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Mr Guido Liguori
Associate Commissioner
Independent Police Complaints Commission (IPCC)
By email only

9th July 2014

Dear Mr Liguori

Re: Mr Lloyd Edward Butler (Deceased) – Independent Investigation Draft Learning Report

I write in response to your letter dated 25th June 2014, to your draft learning report and more specifically to the findings and recommendations therein. The draft learning report was helpful and I am grateful for the opportunity to set out our response to your findings. I do not have any representations to make regarding the draft report, except that I feel that the recommendation to maintain a record of receipt of cards and handouts provided to staff seems unrealistic and bureaucratic. This point is covered in more detail below.

The Chief Constable will be responding to the coroner in relation to her Regulation 28 report and the concerns she raises regarding the general conduct of West Midlands Police (WMP) staff in custody. I will say here that I was personally very disappointed by the behaviour of the staff involved in the case of Mr Butler, who have rightly faced misconduct proceedings, but I am confident that their attitude and behaviour is not typical of the manner in which WMP employees conduct themselves and the high level of care which is shown to detainees.

Returning to the findings of your draft learning report, I will deal with each of the local recommendations in turn.

Local Recommendations

5. It is noted that since the incident the Detainee Prompt Cards have been brought to the attention of operational officers but it would be advisable that a record of receipt of such prompt cards is maintained and that all new officers are provided with any current prompt cards produced.

Prompt cards can be a useful tool to reinforce key points of learning and as a quick reference guide for officers but I believe that our systems for ensuring that critical aspects of policy, such as the provision that drunk and incapable detainees should be conveyed to hospital, need to be robust in their own right. As such, WMP has ensured that both our control room and custody staff are fully aware of the policy regarding drunk and incapable persons; the control room to ensure that such detainees are transferred to hospital at the earliest opportunity and the custody staff when assessing detainees on their arrival in custody.

Between 2010 and 2012 the number of detainees brought into custody for being drunk and incapable fell significantly and since December 2012 no persons have been brought into custody



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for this offence. Whilst persons detained for other offences may potentially also be drunk and incapable, I hope that you will have some confidence from our performance relating to drunk and incapable arrests that all such persons will now be conveyed to hospital rather than to custody. In relation to the prompt cards themselves, I do not feel that it is practicable to keep a record of all such documents that are given to staff as part of their training. A central training record is kept for each member of staff to ensure that they maintain all relevant qualifications for their role. In addition to this, staff can access policy guidance via the force intranet system and are also encouraged to refer to national guidance, such as Authorised Professional Practice, as part of their ongoing development. New officers will be provided with current prompt cards as part of their training.

6. The number of prompt cards issued to operational officers should not become so prolific that the significance of issuing the cards and their contents becomes diminished.

WMP does make use of prompt cards and other handouts as part of our training for officers and staff and I feel that it is useful for staff to be able to access prompt cards to assist them with particular policies on which they feel less confident. However, as noted above, I believe that it is important that there is not an over-reliance on such documents as the primary method of ensuring compliance with critical policies. WMP Learning & Development does seek to highlight critical learning packages for staff so that particularly significant content receives appropriate weight and recognition amongst our staff.

7. That the wording in the Detainee Prompt Card is amended to read 'walk or talk' as opposed to 'walk and talk' and the significance of this is effectively communicated.

The force has acted on your recommendation and amended the wording on the 'Detainee Prompt Cards'. The change in wording has been highlighted to staff as a 'Message of the Day', via the Force intranet system, and steps are being taken to ensure all previous versions of the cards are withdrawn.

8. Constant observations of a detainee via CCTV should be conducted in as sterile an atmosphere as possible and clear arrangements should be implemented to ensure that there is sufficient cover for staff performing those functions to take breaks. If a separate room is available to perform constant observations it should be documented/policed and effectively communicated to staff likely to perform this function.

There is currently provision to conduct constant observations in a separate room in 10 of our 11 custody suites and staff have been reminded that CCTV monitoring equipment located in back offices should be utilised for constant observations, where available and appropriate in the circumstances. Brierley Hill custody block, the smallest site in the force area with 7 cells, does not have this facility owing to the physical lack of a separate room to site the monitor.

I feel it is important to note, however, that whilst it is vital that staff are not unduly distracted when conducting observations by being near to the charge desk, such positioning does allow custody supervisors to monitor the staff more easily and ensures that the staff member conducting observations can easily raise questions or concerns. It would seem appropriate that the location of staff conducting constant watches should be a decision for the custody supervisor on a case by case basis, with due regard to the risk assessment for the detainee and environment of the custody suite at the time.

In response to your recommendation regarding refreshment breaks, all CJS Inspectors and Custody Sergeants have been reminded of the need to ensure that staff conducting level 3 or 4 watches (constant observations) are allowed to take regular breaks, with cover being organised to ensure that the observation and care of detainees continues.

9. Consideration be given to ensuring that one of the male cells at Stechford Custody Suite with a low bench is capable of being monitored from the room to the rear of the custody charge desk.

I can confirm that the observation monitor in the room identified at Stechford Custody Suite allows 4 cells to be monitored at once, one of which is cell M10, the male cell with a low bench. I can also confirm that there are 32 cells with a low bench in the force operational custody estate in total, 30 of which also have CCTV monitoring, and that all of the 11 custody suites has at least one cell with a low bench that is CCTV monitored.

11. That personal use of the internet should be restricted to defined break periods and on terminals not within the custody charge desk environment to avoid distractions both direct and collateral.

