

## **REGULATION 28: REPORT TO PREVENT FUTURE DEATHS**

*NOTE: This form is to be used after an inquest.*

	<p><b>REGULATION 28 REPORT TO PREVENT FUTURE DEATHS</b></p> <p><b>THIS REPORT IS BEING SENT TO:</b></p> <p>1. <b>Home Secretary</b> <b>Home Office</b> <b>2 Marsham Street</b> <b>London SW1P 4DF</b></p> <p>2. <b>Justice Secretary</b> <b>Ministry of Justice</b> <b>102 Petty France</b> <b>Westminster</b> <b>London SW1A 9AJ</b></p>
1	<p><b>CORONER</b></p> <p>I am André Rebello, Senior Coroner for the area of Liverpool &amp; Wirral Coroner Area</p>
2	<p><b>CORONER'S LEGAL POWERS</b></p> <p>I make this report under paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and regulations 28 and 29 of the Coroners (Investigations) Regulations 2013.</p>
3	<p><b>INVESTIGATION and INQUEST</b></p> <p>Michał Piotr Netyks</p> <p>Medical cause of death: 1a Blunt force head injury</p> <p><b>How, when, where and in what circumstances:</b></p> <p>Michał Piotr Netyks. Polish national, residing in the UK Mr Michał Piotr Netyks died at Altcourse, Brookfield Drive, Liverpool on December, 7th 2017 at 12.33 hours. At 12.11 hours Mr Netyks jumped head first with his arms tucked away, over the first floor railings on Valentine Green Wing. He landed on his head on the first floor below. Mr Netyks was in prison serving a 26 week sentence and was aware of his planned release date of 7th December 2017. On 18th September 2017, an email was sent from HMP Altcourse to the Home Office (HO) advising of Mr. Netyks' discharge date of 7th December 2017. On 26th September 2017, he underwent an Induction Interview by Immigration staff and was served with a liability for deportation form on 10th October 2017. Mr Netyks responded providing information about employment history and family ties on 6th November 2017 as he wished to remain in the United Kingdom. Taking into consideration a witness statement, it is clear that HMP Altcourse attempted to remind Immigration authorities of the release date from prison of Mr. Netyks on 5th December 2017, followed by a further phone call on the 6th December, which was within the 48 hours of his planned release date, in accordance with policy. Mr. Netyks had expressed in his diary (30.11.17) that he was aware of his partner having successfully won the appeal to lift his restraining order and his words show that he was looking forward to reconciliation and returning to Wrexham. A log from The Central Information Database (CID) shows that the Immigration officials did not make a decision about his deportation until 6th December 2017. There is no indication that the Home Office decision maker was aware of any self-harm issues. Medical Health records make no recent reference to self-harm issues but Medical Health records and Home Office notes indicate that his mental state was being</p>

	<p>monitored to some extent. However subsequent information from phone call evidence 1st and 3rd December 2017 and a letter dated 26th November 2017 to family and friends indicate that the mounting tension and uncertainty of his deportation status did cause him to express suicidal thoughts prior to the events of 7th December 2017. Based on his cell mate's statement, he was "Gate Happy" looking forward to release. He had property packed and ready to leave. On the morning of 7th December 2017 at 8.40 am which was Mr. Netyks' release date, he was issued with a form IS91 by the Prison Quality and Diversity Officer that he was to remain in Prison under Immigration detention as opposed to serving a custodial sentence. As the Quality Diversity Officer was not in receipt of The IS9IR, which is a form that gives reasons for the detention and appeal guidance, he was served with the IS91 only, which is in English. This left him temporarily without adequate reason for his detention and due to the "released Prisoners' Pin phone suspension system, without the ability to make phone calls to seek support from family friends. In accordance with Home Office Policy in a "Spoke Prison" such as Altcourse, it was appropriate for the Quality and Diversity Officer to deliver this form as opposed to an Immigration Officer. After delivery of the IS91 Mr. Netyks was annoyed and asked another Prison Custody Officer "Why"? The delivery of the papers on the morning of the day of his release was a factor which was likely to affect his state of mind. Shortly before his death, he was seen pacing up and down along the landing by the railings, stepping onto them and peering at the floor below. On jumping over the railing at HMP Altcourse it is our belief that Michal Netyks intended to cause himself fatal injuries. He jumped head first with his arms tucked away. There is no visual evidence on CCTV that he attempted to break his fall. Mr. Netyks' actions were in part contributed to by the Immigration Deportation process.</p> <p><b>Conclusion of jury</b></p> <p>Suicide – in part contributed to by immigration deportation procedures</p>
4	<p><b>CIRCUMSTANCES OF THE DEATH</b></p> <p>Michal Piotr Netyks a Polish national, was Prisoner A0293EA serving a 6 month sentence at HMP Altcourse. Michal had packed away his possessions ready for his discharge from custody, as he was due for release on 07/12/17. However, a first stage immigration notice was handed to him (IS91 Document) shortly after unlock on same morning – in effect detaining him after his sentence was finished for immigration authority deportation purposes. Michal initially appeared annoyed and kept asking why? Shortly after 12.00 noon Michal climbed up onto the railings on the mezzanine upper floor. Michal lost his footing and fell onto the ground behind him. A Prison Custody Officer then tried to get over to Michal, however as he approached him Michal climbed onto the railings and jumped head first landing on the ground floor below, with his hands by his sides. The unit where he was accommodated was a two storey facility – built to HMPPS standards. Emergency medical assistance was commenced but a paramedic pronounced his death on at 12.33 the same day. An IS91R with deportation papers and information of his right to appeal to a tribunal, access to legal advice and support information was received in the prison records office just before midday on the date of his death, too late to hand them to him.</p>
5	<p><b>CORONER'S CONCERNs</b></p> <p>During the course of the inquest the evidence revealed matters giving rise to concern. In my opinion there is a risk that future deaths will occur unless action is taken. In the circumstances it is my statutory duty to report to you.</p> <p>The <b>MATTERS OF CONCERN</b> are as follows. –</p> <p>A. Under PSI 52/2011 Annex K Prison Custody Officers (PCO) are to only act as a postman without giving advice when serving papers related to deportation. The Court heard that PCO do not give legal advice but often have to explain the effect of such documentation such as the authority to further detain IS91 (which in this case had to be delivered before a IS91R was received by the prison). Documentation is served without an immigration Officer present and</p>

