

Independent Advisory Panel on Deaths in Custody submission to the Centre for Mental Health's review to guide the future of prison mental health care in England – September 2020

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, both 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.

Members of the IAP appointed in July 2018 are:

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

Further information on the IAP can be found on its website: www.iapondeathsincustody.org

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Key points:

- **A significant amount of robust research by experts, academics, the NAO, Health, Justice and Human Rights select committees, NGOs, services, inspectorates and scrutiny bodies exists to demonstrate the importance of proper mental health provision within prisons. Action and progress, rather than further research and reviews, is now required.**
- **To achieve its target and aspiration of equivalence, prison healthcare should be more closely integrated with healthcare in the community and adequately funded to recognise and respond to the particularly poor mental and physical health and substance misuse needs of the prison population.**
- **Mental healthcare provision must be appropriately funded and tailored to the needs of specific prisoner cohorts, including women, black and minority ethnic people, children and young people, the elderly and those with learning disabilities.**
- **Mental health is not just about the provision of specific healthcare. Wide-ranging factors such as staffing levels and culture and multi-disciplinary working, purposeful activity, family engagement and prison environment all have an important role to play in maintaining positive mental wellbeing and in mitigating poor mental health.**
- **Prison must not be viewed as a place of safety by the courts and others in the criminal justice and public health systems, especially for those with severe mental health needs. Alternatives to custody for this cohort must be prioritised and developed.**
- **The challenges posed by COVID-19, especially the associated isolation caused by heightened lock-up, has proved an immensely challenging period for the mental health of those in the care of the state. Yet it is important to recognise that the period sheds light on pre-existing problems, rather than new ones that will pass with the virus. It does, however, present the opportunity to ‘build back better’.**

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1. The IAP welcomes the opportunity to submit evidence to this Centre for Mental Health review to guide the future of mental health care in England. The role of the Independent Advisory Panel on Deaths in Custody (IAP) is to advise Ministers and officials on how they can meet their human rights obligations, prevent deaths and keep those under the care of the state safe.¹
 2. Significant robust evidence already exists which details the importance of adequately funded and tailored prisoner mental healthcare provision, as well as the causes of mental health deterioration within prisons and wider places of custody. This includes a number of major independent reviews, including Lord Bradley’s review of people with mental health problems or learning disabilities in the criminal justice system published in 2009.² While collation of the existing evidence is worthwhile, at this stage action and progress is required, rather than further reviews and research.

¹ About the Independent Advisory Panel on Deaths in Custody, <https://www.iapondeathsincustody.org/about-us-1>.

² The Bradley Report: Lord Bradley’s review of people with mental health problems or learning disabilities in the criminal justice system, April 2009, https://www.lscft.nhs.uk/media/Publications/CJLT/The%20Bradley%20Report_%20Executive%20Summary.pdf.

3. Prisons do not hold a representative selection of the wider population. Instead, those in custody have significantly higher rates of mental health need. For many people in prison, mental health conditions have played a significant part in their offending history, yet the support they receive, both before, during and after prison can be variable. Unmet mental health needs can cause feelings of isolation that can lead to self-harm and death.³
4. This evidence will briefly examine wider conclusions around how to meet mental health needs, before examining the implications of COVID-19 on prisoner mental health and healthcare (Annex). The findings from the pandemic further illuminate, rather than contrast to, pre-existing findings on prisoner mental health. IAP evidence will also cover the importance of providing adequate alternatives to custody, especially for those with significant mental health requirements.

Improving mental health provision

5. In response to a rising tide of self-inflicted deaths and serious self-harm, in 2017 the IAP focussed on identifying practical steps to preventing suicide in prison custody through its Keeping Safe project. The IAP received over 100 letters and 50 recorded messages from prisoners across 60 prisons which set out constructive thoughts on both the problems and solutions required.⁴ The subsequent report identified unmet mental health needs as a key cause of suicide.⁵
6. The conclusions on how mental health treatments and wellbeing could be improved remain relevant and important:
 - a. Focussing on preventative work and diversion into treatment;
 - b. Ensuring a timely response by trained mental health teams, including counsellors and keyworkers, and introducing mental health awareness and emergency response training for all staff;
 - c. Tailoring drug treatment, maintenance and detox to needs of individuals.⁶
7. Mental health considerations should be incorporated to a greater extent in the Assessment, Care in Custody and Teamwork (ACCT) process, including facilitating the full involvement of mental health professionals. One prisoner responding to the Keeping Safe project correctly suggested that “*ACCT needs to address the reasons behind mental health, not just monitor those on suicide watch.*” The IAP welcomes ongoing

³ See Independent Advisory Panel on Deaths in Custody, Keeping Safe: Preventing Suicide and Self-harm in Custody, December 2017, <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5ed5178d95645801a7a5e321/1591023614282/Keeping+Safe+-+FINAL+-+Dec+2017.pdf>; Prison Reform Trust, Bromley Briefings Prison Factfile Winter 2019, <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Winter%202019%20Factfile%20web.pdf>.

