



# **Independent Advisory Panel on Deaths on Custody**

**Strategic principles and work programme**

**July 2020 – July 2021**

## About the Independent Advisory Panel on Deaths in Custody

The Ministerial Council on Deaths in Custody formally commenced operation on 1 April 2009 and is jointly sponsored by the Ministry of Justice, the Department of Health and Social Care and the Home Office. The Council consists of three tiers:

- Ministerial Board on Deaths in Custody
- Independent Advisory Panel (IAP)
- Practitioner and Stakeholder Group

The remit of the IAP (and overall of the Council) covers deaths, natural and self-inflicted, which occur in prisons, in or following police custody, immigration detention, the deaths of residents of approved premises and the deaths of those detained under the Mental Health Act (MHA) in hospital. The principles and lessons learned as part of this work also apply to the deaths of those detained under the Mental Capacity Act in hospital.

The role of the IAP, a non-departmental public body, is to provide independent advice and expertise to Ministers, senior officials and the Ministerial Board. It provides guidance on policy and best practice across sectors and makes recommendations to Ministers and operational services. It assists Ministers to meet their human rights obligations to protect life. The IAP's aim is to bring about a continuing and sustained reduction in the number and rate of deaths in all forms of state custody in England and Wales.

Juliet Lyon CBE chairs the IAP. The other members are:

- John Wadham, Chair, National Preventative Mechanism
- Jenny Talbot OBE, Prison Reform Trust
- Professor Jenny Shaw, professor of Forensic Psychiatry, University of Manchester
- Professor Seena Fazel, professor of Forensic Psychiatry, University of Oxford
- Deborah Coles, Director, INQUEST

Further information on the IAP can be found on its website:

<https://www.iapondeathsincustody.org/>

For more information on this paper – or on the IAP more generally – please contact:

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## **Terms of reference**

The Independent Advisory Panel (IAP) on Deaths in Custody will:

- Act as the primary source of independent advice to Ministers and service leaders (both through the Ministerial Board and where appropriate directly) on measures to reduce the number and rate of deaths in custody
- Consult and engage with partners in order to collect, analyse and disseminate relevant information about deaths in custody and the lessons that can be learned from them
- Commission relevant research
- Carry out thematic enquiries into areas of concern, in co-operation as appropriate with the relevant oversight and investigative bodies
- Issue formal guidance (and where appropriate set common standards) on best practice for reducing deaths in custody and state detention, both on its own authority and where appropriate under the authority of the Ministerial Board
- Monitor compliance with such guidance and standards
- Where appropriate, make recommendations to Ministers for changes in policy or operational practice, which would help to reduce the incidence of death in custody.

## **Strategic principles for the IAP's work programme**

In order to prevent deaths within our remit, the IAP will:

### Approach to advice

- seek to enable Ministers to meet their human rights obligations to protect life
- provide specific, tangible advice that can be considered and implemented by those receiving it
- promote the adoption and implementation of its advice

### Working practices

- draw on sound research evidence to underpin its work, and identify gaps in knowledge
- build on prior work and avoid duplicating work being undertaken elsewhere
- recognise that – as a small independent non-departmental public body with limited resources – it should work strategically

### Guiding principles

- consult people in custody and detention and where possible their families/significant others, and bereaved families when developing recommendations and advice.
- pay due regard to equality and diversity in its work
- work within and draw upon a human rights framework

### Relationship to co-sponsoring departments and wider stakeholders

- embrace the cross-departmental nature of its remit and seek involvement at an early stage with departmental initiatives
- use representation on other Boards/groups to further influence/advise
- develop strategic partnerships and work with stakeholders to share information and knowledge, work collaboratively and appoint a lead panel member for each department/service.

## IAP's work programme for 2020/2021

The programme below outlines key IAP work to be delivered between July 2020 and July 2021. For ease of reference the work is grouped under specific elements of the panel's terms of reference (page 3), though many activities are cross-cutting.

