

## Ministerial Board on Deaths in Custody minutes, 23 October 2023

### Attendees

**The Rt Hon Chris Philp MP (CHAIR)**, Minister of State for Crime and Policing, Home Office (HO)  
**Maria Caulfield MP (MC)**, Parliamentary Under Secretary of State for Mental Health and Women's Health Strategy, Department of Health and Social Care (DHSC)  
**The Rt Hon Damian Hinds MP (DH)**, Minister of State for Prisons, Parole and Probation, Ministry of Justice (MoJ).

**Paul Norris (PN)**, Deputy Director, Scrutiny, Performance and Engagement, Prison Policy, MoJ (lead co-sponsor)

**Kathy Smethurst (KS)**, Deputy Director, Mental Health and Offender Health, DHSC

**Samantha Newsham (SN)**, Deputy Head of Police Powers Unit, HO

**Frances Hardy (FH)**, Acting Director of Detention Services, Immigration Enforcement, (HO)

**Dominic Herrington (DoH)**, Executive Director for Safety, HM Prison and Probation Service (HMPPS)

**Kate Davies (KD)**, Director of Health and Justice, Armed Forces and Sexual Assault Referral Centres (SARCs), NHS England

**Fiona Grossick (FG)**, National Clinical Quality Lead, NHSE

**Sarah Warmington (SW)**, Head of Mental Health, NHSE

**DCC Nev Kemp (NK)**, Police Lead (Custody), National Police Chiefs' Council (NPCC)

**PCC Emily Spurrell**, Joint Lead for Mental Health and Custody, Association of Police and Crime Commissioners

**Charlie Taylor (CT)**, Chief Inspector, HM Inspectorate of Prisons (HMIP)

**Adrian Usher (AU)**, Prisons and Probation Ombudsman (PPO)

**Amanda Rowe (AR)**, Operations Director, Independent Office for Police Conduct (IOPC) (*in place of Acting Director General Tom Whiting*)

**Chris Dzikiti (CD)**, Director of Mental Health, Care Quality Commission (CQC)

**Norma Collicott (NM)**, Assistant Portfolio Director, HM Inspectorate of Constabulary and Fire & Rescue Services

**Louise Falshaw (LF)**, CEO, Independent Monitoring Boards (IMBs)

**Sherry Ralph (SR)**, Chief Executive, Independent Custody Visitors Association (ICVA)

**Jamie Bennett (JB)**, Chief Strategy Officer, Youth Justice Board (*in place of Keith Fraser*)

**Lynn Emslie (LE)**, Chair, Independent Advisory Panel on Deaths in Custody (IAPDC)

**Raj Desai (RJ)**, IAPDC

**Pauline McCabe (PM)**, IAPDC

**Jake Hard (JH)**, IAPDC

**Andrea Coomber (AC)**, Chief Executive, Howard League for Penal Reform

**Jacqui Morrissey (JM)**, Assistant Director, Samaritans

### For item 2:

**Wayne Nash (WN)**, Chief Inspector, National Police Chiefs Council

### For item 3:

**Andy Bell (AB)**, CEO, Centre for Mental Health

### Apologies

**HHJ Thomas Teague QC**, Chief Coroner of England and Wales

**Pia Sinha (PS)**, CEO, Prison Reform Trust

## Item 1: Welcome, apologies, actions and minutes

1.1 The **CHAIR** thanked everyone for attending the meeting. He welcomed new members: Elisabeth Davies, National Chair of the Independent Monitoring Boards, and Sue McAllister, Interim Chief Inspector, HM Inspectorate of Probation.

1.2 Minutes from the last meeting in May 2023 had been approved and circulated with today's papers as well a paper updating on actions. The Chair asked that any questions or comments about the minutes and actions be directed to the secretariat. He explained that the dashboard included some unpublished data which should not be shared further.

1.3 The **CHAIR** advised members that two updates had been circulated to members for information: one on support for prisoners serving an indeterminate sentence for public protection (IPP) as requested at the last meeting, and another on the workplan Implementation Group, a new monitoring process for the Board's workstreams. (*Secretariat note: while the Implementation Group was not discussed, following this meeting the secretariat will be discussing revisions to the Group, reviewing the workplan to identify how it might be simplified and streamlined, and working with the IAPDC to ensure the two workplans are integrated and mutually supportive.*)

## Item 2: National Partnership Agreement and Right Care, Right Person

2.1 **WN** provided an update on the Right Care Right Person (RCRP) implementation group. RCRP originated in Humberside, where it was intended to deal with non-crime demand, with a review later determining that much of this demand was mental health-related – for instance, conducting welfare checks, patients walking out from healthcare and transport/waiting times at healthcare facilities. The aim of RCRP is to make a decision at the point of call on the most suitable person to attend the scene. The focus is on the most appropriate agency providing the right care at the earliest opportunity with the secondary benefit of demand reduction and will indirectly address cases where individuals are at risk of unlawful detention, where held in police cells for mental health reasons. The police will still be dealing with some incidents requiring mental health intervention, where the threshold for a policing response is met. A recent Policing Productivity Review showed high numbers of unlawful detentions in custody, where individuals are held in police cells outside any legal framework, suffering from acute mental ill-health and awaiting an appropriate bed in a health care setting. RCRP seeks to address this through partnership working (national co-ordination, local implementation).

