Prisons & Probation Ombudsman
Independent Investigations

Investigation into the death of Mrs Linda Jeffrey a prisoner at HMP Low Newton on 20 October 2015

A report by the Prisons and Probation Ombudsman Nigel Newcomen CBE

PO Box 70769
London, SE1P 4XY
Email: mail@ppo.gsi.gov.uk
Web: www.ppo.gov.uk
T | 020 7633 4100
F | 020 7633 4141

Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*
Respectful: *we are considerate and courteous*
Inclusive: *we value diversity*
Dedicated: *we are determined and focused*
Fair: *we are honest and act with integrity*

The Prisons and Probation Ombudsman aims to make a significant contribution to safer, fairer custody and community supervision. One of the most important ways in which we work towards that aim is by carrying out **independent** investigations into deaths, due to any cause, of prisoners, young people in detention, residents of approved premises and detainees in immigration centres.

My office carries out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

Mrs Linda Jeffrey died from lobar pneumonia, a terminal complication of lung cancer, at HMP Low Newton, on 20 October 2015. She was 66 years old. I offer my condolences to Mrs Jeffrey's family and friends.

Mrs Jeffrey died within four weeks of being diagnosed with lung cancer. I am satisfied that prison and healthcare staff provided a high standard of care and support to Mrs Jeffrey, equivalent to that she could have expected to receive in the community. However, I do not consider that prison managers appropriately took into account Mrs Jeffrey's limited mobility and poor health, when deciding that she should be restrained for hospital visits.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Nigel Newcomen CBE
Prisons and Probation Ombudsman **May 2016**

Contents

Summary

Events

1. In March 212, Mrs Linda Jeffrey was sentenced to six years in prison and sent to HMP Low Newton. Mrs Jeffrey had multiple sclerosis and osteoarthritis of the hip; as a result she used a wheelchair. She was a heavy smoker. Between March and June 2015, Mrs Jeffrey went to hospital a number of times for investigation of a lump near her ribs, as well as bladder and bowel problems. A chest X-ray revealed no abnormalities and a scan was inconclusive. In June, she refused all further hospital intervention.

2. On 17 and 18 September, Mrs Jeffrey told healthcare staff that she had been coughing for a few days and had coughed up blood. On 23 September, the prison GP examined her and sent her immediately to hospital for further assessment. That day, hospital doctors diagnosed lung cancer. Mrs Jeffrey did not want any active treatment, but prison healthcare staff and a specialist palliative care nurse reviewed her symptoms and pain relief regularly. On 11 October, she was moved to the prison's inpatient unit.

3. At about 7.35am on 20 October, Mrs Jeffrey collapsed in her cell and staff called an ambulance. Paramedics decided to take her to hospital but she died in the ambulance before they left the prison.

Findings

4. There was a slight delay in Mrs Jeffrey seeing a GP in September, but this did not affect the outcome as the GP sent her to hospital urgently and the hospital diagnosed advanced lung cancer the same day. Prison healthcare staff liaised well with a palliative care specialist and wing staff to ensure Mrs Jeffrey had effective and supportive care. The clinical reviewer found that Mrs Jeffrey's care was equivalent to that she would have expected to receive in the community and we are satisfied that she received appropriate care.

5. However, we are concerned that prison managers decided to restrain Mrs Jeffrey for hospital visits in September and October, despite her very limited mobility and failing health. A risk assessment completed when Mrs Jeffrey collapsed on 20 October, also indicated that she should be restrained, but was rescinded when the paramedics advised that she was dying. We consider that the decisions to use restraints did not fully take account of Mrs Jeffrey's poor health and limited mobility and how it affected her risk.

Recommendation

- The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position, and that assessments fully take into account the health of the prisoner and are based on the actual risk the prisoner presents at the time.

The Investigation Process

6. The investigator issued notices to staff and prisoners at HMP Low Newton informing them of the investigation and asking anyone with relevant information to contact her. One prisoner responded.

7. The investigator obtained copies of relevant extracts from Mrs Jeffrey's prison and medical records.

8. NHS England commissioned a clinical reviewer to review Mrs Jeffrey's clinical care at the prison. The reviewer spoke to the Head of Healthcare by telephone.

9. We informed HM Coroner for Durham of the investigation, who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

10. One of the Ombudsman's family liaison officers wrote to Mrs Jeffrey's sister-in-law, to explain the investigation. She had no specific matters for the investigation to consider.

11. The investigation has assessed the main issues involved in Mrs Jeffrey's care, including her diagnosis and treatment, whether appropriate palliative care was provided, her location, security arrangements for hospital escorts, liaison with her family, and whether compassionate release was considered.

12. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies and their action plan is annexed to this report.

13. Mrs Jeffrey's sister-in-law received a copy of the initial report. She did not make any comments.

Background Information

HM Prison

14. HMP Low Newton near Durham holds up to 329 women. Care UK provides healthcare services at the prison. The healthcare unit has inpatient facilities with 24-hour nursing cover, and GP services are available during the week, with on-call cover at night and at weekends.

HM Inspectorate of Prisons

15. The most recent inspection of HMP Low Newton was in September and October 2014. Although many women were dissatisfied about health services, the inspection findings did not support this. Inspectors judged that the range and quality of physical healthcare was excellent, including nurse-led clinics for long-term medical conditions and well-developed palliative care arrangements.

Independent Monitoring Board

16. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. In its latest annual report, for the year to February 2015, the IMB considered that the prison was safe and well managed. The Board noted there were several nurse-led clinics and many of them were qualified to prescribe medication.