It is clearly important that staff are not distracted from their duties by personal use of the internet. However, there is an operational need for internet access from custody charge desks in order to provide the best possible care and service to detainees and I, therefore, do not consider it appropriate to restrict access in the manner suggested.

The underlying issue appears to be one of individual professionalism and personal responsibility amongst staff. Staff can now easily access the internet from their personal mobile phones and other distractions will also affect those who do not approach their duties with the correct attitude. The force has a policy regarding internet usage, so that all staff should understand what is acceptable, and all supervisors, including those working in custody, are expected to ensure that it is adhered to. I have asked our Corporate Communications department to review the current internet usage policy to ensure that it remains fit for purpose.

13. That vent-aids are kept in all custody suite first aid boxes which it is noted was immediately identified and rectified by West Midlands Police following this incident and that they also put in place a policy to ensure that all officers were issued with two vent – aids with one to be carried at all times and a spare to be kept secure in the event that the first is used.

As identified within your report, this issue has already been remedied. WMP Corporate Services ensure that two vent aids are issued to each operational officer, and staff are reminded as part of their annual first aid training of the requirement to be in possession of at least one vent aid, with the second kept as a spare.

15. That there should be a presumption that rousing checks are conducted by suitably trained officers such as Custody Sergeants or DEO's unless it is unavoidable when full detailed briefings should be provided to officers tasked with conducting rousing. It is noted that since the incident West Midlands Police have required that only custody trained staff now undertake observations.

Since August 2010 WMP primarily use custody trained staff to conduct observations on detainees. The percentage of custody staff conducting constant watches compared to non-custody staff is monitored on a monthly basis to ensure our performance in this area is maintained, with figures showing that, on average, over 80% of watches were conducted by custody staff between January and June 2014. In our largest custody facility, Birmingham Central, Custody Officer Assistants (COAs) have been recruited to provide additional capacity in this regard.

On the rare occasions that non custody staff conduct the observations, Custody Sergeants are required to fully brief the officer involved, utilising Observation Briefing Sheets (copies attached), and an entry recording that the briefing has taken place is made on the custody record.

I hope that our response to your findings will provide you with reassurance regarding the emphasis WMP places on the welfare of detainees. In the years since Mr Butler's death, a great deal of work has been carried out to try and ensure that our standards of care are as high as possible and over the next two years WMP is investing in two new purpose built custody suites to continue this improvement. Whilst it is not possible to completely eliminate the risk of a death in custody, I hope that our improved training, systems and facilities will ensure that this risk is kept to the absolute minimum.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Gareth Cunn', is written over the typed name.

Gareth Cunn
Assistant Chief Constable (Operations)

REMEMBER YOU ARE HERE TO DO CCTV OBSERVATIONS

- Please liaise with the Custody Officer for a full briefing of the detainee's care plan. You must ensure that you fully understand your role and responsibilities. Request that you be issued with and retain a key to the cell whilst in this role. If in doubt ask!
- Ensure that an entry is made on the relevant custody EDL confirming that you have taken over the CCTV observations, and that you are fully aware of the care plan for the detainee you are observing.
- Visits to the detainee must be in accordance with the instructions given by the custody officer. You must ensure that the detainee is under constant observation and accessible at all times.
- The EDL must be updated at least every 30 minutes, to include each and every occasion when you attend the cell and when the detainee's behaviour/condition changes.
- If the detainee attempts to fully conceal themselves under their blanket they must be visited and advised. If they persist after warning, the blanket should be removed. Constant watch means that you should be able to see the detainee head and arms in full view at all times.
- If during your observations there is a change in behaviour, no matter how trivial the change may seem, visit the detainee immediately and check on their welfare. Inform the Custody Officer or Detention Escort Officer immediately so that the risk assessment can be reviewed.
- When observing detainees who are under the influence of alcohol, the detainee if asleep must be visited & roused at least every 30 minutes. The Custody Officer will define what "rousing" consists of.
- The detainee must be positively engaged at frequent and irregular intervals.
- Should you be relieved from your constant watch duties, the custody EDL must be updated. You must ensure that you verbally brief the Custody Officer & any Officer taking over this role prior to exiting the custody suite. Remember to hand over the key to the cell.

Ensure you constantly monitor the detainee at all times and do not allow yourself to become distracted.

REMEMBER YOU ARE HERE TO DO CLOSE PROXIMITY OBSERVATIONS

- Please liaise with the Custody Officer for a full briefing of the detainee's care plan. You must ensure that you fully understand your role and responsibilities. If in doubt ask!
- Ensure that an entry is made on the relevant custody EDL confirming that you have taken over the observations and that you are fully aware of the care plan for the detainee you are observing.
- You must physically supervise the detainee in close proximity. Confirm with the Custody Officer whether the cell door is to be kept open or closed (usually open). If the cell door is to be closed then request that you are issued with a key to the cell.
- You must positively engage with the detainee at frequent and irregular intervals.
- Your observations, including the detainee's behaviour / condition must be recorded contemporaneously by you on a WG420A (custody record continuation / handwritten).
- Any changes in behaviour / condition must be reported to the custody officer immediately.
- Should you be relieved from your constant watch duties, the custody EDL must be updated. You must ensure that you verbally brief the Custody Officer and any Officer taking over this role prior to exiting the custody suite.
- Remember to hand over the key to the cell.

Ensure that you constantly monitor the detainee at all times, and that you do not get distracted.