2.2 The National Partnership Agreement was launched in July 2023 and while there is a focus on mental health, it deals with all health issues. A tactical delivery board of senior representatives from each force and partners has been set up to communicate national updates and to hear about good practice locally. All police forces have been provided with a toolkit to enable forward planning. Going forward, there will be pin-point reviews on forces as they start to implement RCRP. The impact on custody will be to reduce the number of people coming into police custody if their issues are solely mental health related. Individuals who are arrested for criminal matters who also display mental health issues will continue to be processed in the usual way. The conversation with partners going forward will be about implementation.

2.3 **MC** asked how the process will be evaluated to ensure it is making the difference that is intended. The **CHAIR** advised that DHSC and the Home Office will be working together to assess

factors such as the number of hours of police time freed up, numbers of people not detained in police cells as a place of safety, and testing the accuracy of the triage system, among others. **MC** wondered how quickly forces would know if a difference was being made; the **CHAIR** stated that feedback would be given at the joint oversight meeting before Christmas. **WN** advised that there will be Home Office monitoring and evaluation in place to review forces who have taken up implementation (including pre-RCRP), and those who are just starting. There will be a more in-depth evaluation in due course.

2.4 **PM** suggested that ambulance services should be an important element of the evaluation, which **WN** confirmed. **MC** explained that funding had been provided for 100 mental health ambulances by the end of year but that staffing was an issue. She also suggested that it may be possible to use data to feed back to Integrated Care Boards in areas where implementation of the RCRP is slower to identify limiting factors in local areas. The **CHAIR** noted an action for the Home Office/NPCC(?) to get back to MC on police data for use at integrated Care Boards, with this further follow-up action for DHSC.

### **Action 1: Home Office and DHSC to take forward evaluation of RCRP as part of governance around National Partnership Agreement.**

2.5 **KD** welcomed the initiative and said that it was crucial to define who does and does not need to be in custody. She referenced Liaison and Diversion and stated that substance abuse, sexual and domestic violence were coming through as themes. **AU** noted that mental health accounted for 40% of the demand on police time, and asked why some forces were adopting RCRP quicker than others. **WN** stated that the main reason was the different relationships and agreements that forces already had in place with local partners, with different levels of provision, resource and capacity.

## Item 3: Prison mental health needs analysis

3.1 **AB** provided a summary of the Centre for Mental Health (CfMH) report on mental health needs analysis in prisons and Young Offender Institutions<sup>1</sup>. **AB** stated that they were commissioned by NHSE to carry out a survey of prisons, to which three-quarters responded. The data showed that 14% of prisoners are on the case load for mental health services. The **CHAIR** asked about the make-up of this group of prisoners, and **AB** explained that they are not necessarily receiving treatment and the number is not representative of all those in need of support. The last survey from 1997 on actual mental health prevalence shows 9 in 10 individuals in need of treatment.<sup>2</sup> Previous research indicates around a quarter of prisoners have specialist needs. The proportion of women prisoners receiving treatment is higher as women's prisons tend to have more sophisticated mental health services and needs are higher among women. The average prisoner has a range of vulnerabilities, neurodiversity issues, and mental health issues, including injuries such as traumatic brain injury. London prisons have very high levels of psychosis for a range of reasons. Rates of suicidality and self-harm were higher among women, among the remand population, for those on indeterminate sentences and for foreign national offenders. **AB** wanted to acknowledge the improvement in provision of mental health support since 2001 when the NHS took it over.

3.2 The **CHAIR** asked about join-up between services inside and outside prison, such as Liaison & Diversion, and **AB** stated that join-up between services is the expectation but that there are issues of data flow in and out of prisons. The **CHAIR** also asked about data on mental health care for people leaving prisons. **AB** stated that their project was centred within prisons so they did not collect this information but pointed to RECONNECT, an NHS commissioned service which provides care after custody to improve the continuity of care of people leaving prison or an immigration

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<sup>1</sup> [Prison-mental-health-services-in-England-2023-1.pdf \(centreformentalhealth.org.uk\)](#). April 2023. Centre for Mental Health.

