulted in his death. Lawyers for the G4S Detainee Custody Officers are currently considering whether to seek a judicial review of the inquest.

KAH explained that her team is currently awaiting the Rule 43 letter from the Coroner, detailing her recommendations. This is anticipated to be received by the end of August and may raise bespoke training, 'back stacking' handcuffs, certification of Detainee Custody Officers, positional asphyxiation, financial incentives, the role and responsibility of cabin crew, and the risk assessment process.

KAH said that the Prisons and Probation Ombudsmen report on Mr Mubenga's death is anticipated in the next two weeks which will also highlight similar recommendations to those anticipated in the Coroner's Rule 43 letter.

KAH explained that the Minister would like the National Offender Management Service (NOMS) package completed by the end of the calendar year; however, she feels that it may take until the end of the financial year. SS said that the Panel have arranged extra meetings to try to meet the Minister's target.

SS added that even if the Panel have reviewed all of the documents submitted by NOMS and provided feedback, we were still dependent upon the pace at which NOMS make amendments.

KAH advised that Mandy Simmons will replace Emma Ross and will be solely responsible for the IAPNCM and related projects, reflecting their importance to the Home Office. She has also been tasked to edit the NOMS volumes. Mandy will be working with the Panel until the package is complete. SS suggested that she attend the meeting on 2nd August with the NOMS medical advisers and he would also like to meet with her separately to discuss the work of the Panel.

ACTION 2: AC to arrange a meeting with Mandy Simmons and SS.

ACTION 3: AC to send Rule 43 letter and PPO report to Panel when received.

1. Minutes of teleconference of 1 July

The minutes were agreed as a true record.

2. Matters arising and action log

In relation to agenda item 3 of the 1st July meeting, the Panel said that they had not yet had sight of volumes 2, 3, 4 and 6. AC said that he had spoken to Mark Ellis of NOMS that morning (15th July). Mr Ellis had advised that he will send the Panel volume 2 at the end of the next week as his Behaviour Consultant is required to review it on Wednesday 24th July. SS said that this will not give the Panel enough time to begin reviewing volume 2 at the teleconference of 29th July. SS said that the Panel were trying to meet the Minister's target of completion of the package but this would not be possible if volumes were not sent by NOMS in a timely manner.

DC commented on the disparity between the high quality demonstrations of 17th and 18th June and the issues regarding presentation and layout of the various volumes that have been received thus far. KAH said that Mandy Simmons would be able to assist in this regard.

KL added that as well as appointing a good drafter, expertise is required in creating good training material.

ACTION 4: AC to query with NOMS the current state of volume 3.

ACTION 5: AC to query with NOMS whether they have any other volumes available to be sent.

In relation to action point 8 of 3rd June meeting, SS relayed a message from Emma Ross in which she said that suppliers currently use their own use of force form despite being advised to use the UK Border Agency circulated form. The disparity was said to be mostly cosmetic. Emma Ross had amended the UK Border Agency form over a year ago but had been told that NOMS would cover use of force report

writing in their training and therefore did not pursue the matter. It was not clear if NTRG were now saying that the Home Office needed to design the form or if they need Home Office permission to amend it. Emma Ross had said she thinks NTRG should design the form as it forms part of the training package.

The Panel feel that the use of force form is not fit for purpose and KAH said that she will discuss this with NOMS at their meeting on Friday 19th July.

ACTION 6: KAH to raise use of force form with NOMS.

In relation to action point 14 of 20th May meeting, SS queried whether a demonstration of the body worn camera had yet been arranged. SS had proposed either 7th October or 4th November as dates. AC agreed to liaise with Ben Saunders, Director of Brook House Immigration Removal Centre, to arrange this.

ACTION 7: AC to organise for the Panel to have a demonstration of body worn cameras and the resulting video.

ACTION 8: KAH to attend demonstration of body worn cameras with the Panel.

In reviewing the evidence received from interested parties, JAS highlighted that one of the responses had that filming on aeroplanes was not allowed. KAH clarified that, during a complex removal, the Home Office can attain authority from the airline to film on the aircraft. However, this is on a case by case basis.

ACTION 9: AC to query the legality of filming on aeroplanes with Department for Transport and to query whether a permit is required to film at the airport.

In relation to action point 2 of the 3rd June meeting, SS asked AC to confirm the dates of the Virgin Atlantic demonstrations in December, January and February to formally sign off the manual. The Panel require two consecutive dates: the first to be at Virgin Atlantic viewing demonstrations and the second to be a meeting to discuss the demonstrations.

ACTION 10: Secretariat to propose two days in December, two days in January and two days in February to formally sign off the manual.

SS referred to action point 14 of 3rd June meeting and confirmed that this could now be closed.

In relation to action point 2 of 1st July meeting, AC confirmed he was still awaiting a response from Panel members regarding the additional dates for meetings.

ACTION 11: AC to check with Panel members to agree additional dates, and to set up meeting facilities.

3. Meeting with NOMS Medical Advisers

AC confirmed that a meeting room has been arranged for 2nd August for the Panel to meet with NOMS' medical advisers at Virgin Atlantic's base in Gatwick. Specific dietary requirements from DC, JAS and DA have been sought and AC will complete the booking form and return to Virgin Atlantic.

ACTION 12: AC to complete booking form for 2nd August demonstration.

DC said that he would prefer the meeting with the NOMS medical advisers to have a structure as meetings lose their impetus without one.

It was agreed it was for DC and DA, in consultation with Richard Shepherd, to put together a list of the items they wish to discuss and copy to SS and JAS and send to AC.

SS queried whether DC or DA would like to chair the meeting with the medical advisers. DC felt that this would not be necessary if the meeting had a structure to it.