The panel's work has been necessarily altered by the outbreak of the Covid-19 pandemic. Its strategic priorities during this period, activity carried out between March and July, and plans for the rest of the year are outlined in [Annex A](#). Much of the work set out below will also relate and respond to the impact and aftermath of the pandemic.

Some of the work is ongoing from the [2019/20 workplan](#) and most will be delivered by October 2020.

From this 2020 to 2021 work programme, the IAP is developing a detailed work plan, indicating action by whom and by when, with a tracker document to chart progress and outcomes.

Juliet Lyon, Chair of the IAP, will next year publish a Mid-Term Review of IAP work to reflect on developments and achievements during this period.

Regrettably, the Ministerial Board on Deaths in Custody has not met in full since June 2019, due firstly to the calling of 2019 election and then the outbreak of Covid-19. The Board met in July 2020 at department level to discuss Covid-19 impact and recovery explicitly, with a wider meeting on the Board's standing workplan to take place in the coming months.

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### **Act as the primary source of independent advice to Ministers and service leaders (both through the Ministerial Board and where appropriate directly) on measures to reduce the number and rate of deaths in custody**

- Provide advice on the Covid-19 response and recovery to support Ministers to take steps to ensure that prisoners are kept safe and receive, along with families and loved ones, clear, accurate information and access to the support that they need (see [Annex A](#)).
- Provide evidence and advice to Parliamentary, governmental and related inquiries where relevant to deaths in custody and detention.

#### Ongoing from 2019/20

- Provide advice to the Home Office on specific recommendations on reforms to immigration policy and practice in Stephen Shaw's 'Welfare in detention of vulnerable persons review: progress report'.
- Provide advice to the Ministry of Justice on the department's work on reviewing the ACCT process.
- Provide advice to the Home Office and police services following the Angiolini review, including on alternatives to restraint.

**Consult and engage with partners in order to collect, analyse and disseminate relevant information about deaths in custody and detention, and the lessons that can be learned from them**

- Collate statistics on deaths in all forms of state custody and detention and provide authoritative summary and analysis on this data, focusing where necessary on any disproportionality across characteristics such as race and gender.
- Develop the IAP website as an authoritative information hub on deaths in custody, building on the reach and format of the specific Covid-19 hub launched during the initial coronavirus outbreak.
- Ensure that wider use is made of international data and research.

**Commission and conduct relevant research**

- Through partnerships with National Prison Radio and Inside Time, provide Ministers and relevant officials with insight into the impact of Covid-19 on people in prison, gather their views on recovery and make authoritative recommendations on next steps.
- Plan and scope research and recommendations on drug-related deaths in state custody and detention.
- Develop research and recommendations on the investigation and oversight of unexpected/unnatural deaths of those detained/defacto detained under the Mental Health Act.
- In partnership with the Prison Governors Association, devise, conduct and analyse a survey of governors to examine misuse of prison custody as a 'place of safety'.

Ongoing from 2019/20

- In partnership with the Royal College of Nursing (RCN), explore and report on the rising number of natural deaths in state custody to support the development, among other objectives, of a robust older prisoner strategy and a review of compassionate release.
- Develop further advice on prisoners serving IPP sentences and the impact this sentence has on physical and mental health.
- Examine the lessons for Immigration and wider detention services from the inquest and coroner's preventing future deaths report on Prince Fosu with particular reference to mental health, mental capacity and use of the term 'dirty protest'.

**Carry out thematic enquiries into areas of concern, in co-operation as appropriate with the relevant oversight and investigative bodies**

- Conduct work to ensure recommendations made after a death in custody are embedded in policy and practice. Convene an expert roundtable and gather suggestions to coordinate and change these processes so that all recommendations are implemented. Explore the introduction of a national oversight mechanism.