<sup>2</sup> [Psychiatric morbidity among prisoners in England and Wales : the report of a survey carried out in 1997 by Social Survey Division of the Office for National Statistics on behalf of the Department of Health | Semantic Scholar](#), 1998. N Singleton, R Gatward, H Meltzer

removal centre with an identified health need, although he suggested only a small number of prisoners received this support.

3.3 Other findings from the report were that prison reception were poor places to identify mental health issues; a better, joined up approach was needed between prisons, probation and Liaison and Diversion to improve data flow; the composition of mental health services varies across the estate; children's services are more multi-disciplinary and have higher staffing rates; there are issues across the estate with levels of staffing; and there continue to be delays to mental health transfers to hospital, although provisions in the Draft Mental Health Bill for a 28-day limit would make a big difference. Recommendations from the report included significant improvements for screening and information travelling with prisoners to new locations; improvements to data collection; building mental health workforce in prisons; a new updated prevalence survey; and creating a trauma informed environment that assumes everyone is at risk rather than relying on poor-performing risk assessment processes. He also identified the importance of good through-the-gate support, since leaving prison can be a time of mental health crisis for some prisoners. He also suggested it was important to reduce the number of short sentences and people on remand, and suggested that recent announcements from the Lord Chancellor on short sentences could make a real difference.

3.4 **AW** explained that extensive work on mental health pathways had taken place since the report, with £7 million set aside to support implementation of recommendations and governance processes. The clinical template for 28-day transfers was being piloted to obtain better information about delays, and she noted HMIP's forthcoming thematic review on the subject. NHSE were fully committed to the RECONNECT service and had rolled out an enhanced version in three regions, with a fourth region coming soon.

3.5 **KD** thanked CfMH for their work, noted that RECONNECT aimed to start supporting individuals from 12 weeks before leaving prison, although this was not always possible for short sentences, and that with the flow of prisoners through Operation Safeguard continuity of care could be an issue. The **CHAIR** stated that Operation Safeguard will be winding down following the capacity announcements and expressed his support for the RECONNECT programme. **DH** suggested it would be valuable to explore the specific issues facing London prisons, and following up on why a prevalence study has not been completed since 1997. The **CHAIR** suggested focussing on data sharing to enable better targeted interventions for those at risk of reoffending.

**Action 2: Secretariat to scope and engage with relevant team to explore specific mental health issues facing London prisons.**

**Action 3: Secretariat to scope and engage with relevant team to follow-up on conducting a new mental health prevalence study.**

## Item 4: Independent Advisory Panel on Deaths in Custody update

4.1 **LE** reflected on her first seven months in her role as Chair of the IAPDC. She was pleased to note the review of IPP prisoners announced recently and urged the Minister to look again at the Justice Committee's primary recommendation on resentencing. **LE** was keen to ensure that the Panel workplan aligns with the Ministerial Board workplan so both focus on the same key issues. She highlighted the IAPDC's recent report, "*More than a paper exercise*" – *Enhancing the impact of Prevention of Future Death Reports* which had gained considerable media interest.

4.2 The IAPDC welcomed the Lord Chancellor's announcement on tackling prison capacity, and was linked to sentencing policy, high recalls and many remand prisoners awaiting a court appearance. Community sentences with treatment requirements offer some solution but this required mental health and substance misuse services to work together to deliver. Equally, Operation Safeguard requires close co-operation between the Home Office and MoJ, and police and HMPPS staff and partnership working at both Ministerial and operational level. **LE** stated that workforce is a crucial part of achieving safe and well-functioning prisons. A well-functioning regime,

with meaningful activity out of cell, key working and full implementation of the ACCT process would significantly reduce the risk of deaths in custody. However, services needed to be delivered by trained and skilled staff, and she welcomed the new prison staff recruitment campaign.

4.3 **LE** referenced IAPDC presentations at the recent National Police Chief's Council (NPCC) Custody Forum and the Association of Police and Crime Commissioners (APCC) General Meeting. The IAPDC will be working closely with the NPCC on a roundtable event to explore options with the voluntary sector around safe release from custody. The IAPDC also looked forward to working with NHS England, DHSC and public health colleagues to explore improvements to mental health provision. **LE** looked forward to seeing the Government's response to the *Rapid Review into Data on Mental Health Inpatient settings* and the findings of work completed by IAPDC member Seena Fazel on natural deaths of people detained under the Mental Health Act.