	<p>those charged with this role would be more effective if they were provided with a training package, making them aware of the deportation process. The Court is of the view that only the Home Office can deliver this training.</p> <ul style="list-style-type: none"> <li>B. Foreign National Prisoners liable for deportation who are not in an Immigration Detention Centre currently have no access to a duty lawyer scheme. It is important that such subjects are not treated less favourably than those in an Immigration detention centre. This could be addressed by providing free legal advice on immigration matters from duty lawyers at a minimum via the prison estate pin phone system.</li> <li>C. Evidence was received from the Ministry of Justice that the safety considerations from the first floor mezzanine level complied with HMPPS standards. The witness indicated in the witness box that he had never seen the design of the railings at HMP Altcourse before and would be reviewing the first floor Mezzanine safety for this design of Prison. The Court seeks confirmation of this review covering both railings and netting as options. (The Court heard that netting would be problematic given the easy access both from above and below – leading to disruption for the prison).</li> <li>D. In this inquest the Home Office were given the status of interested persons from an early stage. The Court has been greatly assisted by counsel and instructing solicitors acting for the department along with two witnesses. It was evident and unhelpful that the Home Office did not have a senior manager present throughout the proceedings to assist the court on procedures, if only by way of liaison. The Inquest is not an immigration appeal tribunal and yet on evidence received it is more likely than not that Mr Netyks was exercising Treaty rights through employment and family life in North Wales. It appeared unfair that an incarcerated subject of the deportation process was required to provide evidence of the exercise of Treaty rights when the Home Office Caseworker could easily have made a check with the employer or HMRC for corroboration of his appeal against the stage one process. This is particularly concerning given English was a second language and all documentation was only provided in English. The facility to appear to speak and understand English is not the same as being able to comprehend the written word. This apparent unfairness could be addressed by the issue in B above, or by immigration officers explaining such documentation.</li> <li>E. On the sixth day of evidence, the Home Office disclosed partially redacted casework (CID) notes but only from 31<sup>st</sup> October 2017 to 5<sup>th</sup> November 2018. The entry on 5<sup>th</sup> November is of the greatest concern given the duty of candour and integrity expected from Government and its Civil servants. The Home Office was made an interested person to protect its rights but also to assist the court. The following entry needs investigation and an explanation as its effect is to manipulate statistics – it appears to be almost a denial of the facts...</li> </ul> <p>"Hi, Name: Michal Netyks DOB: 10 Aug 1982 Nationality: POL Gender: M System: CID Notes Created:05 Nov 2018Created by:M2CATOUnit:CCD Ops GeType:CASE Due to the sensitive nature of this case, senior management have taken the decision to make an exception with this case and delete the record indicating Mr Netyks was IS detained from 07.12.17. This is to prevent MI inadvertently</p>
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	<p>recording this case as a death in immigration detention as Mr Netyks was still serving his custodial sentence at the time of his death. To ensure there are no gaps between the actual time of release from the HMP, current processes are in place to consider and serve detention paperwork in advance of the CRD and to then update the Restriction screen indicating the foreign national offender will be IS detained on the same date of CRD. These actions minimises the risk of release without consideration. Monica Cato Data Analysis &amp; Management Information Team (DAMIT) Criminal Casework Secretariat Tel: + [REDACTED]</p> <p>Created:28 Aug 2018Created by:S11TAYLORUnit:Litig Ops Type:CASE Death in Custody case update: Inquest to be listed"</p>
6	<p><b>ACTION SHOULD BE TAKEN</b></p> <p>In my opinion action should be taken to prevent future deaths and I believe you [AND/OR your organisation] have the power to take such action.</p>
7	<p><b>YOUR RESPONSE</b></p> <p>You are under a duty to respond to this report within 56 days of the date of this report,</p>
8	<p><b>COPIES and PUBLICATION</b></p> <p>I have sent a copy of my report to the Chief Coroner and to the all Interested Persons</p> <p>The Prison and Probation Ombudsman</p> <p>HM Prison Inspectorate</p> <p>I am also under a duty to send the Chief Coroner a copy of your response.</p> <p>The Chief Coroner may publish either or both in a complete or redacted or summary form. He may send a copy of this report to any person who he believes may find it useful or of interest. You may make representations to me, the coroner, at the time of your response, about the release or the publication of your response by the Chief Coroner.</p>
9	 <p><b>Andre REBELLO</b>  <b>Senior Coroner for</b>  <b>Liverpool and Wirral</b>  <b>Dated: 19 December 2018</b></p>