Ongoing from 2019/20

- Review how all deaths in all forms of state custody and detention are recorded and collated, ensuring this is published and disaggregated according to relevant protected characteristics.
- Seek to secure independent investigation of all such deaths.

**Issue formal guidance (and where appropriate set common standards) on best practice for reducing deaths in custody, both on its own authority and, where appropriate, under the authority of the Ministerial Board**

- Review suitability of, and adherence to, family liaison principles following a death in custody and propose improvements where necessary.
- Recommend processes and develop guidance on how custodial and detention services should communicate with bereaved families on action taken in response to recommendations following investigations by coroners.

Ongoing from 2019/20

- Develop, test and seek to implement a Safety Impact Assessment to be undertaken before any major policy decisions affecting prisons and probation. This would weigh up balance of risk to prisoners and staff and identify necessary steps in mitigation.

**Monitor compliance with guidance**

- Assess commitments made, and action taken, in response to investigations and major reviews, including the Harris Review and Angiolini Review, to address disproportionality, race and deaths in custody.
- Assess commitment given in the Female Offenders Strategy to implement recommendations made by IAP in its report on preventing the deaths of women in custody (all recommendations were accepted by the Prisons Minister as chair of the Advisory Board on Female Offenders).
- Review implementation of recommendations, including those on family engagement, to prevent suicide and self-harm in prison custody. This is in line with objectives set, and commitments given, at the Keeping Safe event convened by the IAP in February 2020.
- Monitor the implementation of recommendations made in the joint IAP-RCN paper on natural deaths in prison.

Ongoing from 2019/20

- Monitor implementation of, and seek to further embed, recommendations made by IAP and the Magistrates Association in the IAP's report of survey of magistrate mental health champions regarding liaison and diversion services and use of Community Sentence Treatment Requirements (CSTRs). Conduct follow up work with police and probation services.

## Annex A: the IAP's Covid-19 response

From the end of February 2020 the Covid-19 pandemic required the IAP to pivot its attention to providing advice on the preservation of life in places of detention during this unprecedented outbreak. This annex outlines work taken forward by the IAP in this period, as well as work that relates specifically to Covid-19 in the coming months.

In addition to the work outlined below, much of the IAP's 2020 Workplan, as set out in the main document, will relate and respond to the circumstances presented by Covid-19 and be aligned where possible with the work of the Ministry of Justice, Department of Health and Social Care and Home Office in managing the recovery.

### Strategic priorities

- The IAP identified the following areas they wished Ministers to prioritise during this period:
  - Protecting vulnerable people
  - Maintaining and strengthening family contact
  - Improving communication and providing clear, accurate information
  - Maintaining scrutiny and safeguards
  - Making proportionate and necessary use of imprisonment.
- It has also sought to emphasise the importance of continued independent monitoring during this period and to ensure that the investigatory duties following a death in custody are not lost.

### Work to date: March to July

- Using material gathered through Prison Radio, the IAP published a [rapid review of the impact of prisoner experiences of Covid-19](#). In line with the IAP's guiding principle to consult people in custody and detention when developing recommendations and advice, this briefing drew on 230 messages from prisoners across 55 prisons to make recommendations about communication, staff support and supervision, decency and regimes, mental health care and family contact.
- A unique [Covid-19 Information Hub](#) was established on the new IAP website providing updates on IAP work during this period and hosting guidance and information on regulation, monitoring and inspection, Parliamentary scrutiny, global news, research, and legislation and legal challenge.
- Published on the Covid-19 Information Hub, the IAP provided formal advice to, and correspondence with, Ministers and senior officials. In particular it has sought to assist Ministers in ensuring that prisoners, their family members and loved ones receive clear and accurate information, as well as the support that they need.