⁴ Independent Advisory Panel on Deaths in Custody, Keeping Safe project, <https://www.iapondeathsincustody.org/keeping-safe>.

⁵ Independent Advisory Panel on Deaths in Custody, ‘Keeping Safe: Preventing Suicide and Self-harm in Custody’, December 2017, <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5ed5178d95645801a7a5e321/1591023614282/Keeping+Safe+-+FINAL+-+Dec+2017.pdf>. Recommendations from the Keeping Safe report informed the National Institute for Clinical Excellence revised guidelines on suicide prevention and they were discussed at the Ministerial Board on Deaths in Custody and recommendations accepted by Ministers and officials. HMPPS responded to the recommendations by introducing the keyworker scheme, providing staff mental health awareness training and regime changes.

⁶ *Ibid.*, p. 22.

Ministry of Justice work to move ACCT away from a bureaucratic process towards one which places a greater focus on individual safeguarding requirements.⁷

8. The IAP supports the Centre for Mental Health's intention to assess ways that services can be tailored to address the specific requirements of different prisoner cohorts. For example, existing IAP research into women in prison demonstrates that deaths can be prevented through addressing unmet mental health requirements in order to meet the complex needs of a particularly vulnerable population.⁸ Recommendations were presented to the Ministry of Justice's Advisory Forum on Female Offenders and agreed by government as part of its strategy on female offenders. These included the need to:
 - a. Develop a gender-aware and trauma-informed environment in all women's prisons including staff training on the impact of separation and loss, and awareness of perinatal mental health and support for women at risk.
 - b. Roll out higher level of emergency response training for all staff.
 - c. Ensure every Mental Health Trust has a clinical lead for women's mental health.
 - d. Provide a greater range of mental health and substance misuse treatments, including the provision of counselling services and talking therapies, in the community.
 - e. Provide counselling services to all women prisoners. Each women's prison should employ a counsellor with placements for trainees routinely, and a national lead for counselling services should be instituted.⁹
 - f. Establish thorough-going mental health assessments for all within first 24 hours of arrival in custody.¹⁰
 - g. Review implementation of the Care Act 2014 which placed preventative duties on local authorities and required them to meet social care needs
 - h. Ensure access to secure mental health accommodation is available in a timely manner to those who need it, prisons should not be used as places of safety.
9. As part of a briefing to summarise the findings of an initiative with the Royal College of Nursing to identify how natural deaths in prison might be prevented, the IAP calls for the unique circumstances of women and BAME prisoners to be taken into account when designing policy. It also calls for the conception and implementation of a specific strategy for older prisoners, which should include approaches to addressing mental health needs and dementia.¹¹

Wider causes of mental health deterioration

10. The importance of staffing in prisons as well as staff availability, staff attitudes and their actions were reiterated time and again by prisoners in their responses to the Keeping

⁷ *Ibid.* p.38.

⁸ Independent Advisory Panel on Deaths in Custody, 'Preventing the Deaths of Women in Prison – initial results of a rapid information gathering exercise by the Independent Advisory Panel on Deaths in Custody', March 2017, <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5f5207216dd18341fc2848a2/1599211305040/IAP%2Brapid%2Bevidence%2Bcollection%2B-%2Bv0.3.pdf>.

⁹ Subsequent publication of a meta-analysis of psychological therapies indicates some positive outcomes from CBT and mindfulness. See Yoon, I. A., Slade, K., & Fazel, S, 'Outcomes of Psychological Therapies for Prisoners With Mental Health Problems: A Systematic Review and Meta-Analysis', *Journal of Consulting and Clinical Psychology*, June 2017, <http://dx.doi.org/10.1037/ccp0000214>.

¹⁰ Following reception screening there should be a second stage assessment with triage to the right level of care and evidence-based treatments.

¹¹ Independent Advisory Panel and the Royal College of Nursing, 'Avoidable natural deaths in prison custody: putting things right', Forthcoming September 2020.