ACTION 13: DA and DC to put together a list of the items to be discussed on 2nd August.

4. Evidence received

SS queried with the Panel whether they wished to hold evidence sessions with some of those who had submitted evidence and asked how best to use the information received.

SS referred to paragraph 18 of his summary of the evidence received and Richard Shepherd's witness statement in the case of Zahali. SS read a note from Richard Shepherd which explained that, while he thought the demonstrations of 17th and 18th June were excellent, he was doubtful that if in reality the actions would be executed in such a controlled manner.

The note went on to say that the Panel must be very careful in approving any actions that are deliberately designed to cause pain. Richard is yet to be persuaded that pain inducing techniques are acceptable.

He adds that it is foolhardy to manoeuvre any individual into and out of the vehicles that were used in the demonstrations, and even more so up the standard aircraft steps. Richard's note said that placing a detainee at the back of the plane necessitates the use of rear steps, and he emphasised that no one dies in restraint while standing up. This has always been the crucial aspect for deaths in restraint. Any manual teaching must stress this.

In relation to the response received from Liberty, Richard had written that the Panel will have seen his witness statement in the case of Zahali. He said that he could not see why the use of the seat against the bulk head is considered best. He appreciates that it may be suitable for practical and space reasons but it was best to be able to approach and restrain an individual from all sides.

SS and KL remarked that Richard's comments regarding pain-compliant techniques would need to be face to face.

SS said that it would still be wise for the Panel to submit interim comments to NOMS, explaining that they cannot endorse some of the techniques as they have not been able to fully debate them. DA suggested that this should be one of the items to be discussed with NOMS's medical advisers.

KL remarked that the Panel have not yet agreed to any of the techniques and that the Panel had set criteria by which they would judge them.

The Panel discussed observation of someone under restraint from all sides and the holding of an individual's head. JAS said she had read a document which detailed holding an individual's throat, which she said was worrying. JAS added that during the demonstrations of 17th and 18th June, NOMS had explained that head rests were removed on planes. DA, DC and KL said they did not remember hearing this.

DA said that on a charter flight individuals will not always sit at the rear of the bulk head and therefore the techniques need to be transferable to other positions in the plane. KL agreed.

KL queried whether the summary of evidence received would be published on the IAPNCM webpage and the Panel collectively agreed that the document requires amending and should not be published at this time.

JAS queried the response from Dr John Parkes and advised that she had not had sight of this.

ACTION 14: AC to send Panel Dr John Parkes's evidence.

5. Volume 5

SS said he had tried to encompass as many of the comments he had received at the time. DA's comments will need to be added.

DA remarked that if volume 5 is solely about how you train and not the techniques then not having illustrations becomes less important.

KL commented that a comprehensive description of each of the techniques and a reference document for the Detainee Custody Officers are required for a successful package.

DA said that the use of force package should be available within the public domain and KL added that he could not understand why only redacted versions were available online.

DC said that confrontation in prisons is relatively common whereas confrontation in immigration removal is relatively rare. As Detainee Custody Officers do not use force

as often as prison officers, DC said that having a document for reference to take away with them after training would be beneficial.

KAH said that refresher training for Detainee Custody Officers should include scenario based training. KL agreed and said that one of his comments regarding volume 5 is that it does not have any scenario based training. DA also said that he was in favour of scenario based training.

SS read an e-mail from Emma Ross regarding Personal and Protective Equipment (PPE). Emma had said that the only environment she could envisage Tascor staff using PPE would be in holding rooms. KAH explained that the vast majority of Tascor staff would not need training in PPE. At present, only those working in Larne short term holding facility in Northern Ireland are trained in PPE (the reason for this is because they accept foreign national offenders who are not allowed to be in prisons when they have come to the end of their sentence).

Tascor staff working in holding rooms at Heathrow will not need to be trained in PPE due to the police presence 24 hours a day. DC said that it would be hugely dangerous to train Tascor staff in PPE and SS added that it goes against the whole approach to restraint minimisation that the Panel has promoted.

DA raised point 24 of the draft comments on volume 5 and said that it was inappropriate for an individual to be handcuffed throughout the duration of a journey. KL queried why this was inappropriate. DA replied that it was not dangerous although you would get sore wrists and the reason for producing the belt was to give a softer form of restraint.

KL advised that if an individual was being non-compliant, the safest action to take would be to leave the handcuffs on throughout the duration of the journey. DC added that the safest position for an individual would be in the seat, sitting up.

The Panel discussed risk assessments and applying a waist restraint belt to those individuals who pose a risk. The Panel agreed that they could not envisage how a Detainee Custody Officer would be able to apply the waist restraint belt on a non-compliant individual already in his seat on an aircraft.

KL said that they have not yet seen any techniques being demonstrated on real aircraft steps and feels that the Panel need to. Aircraft steps pose risks such as rain and wind.

DC highlighted point 33 and advised that the sentence which reads ‘...hand cupped under the throat...’ should read; ‘...hand cupped under the chin...’

DA raised point 46 and advised that ‘...134 detainee seats...’ should read ‘...13 detainee seats...’

AC raised the issue of Tascor's vehicles and the Panel agreed that they were unsatisfactory and potentially unsafe. It was reported that NOMS have also said that Tascor's vehicles are unsuitable.

6. Any other business

SS reminded the Panel of the new fees claim form which is now submitted in a paper based format and not electronically. SS asked AC to send the POH2 form to the Panel before the end of the month in order for it to be completed in a timely manner. The process for expenses remains unchanged.

No further comments were made and the meeting was closed.

Next meeting: teleconference 29 July.