4.4 A report on the Brook House Inquiry set out many areas of concern and the IAPDC were hoping to be briefed on the Home Office response soon and work with officials on addressing the issues. She was concerned that the Illegal Migration Act 2023 will further exacerbate frustrations felt by detained individuals on the uncertainty of their detention, with a real risk of a death in custody. Consideration of the safety impact assessment process, following the positive review of its effectiveness by HMPPS, was a positive step.

4.5 **ES** reassured board members that the APCC were leading on a project on deaths in custody to support oversight in this area. **CT** flagged that at a recent prison inspection, HMIP encountered staff who felt overwhelmed by the amount of advice and recommendations they received, and suggested that in such cases it was important to ensure that the basics are working – such as screening, risk assessment, checking up on people, and ensuring a proper regime with good time out of cell – as a means of reducing risk to life. The **CHAIR** reflected that this point had been made in a similar context by the Metropolitan Police Commissioner, Sir Mark Rowley. **DH** also recognised HMIP's point about staff being overwhelmed by recommendations, and suggested that they address this separately.

## Item 5: Deaths in custody dashboard and key custodial updates

5.1 The **CHAIR** invited leads for each place of detention to give an update on data and work being undertaken to reduce deaths.

### Prisons

5.2 **DoH** noted the troubling increase in self-inflicted deaths in the context of current capacity pressures. HMPPS priorities are to provide a fuller regime, additional recruitment, better training on ACCT and proposals to enact the recent capacity announcements quickly and safely. The work is divided into the three strands of improved support and materials for prisons, a process of continuous learning, including between prisons and between governors, and continued momentum on making safety everyone's business. On learning, he noted Minister Hinds' roundtable with governors at prisons with multiple self-inflicted deaths, and development of a learning plan with IAPDC and PPO for governors to learn from each other. HMPPS had started on planning the construction of ligature resistant cells, prioritising cluster prisons. **DoH** stressed the importance of partnership working and the significance of peer support schemes and building resilience, and wished to thank the partners around the table for their work. He summarised the vital importance of being brilliant at the basics, that deaths within custody are their highest priority, and that he was very grateful for the support of those in the room.

### Immigration detention

5.3 **FH** summarised the data on the dashboard, noting that there had been no deaths in immigration detention or PFD reports over the relevant period, with upcoming issues being the



consideration of recommendations from the Brook House inquiry and the implementation of the Illegal Migration Act, subject to the judgement from the Supreme Court.

#### Police custody

5.4 **SN** noted the high increase in deaths this year with significant factors being mental health, drugs and alcohol. She summarised the statistics in the dashboard and key PFD reports, noting the impact of changes in the Police, Crime, Sentencing and Courts Act 2022 on bail and 'release under investigation' (RUI). She also noted the ongoing work on Operation Safeguard and expressed her gratitude to police forces and the NPCC custody lead, DCC Nev Kemp, for their continuing work on this, while noting that it will hopefully begin to wind down following the recent announcements from the Lord Chancellor.

#### Detention under the Mental Health Act

5.5 **DH** noted that the issue of natural deaths, raised at the previous Board meeting, will be a focus of the next meeting. **KS** stated that DHSC are working with CQC to understand more about the apparent trends in deaths over the last couple of years, including the impact of COVID. On natural deaths, CQC are looking at how to analyse data on deaths and the trade-off between timeliness and quality. NHSE are working with secure mental health services to pilot new data collection on indicators around physical healthcare to enable comparison between different services within trusts. They are working on the government rapid review response with NHSE and CQC and linking to NHSE work on safety and quality programmes for inpatients. They are also preparing for the Health Service Safety Investigations Body inquiry into safety.

## Item 6: AOB

6.1 There was no other business.

6.2 **DH** asked Board members for suggestions for potential items to table for the next meeting:

- **CT** noted that in the new year HMIP will publish a thematic report on mental health transfers from prison, with a focus on the female estate, which may be a timely discussion for the next agenda in view of planned changes to the Mental Health Act.
- **PM** agreed with Charlie Taylor's focus on 'back to basics', and requested a focus on data relating to capacity: for example, with the forthcoming closure of Operation Safeguard, she suggested there might be more focus on how the system will cope going forward, how this change is being modelled and planned for, and how it will deliver on the key outcomes that impact deaths in custody that the Board has discussed today. **DH** noted that Operation Safeguard had been much discussed but that the numbers of those being held was very small, the average per night being in single figures and the highest being 65. He noted that it had been an important safety valve.
- **MC** suggested the work mentioned earlier on MHA detention.
- **PM** suggested it would be helpful to cover information on time out of cell and the delivery of purposeful activity.
- **AR** stated that deaths by natural causes remain high, and suggested a deeper dive into this issue to explore the matrix of factors, such as delayed diagnoses.

**Date of next meeting: 13 May 2024**