Safe initiative and since. People in prisons have told the IAP about the damaging impact of staff cuts, exhaustion, low morale, loss of experienced staff, a lack of time to talk and more lock-up, but also about the impact that engagement with caring and supportive staff can have on their mental health:

“There is one particular officer who can tell just by talking to me how my mood is. He notices if I am down, if I don't eat, if I don't socialise. I rarely see my offender supervisor but if each officer adopted one side of one landing, got to know his or her prisoners and kept casual watch, warning signs could easily and quickly be detected.”¹²

“I find that being behind my door too much, working in places I don't like and being provoked to self-harm by staff a serious issue. Officers are not qualified but seem to like to psychoanalyse prisoners that self-harm.”¹³

11. The Keeping Safe project also covered other aspects of prison life which have a direct and negative impact on the mental health and wellbeing of those who are held in the prison system. Alongside prisoner calls for prompt assessment and diversion or transfer into treatment, solutions offered included listening, counselling, peer support, correct medication and prompt transfer of medical records, increased exercise and activity and better emergency response.
12. The prison environment is also vital. Some suggested some simple remedies to improve mood and morale, for example *“flowers, plantation and general greenery plus comfortable seating available to those with mental illness/depression.”¹⁴*
13. For those preparing for release, it is important that robust services are in place to manage the transition back to the community. This must include transitional interventions that link to other resettlement provision to provide joined-up care for people with serious mental illness in particular. A steadier approach to tendering and commissioning services over more extended periods would reduce the risk of disruption and discontinuity of care.

Alternatives to custody

14. As well as improvements to mental health provision, problems are exacerbated and the odds stacked against services when people with serious mental health needs, who should be receiving treatment in the community, are instead locked in bleak prison cells.
15. In 2009 the Bradley report summarised this problem:

‘The policy of ‘diversion’ for people with mental health problems or learning disabilities has been supported by Government since as far back as 1990. But the lack of a nationally guided approach has meant that implementation has been inconsistent.’¹⁵

16. In response to concerns about unmet mental health needs, the worrying rise of self-inflicted deaths in custody and exceptionally high levels of self-harm, the IAP has carried out work to improve – and increase the low take-up of – community mental health and liaison and diversion services. In partnership with the Magistrates Association, the IAP

¹² IAP, ‘Keeping Safe’. p15.

¹³ *Ibid.* p.19.

¹⁴ *Ibid.*, p. 28.

¹⁵ Lord Bradley, ‘The Bradley Report – Executive Summary’, p.1.

carried out and published the results of an independent survey of magistrates' views on sentencing powers and practice in relation to offenders with mental health conditions, learning disabilities and other needs.¹⁶

17. Launching the report, John Bache, National Chair of the Magistrates Association, said:

*'This report underlines the need to have robust and effective community sentences available as an alternative to custody for vulnerable offenders in every area of the country, which is simply not the case at present, as custody can bring disproportionate risks of self-harm or suicide for these people.'*¹⁷

18. Over half of magistrates responding to the survey said they had 'never' included a mental health treatment requirement (MHTR) as part of a community sentence, with the remaining respondents saying that they 'rarely' had. Ministry of Justice figures reveal that in 2018, of all the community sentences handed down by the courts, fewer than one per cent carried a Community Sentence Treatment Requirement (CSTR).

19. Upcoming sentencing reform offers the opportunity to extend the availability and use of CSTRs. There is also a need to measure the impact of MHTRs for people with serious mental illness. Current successful pilots cover primary care mental health only.

20. As part of the recovery from the COVID-19 period, longstanding problems of vulnerability should be addressed to reduce risk of deaths in custody. These include significantly increased use of community sentences through MHTRs; an overhaul of the transfer system to hospital under emergency section; and review and reform of the system for compassionate release.¹⁸

Annex: COVID-19 and mental health in prisons

21. In line with its guiding principle to consult people in custody and their families wherever possible, during the COVID-19 period the IAP has sought to gather and understand the views of people in prison on the impact the virus has had on their lives. This includes a rapid review of over 220 messages across 55 prisons about prisoners' experience of the initial COVID-19 lockdown period, as well as a second review across July and August with National Prison Radio where 40 prisoners have identified the one thing they would change now to make prison safe.¹⁹ Mental health provision and deterioration emerged as key themes of both reviews.

¹⁶ Magistrates Association and the Independent Advisory Panel on Deaths in Custody, 'Survey Effective community sentences and the role treatment requirements can play in preventing deaths in custody', June 2019, <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5d760017df09514a97a4f6ce/1568014366659/MA+IAP+survey+final+270619.pdf>.

¹⁷ Magistrates Association and the Independent Advisory Panel on Deaths in Custody, 'Press release: Effective community sentences and the role treatment requirements can play in preventing deaths in custody', June 2019, <https://www.magistrates-association.org.uk/Portals/0/IAP%20and%20MA%20press%20release%2025%20July%202019.pdf>.

