

## **The Human Rights Framework**

We have constructed a Human Rights Framework based on the requirements of Article 2 emanating from domestic and European case law. The evidence collected by this Inquiry has been evaluated against this Framework to identify areas for improvement and of existing good practice.

Section A sets out the steps required to be taken to meet the obligation to protect and not to take life.

Section B sets out the steps required to be taken to meet the obligation to investigate.

### **Section A – obligation to protect and not to take life**

The overarching obligation is to provide a safe and respectful environment for detainees. This obligation comprises the four principal responsibilities of the State, each one sub-divided into the practical steps which should be taken.

#### **Dignity and respect**

To maintain an environment that provides:

1. Freedom from physical abuse by staff or other detainees
2. Freedom from bullying, threats and disrespectful treatment by staff and other detainees
3. Freedom from neglect by staff or external professionals
4. Freedom from unlawful use of physical restraint

Steps 1 to 4 will involve ensuring that effective systems are in place to report and to tackle abuse, bullying, neglect and disrespectful treatment.

A safe environment will include, where necessary, the provision of safe cells and rooms and arrangements for emergency responses.

#### **Risk and assessment**

To provide:

5. An effective risk assessment before initial detention or as soon after as is reasonably practicable
6. An effective review of that risk assessment at regular intervals thereafter
7. Dissemination of those assessments to relevant agencies within and outside of the setting

Steps 5 to 7 may require a two-stage process. Firstly, an initial assessment to identify those at potential risk of suicide or loss of life and, secondly, a more comprehensive assessment of those so identified to determine level of risk and specialist support/individual safeguards required. It will also involve ensuring that effective systems are in place to implement the safeguards.

### **Treatment and support**

To provide:

8. Access to timely and appropriate medical and mental health treatment and support
9. Access to appropriate social support, such as listeners, insiders and regular family contact, for example
10. Information and advice in an appropriate format on how to access this treatment and support
11. A right to treatment for drug and alcohol abuse and protection from access to them

### **Individualised protection**

To provide:

12. Proportionate individualised protection where the detainer knows or should know that there is a real and immediate risk to the life of a detainee. Effective risk assessment will make it easier to identify when this obligation is triggered.

When determining what actions are proportionate, it is necessary for agencies to consider a number of factors including the seriousness of the risk, the steps that could reasonably be taken to reduce or eliminate the risk and the relative ease or difficulty of taking those steps. Sufficiently trained staff will be required to identify risk and determine the appropriate measures and systems that should be put in place.

### **Section B – obligation to investigate**

This obligation comprises the three principal responsibilities of the State to make sure that there is an effective investigation into every death from non-natural causes in state detention.

1. To conduct an effective investigation, which:
  - The state initiates itself
  - Appoints an investigator independent of those implicated in the death
  - Begins promptly and concludes as quickly as is reasonable
  - Takes all reasonable steps to secure relevant evidence relating to the death
  - Takes all reasonable steps to uncover any discriminatory motive behind the death

- Makes the investigation and its conclusions open to public scrutiny
  - Involves the next of kin and ensures that their interests are protected.
2. To make arrangements to secure legal accountability for those responsible for a death

An effective investigation will hold to account anyone found to be at fault as a result of the investigation. Depending on the degree of culpability, this may lead to disciplinary action and criminal proceedings against either an individual or an organisation, for example under the Corporate Manslaughter and Corporate Homicide Act 2007.

3. To take appropriate measures to prevent future deaths

An effective investigation should have identified any systemic or training defects, any defects in the planning, management or control of the incident and any defects in instructions to staff.

A consequence of this should be that lessons are learned and shared. This is to ensure that, so far as is possible, steps are then taken to minimise the risk of similar deaths in the future.