- The IAP arranged briefing sessions with scrutiny bodies, inspectors and regulators, and lead officials across the secure estate. These discussions have covered important new policies such as the implications of compassionate temporary release under a Special Purpose Licence during the Covid-19 pandemic and the End of Custody Temporary Release (ECTR) scheme, as well as operational matters and the maintenance of independent oversight.
- The IAP supported the convening of standalone sessions of the Ministerial Board on Deaths in Custody to discuss steps taken in different custodial settings to preserve life in state custody during the emergency phase, plans to protect life during the recovery phase, and long-term lessons for keeping people safe.

#### Short-term priorities: July onwards

The IAP will continue to advise on active steps to protect life during the next phase of the pandemic, seeking to ensure that safety is retained as the key driver of recovery strategies.

- Provide critical advice to institutions designing and delivering work on the recovery phase, focusing on ensuring that the preservation of life is retained as the central priority and developing the safety impact assessment as a means of doing so.
- Ensuring that people who are detained, as well as their families, are communicated with clearly, consistently and with respect.
- Provide further analysis of the outcomes of the IAP's consultation with prisoners. This will reflect national and international standards and expectations, the recommendations of scrutiny bodies, as well as drawing on contact with prisoners' families and correspondence with Inside Time, the prisoners' newspaper. Recommendations will focus on medium- to longer-term planning to keep people safe.
- Ensure the ongoing safety of those detained by the state by continuing to advocate the expansion of the early release scheme and related work to ensure that HMPPS has the space and staff time necessary to follow public health advice and keep people safe. Challenge assumptions about, and suggest alternatives to, the use of prison custody as a place of safety.
- Continue to press for the cross-departmental publication of clear and accurate data on Covid-19 deaths and related deaths, disaggregated according to protected characteristics where possible.
- Call attention to, and provide advice on, response to mental health need as institutions begin to recover from the pandemic in order to actively reduce the risk of a rise in suicide and self harm.

## Annex B: IAP members

- **Juliet Lyon CBE** is chair of the panel and took up post on 1 September 2016. She is a visiting professor in the School of Law at Birkbeck, University of London and a member of the Winston Churchill Memorial Trust Advisory Council. Previously Juliet was director of the Prison Reform Trust, secretary general of Penal Reform International and a Women's National Commissioner.
- **Deborah Coles** is director of INQUEST. She is an experienced thinker and lobbyist for social justice with particular expertise on the investigation of deaths in custody and detention and the treatment of bereaved people in the UK and internationally. She joined the IAP on 1 July 2018.
- **John Wadham** is a human rights lawyer and currently chair of the National Preventative Mechanism set up the United Nations Optional Protocol to the Convention against Torture, which brings together 21 statutory bodies monitoring detention in all forms of state custody in the UK. He joined the IAP on 1 July 2018.
- **Jenny Talbot OBE** has undertaken significant research on people with learning disabilities in the criminal justice system in the UK and overseas.; She works for the Prison Reform Trust. She joined the IAP on 1 July 2018.
- **Professor Jenny Shaw** is a professor of Forensic Psychiatry, University of Manchester Health NHS Foundation Trust. Her research interests include suicide primarily within the criminal justice system, homicide and the mental health of prisoners. She has over thirty years' experience working clinically in the NHS. She joined the IAP on 1 July 2018.
- **Professor Seena Fazel** is a professor of Forensic Psychiatry at the University of Oxford, a Wellcome Trust Senior Research Fellow in Clinical Science, and honorary consultant forensic psychiatrist for Oxford Health NHS Foundation Trust. He works clinically in a local prison. His main research interests are on suicidal behaviour in prisoners, mental health of prisoners, and risk assessment in criminal justice and mental health. He joined the IAP on 1 July 2018

The IAP has appointed members with lead responsibility for liaison with specific custodial sectors:

- Prisons – Professor Jenny Shaw and Jenny Talbot
- Mental Health Act – Deborah Coles and Professor Seena Fazel
- Immigration - Professor Seena Fazel and John Wadham
- Policing – John Wadham and Jenny Talbot
- Probation - Deborah Coles and Professor Jenny Shaw