¹⁸ For the latest on this project see: <https://www.iapondeathsincustody.org/latest/2020/8/6/cstr-update>.

¹⁹ Independent Advisory Panel on Deaths in Custody, "'Keep Talking, Stay Safe": A rapid review of prisoners' experience under Covid-19', 1 June 2020, <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5ee115af9592717e002903f8/1591809460419/200601+IAP+rapid+review+of+prisoner+experiences+under+Covid-19+-+FINAL+CLEAN.pdf>; Independent Advisory Panel on Deaths in Custody, "Just One Thing: COVID-19 and prison safety", Forthcoming September 2020.

Mental health provision

22. Support provided by mental health teams appears to have varied across establishments during the COVID-19 period. Some said *'I am getting the treatments I need to be getting even though I am still locked up...'*²⁰ However, the IAP understands that there remains a lack of psychological therapy input in prisons. Innovative models should be pursued such as delivery by phone, more self-management as well as one to one counselling and small group work to ensure the service is able to adequately support people who are particularly vulnerable (such as those with autism and/or learning disabilities/difficulties, people who are mentally ill and those with dementia).

Implications of COVID-19 on prisoner mental health

23. Responses to the IAP's two surveys show that heightened lockdown as a result of COVID-19 has clearly and inevitably had a negative impact for many on the mental health of those detained, and that this damage is increasing as time progresses. Except in the open estate, most prisoners have spent at least 23 hours a day locked in their cell for several months.²¹

'There's a lot of people in here struggling with their mental health, staff aren't listening. What's it going to take? For people to start committing suicide, to start self-harming... something needs to be done sooner rather than later.'

'I'm sure there is a lot of prisoners suffering from severe anxiety, isolating in their cells not knowing when they're going to be unlocked.'

*... I'm talking to walls at the moment which is affecting my mental health. We're in desperate need for some stimulation for our brains.'*²²

24. The extreme challenge of prolonged isolation is particularly harmful for those in the youth estate. One young man told the IAP:

*'You should give people more free time. Being in the cell 23 hours a day, it's too much on certain people. It's really hard. We should also get more credit, so we can talk to people more. It's a help. This £5 isn't doing anything. We need to be able to talk to people. It's hard, it's really hard.'*²³

Causes of mental health deterioration

25. Staff capacity, interaction and kindness emerged as a key factor affecting the mental health of those in prison during this period:

*'But for these people on D wing the staff are like - they know my heads fallen off so many times. I've tried to kill myself. I've tried to do so many crazy things to myself and I just appreciate the way the staff just keep picking me up. Just keep bringing me back and keeping me focused.'*²⁴

²⁰ IAP, "Keep Talking, Stay Safe".

²¹ HM Chief Inspector of Prisons, 'Aggregate report on Short scrutiny visits by 21 April – 7 July 2020'.

²² IAP, "Keep Talking, Stay Safe".

²³ IAP, "Just One Thing: COVID-19 and prison safety".

²⁴ IAP, "Keep Talking, Stay Safe".

26. Purposeful activity is key to meeting mental health needs, and some argued for increased activity directly focused at addressing this requirement. In the context of uncertainty and fear related to the virus, urgent targeted interventions are required.

*'It would be good if there were stress management courses you have to join when you come in. We're the lowest people in society, it would be good if we could be wiser when we come out and give something back to society when we come out and not be out of control emotionally.'*²⁵

27. Some responses mentioned the vital work of Samaritan listeners. The IAP understands that whether Listeners are able to do their important work in prisons is dependent on how restrictive the prison regime is, which differs across the country. The service should work with the Samaritans to expand the Listener scheme, use innovative means of communication and establish Listeners as essential workers in all establishments.

*'.. the number one Listener of the jail also the most trusted prisoner in the whole jail. He's really been there for me ever since I started in this jail. I ring for a Listener at the end of the night and he's there for me.'*²⁶

28. None of these issues are new – instead they have been magnified by the intense circumstances of COVID-19. The Ministry of Justice and prison service must maximise the opportunity that the recovery period from the virus presents to innovate and 'build back better' in ways that fully support the mental health needs of vulnerable populations.

*'I would like the prison service to use this lockdown time to try some new initiatives regarding rehabilitation and education and mental health. Extreme times call for extreme actions, and the biggest shame in prisons is the waste of human resources...not only would I be happy to help other men but this would give me purpose and help me and others to overcome the challenges that life can throw at us.'*²⁷

²⁵ IAP, "Just One Thing: COVID-19 and prison safety".

²⁶ IAP, "Keep Talking, Stay Safe".

²⁷ IAP, "Just One Thing: COVID-19 and prison safety".