

Form 6.2

RESPONSE

SHERIFFDOM OF LOTHIAN AND BORDERS AT EDINBURGH

FAI 35 (2018)

DETERMINATION OF SHERIFF GORDON LIDDLE

UNDER THE INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC
(SCOTLAND) ACT 2016

in the inquiry into the death of

ALLAN STEWART MARSHALL

To the Scottish Courts and Tribunals Service

1. The Scottish Prison Service (SPS), being a body to whom a recommendation under section 26(1)(b) was addressed, do respond as follows.
2. **Recommendation 1** – ‘It is recommended that SPS bring the C&R manuals used for the training of prison staff up to date and that the content and delivery of training provided is kept under regular review. In that regard, it is recommended that SPS give urgent consideration to revising all versions of the C&R manual to include the information and advice contained in GMA 048A/16 and the information contained in Annex A’
3. **Response** – SPS is undertaking an organisational review of Control and Restraint (C&R), with engagement with the relevant staff groups and external assurance and oversight being provided by Her Majesty’s Chief Inspector of Prisons. An external independent professional in the prevention and management of violence and aggression and in the use of physical interventions will also be appointed to provide input into the review. The review is tasked with producing the following products; (1) C&R policy document; (2) consolidated and revised C&R manual and (3) suite of revised and updated C&R training materials. As part of the review of these documents, consideration will be given to the extent to which it is necessary to incorporate the information contained in GMA 048A/16 and Annex A within the C&R manual. In addition to this, processes are to be introduced which will ensure updates to the revised C&R policy and manual are captured and issued corporately.

4. It is anticipated that the organisational review of C&R will be completed and the products from the review implemented by April 2020. In the meantime, all SPS training managers have been instructed to ensure that copies of GMA 048A/16 are included in their local C&R manuals and are available for all C&R training sessions. C&R Instructors have been directed to incorporate a discussion of GMA 048A/16 into C&R training.
5. **Recommendation 2** – ‘It is recommended that SPS give consideration to reviewing the instruction in the C&R manual (or elsewhere) relating to psychosis such that observation of any warning signs associated with psychosis is a trigger to require urgent healthcare advice being sought.’
6. **Response** – A medical professional will be appointed to assist SPS in a review of our current guidance to staff regarding excited delirium and psychosis. This will include information on the observation of any warning signs associated with psychosis which would indicate that urgent healthcare advice should be sought. The medical professional will also provide support to the review of the C&R manual and in particular will be required to provide advice regarding medical conditions that can be exacerbated by the use of reasonable force.
7. **Recommendation 3** – ‘It is recommended that SPS give consideration to ensuring that there is consistency within the instructions contained in Governors & Management Advice (GMA), and all volumes of the C&R manuals to ensure that there can be no confusion about the circumstances to trigger a requirement for seeking NHS Prison Healthcare advice.’
8. **Response** – As detailed in our response to recommendation 1, SPS will be introducing a process which will ensure updates to the revised C&R policy and manual are captured and issued corporately. This will ensure that there is consistency between GMAs and the revised C&R policy and manual, and this will include a corporate instruction with regard to the circumstances that require SPS staff to seek advice from NHS prison healthcare, which as detailed at recommendation 2, a medical professional will advise on.
9. **Recommendation 4** – ‘It is recommended that SPS give consideration to the introduction of a system of working that ensures prison staff members have read and understood any instruction that is contained within a GMA directed at them.’

10. **Response** – SPS intends to make changes to its IT systems that will ensure that staff when they login to the IT system read GMAs which contain key information, such as GMA 048A/16.

In addition, GMAs which require changes to practice will be incorporated in to 'My Learning Online' (MyLO). This is the SPS e-learning platform. In MyLO staff will be directed to any further compulsory materials they are required to read and action. Where necessary, they will also be required to provide an assurance of their understanding by answering a series of questions relating to the materials they have been required to read and action.

It is anticipated that these changes will be implemented by the end of 2019.

11. **Recommendation 5** – 'It is recommended that SPS give consideration to separating out from the C&R manual, the training module relating to the four medical conditions that may be triggered by or exacerbated by the use of force and delivering that training separately from C&R training.'
12. **Response** – To emphasise the importance of this element of C&R training, SPS intends to introduce an additional product relating to the four medical conditions that may be triggered by or exacerbated by the use of force. This will be incorporated as compulsory e-learning ahead of attendance at C&R Phase 1 training and annual refresher training. The e-learning product will be implemented by April 2020.

SPS has given consideration to separating this out from the C&R manual and training however SPS considers understanding the medical conditions within the context of using force, critical to the assessment of learning and would be concerned that separation in training may result in similar separation of thinking in the deployment of C&R.

13. **Recommendation 6** – 'It is recommended that SPS give consideration to either including specific training on the use of feet as a C&R technique within the C&R manual or, alternatively, specifically disallowing the use of feet within any restraint.'
14. **Response** – This will be considered as part of the organisational review of C&R.
15. **Recommendation 7** – It is recommended that SPS give consideration to introducing a system of working whereby there is always at least one staff member within a removal team who is a

designated first responder and that there is a designated duty for that officer to respond and administer CPR when an appropriate situation arises.

16. **Response** – This will be considered as part of the organisational review of C&R. For information, all SPS prison officers are trained in emergency response which includes how to administer CPR. Emergency response training is a compulsory core requirement for prison officers and requires staff to complete compulsory refresher training every three years.
17. **Recommendation 8** – ‘It is recommended that SPS devise and put in place a clear policy to provide that prisoners presenting with symptoms of EDS or psychosis must be kept secure and not be placed under physical restraint until they have been assessed by healthcare professionals and it having been deemed safe for the prisoner to be restrained.’
18. **Response** – This will be considered as part of the organisational review of C&R. SPS considers it will be challenging to implement this recommendation, given SPS’s duty of care that requires prison officers to respond immediately where an individual is a risk of harm to themselves or others. As part of the review, SPS will consider strategies that could be utilised to avoid wherever possible, the use of force.
19. **Recommendation 9** – ‘It is recommended that SPS immediately introduce a policy provision to ensure that all code blue alerts are audio recorded, preserved and, in the event of a death, not destroyed until there has been a FAI determination issued.’
20. **Response** – SPS issued a GMA 71A/18 in November 2018 instructing Governors in Charge that the recording of radio messages requesting assistance e.g. code blue, code red or emergency calls connected to a death in custody must be preserved and a copy given to the Crown Office and Procurator Fiscals Service (COPFS).
21. **Recommendation 10** – ‘It is recommended that SPS give consideration to introducing a system of working whereby it can be ensured that information contained in GMAs is both received and understood by all intended recipients.’
22. **Response** – Please see response to Recommendation 4 above.
23. **Recommendation 11** – ‘It is recommended that SPS give consideration to introducing a system of evaluation whereby it can be effectively established that the information contained in training provided to prison officer staff has been successfully imparted to the recipient.’

24. **Response** – This will be considered as part of the organisational review of C&R, which will involve the SPS College, who are principally responsible for ensuring that information contained within the training provided to staff is understood and implemented.
25. **Recommendation 12** – ‘It is recommended that SPS introduce a policy that, in any case involving police investigations, no operation debrief shall be conducted until the police have concluded their investigations and finished taking statements from SPS witnesses.’
26. **Response** – SPS will implement this recommendation by the end of 2019. At this time SPS are still investigating and considering suitable alternatives to the Operational Debrief, the purpose of which was to ensure the welfare of all staff involved in an incident and to identify if there were any ‘immediate’ actions that SPS are required to take as a result of the incident.
27. **Recommendation 13** – ‘It is recommended that SPS introduce a system whereby there is a formal handover on changes of shift and a written account of any unusual prisoner activity or presentation to be kept and presented to the FLM on the following shift at shift handovers.
28. **Response** - SPS will introduce a standardised handover procedure for First Line Managers by the end of 2019.