Previous deaths at HMP Low Newton

17. Mrs Jeffrey was the second woman to die of natural causes at Low Newton since the start of 2014. There were no significant similarities with the circumstances of the other death.

Findings

The diagnosis of Mrs Jeffrey's terminal illness and informing her of her condition

18. On 7 March 2012, Mrs Linda Jeffrey was convicted of child cruelty and aiding and abetting an indecent assault. She was sentenced to six years in prison and taken to HMP Low Newton.

19. Mrs Jeffrey had multiple sclerosis (which caused frequent urinary infections) and osteoarthritis of the hip. She could walk up to ten feet but used a wheelchair, hip brace and walking stick for longer distances. Mrs Jeffrey had smoked up to 30 cigarettes a day for many years. Prison healthcare staff had tried to help her stop smoking many times but she continued to smoke.

20. On 4 March 2015, Mrs Jeffrey told a prison doctor that she had a painful lump below her ribs. The doctor examined her and found bruising, but no shortness of breath. She had a chest X-ray the next day, which showed no injury or abnormalities.

21. Between April and June, Mrs Jeffrey had hospital investigations of changes in her bowel movements and weight loss. An ultrasound scan in May was inconclusive, but did not find anything of concern. On 16 June, she refused to go for a colonoscopy and said she was tired of hospital. She signed a disclaimer refusing all further investigation of urinary and bowel problems and the lump.

22. On 17 September, Mrs Jeffrey told a healthcare support worker (HCA) that she had had a cough for a few days and had coughed up blood. The HCA examined Mrs Jeffrey's mouth and found no bleeding from her gums and tongue. On 18 September, a nurse noted that Mrs Jeffrey had coughed up blood that morning, but not as much as the previous day. On 21 September, a nurse wrote that she had been coughing less frequently, but had asked for an appointment with the doctor.

23. On 23 September, a doctor recorded that Mrs Jeffrey had been coughing up blood once or twice daily and had a pain in the right side of her chest. He sent her to hospital for further assessment. Later that evening, Mrs Jeffrey discharged herself. The hospital discharge information indicated an initial diagnosis of suspected primary lung cancer. A nurse offered her support that night.

24. The next day, a doctor discussed the diagnosis with Mrs Jeffrey. The doctor told her that, owing to the position of the tumour (at the main artery next to her heart), she was at risk of a serious and fatal bleed if the artery ruptured. The doctor recorded that Mrs Jeffrey needed supportive care.

25. The clinical reviewer noted that it was five days before Mrs Jeffrey saw a doctor after she first reported coughing blood, and an earlier referral would have been prudent. However, the doctor sent Mrs Jeffrey to hospital immediately and her cancer was diagnosed sooner than if she had been referred under the guidelines for suspected cancer. The slight delay in referring Mrs Jeffrey to a doctor did not affect the outcome, as the cancer was already at an advanced stage.

Mrs Jeffrey's medical treatment

26. After Mrs Jeffrey's diagnosis, healthcare staff initially visited her daily to offer support. On 30 September, they agreed to see her on alternate days, on the understanding that she could see healthcare staff any time she needed. The prison doctor assessed and adjusted her pain relief as necessary.

27. On 6 October, a Macmillan palliative care specialist discussed Mrs Jeffrey's condition with her and the possibility that she would die from a massive haemorrhage as her tumour was attached to a major blood vessel. The nurse asked staff to prepare a prescription of midozolam (a drug to introduce drowsiness and relieve anxiety) in case this happened. Mrs Jeffrey said she did not want active treatment, such as chemotherapy, and did not want staff to attempt resuscitation if her breathing or heart stopped. She did not yet want morphine but nurses would review her pain relief daily. Mrs Jeffrey said that she felt well supported by staff.

28. On 9 October, a doctor completed the formal record of Mrs Jeffrey's decision about resuscitation and asked staff to keep it with Mrs Jeffrey at all times. A nurse faxed a copy to the ambulance service. The doctor prescribed morphine as Mrs Jeffrey had decided to start taking it.

29. Later that day, a multidisciplinary team meeting discussed Mrs Jeffrey's care and noted that she had 19 weeks left to serve of her sentence. The hospital had not yet given a treatment plan, but she was aware that her cancer was incurable and intended to refuse active treatment. Prison managers agreed to brief wing staff about her condition and risks, with a written protocol with instructions on what to do in the event of a bleed. Medication to deal with this was kept on her wing.

30. On 11 October, Mrs Jeffrey moved to the prison's inpatient unit, but told a nurse that she did not want to attend any further hospital appointments. This included an appointment on 13 October, to find out the outcome of a scan taken on 8 October to determine the extent of the cancer. On 14 October, a doctor told Mrs Jeffrey that the scan had confirmed lung cancer and revealed two breast lumps that might also be cancer. Mrs Jeffrey declined any further investigation.

31. At a palliative care review on 14 October, a nurse and the Macmillan palliative care specialist agreed to review Mrs Jeffrey's symptoms and pain relief regularly and monitor her ability to swallow. They arranged twice-weekly GP reviews to alter her medication as her pain increased. Over the next few days, she was in a lot of pain and told nurses that she was using the maximum dose of oramorph (an opioid painkiller). She remained independent and refused help with personal care.

32. A nurse and the Macmillan palliative care specialist reviewed Mrs Jeffrey on 19 October and discussed with her the possibility of palliative radiotherapy to help pain control. She appeared open to this but said she did not want to go to general outpatient appointments.

33. At around 7.35am on 20 October, an officer was doing routine cell checks and asked Mrs Jeffrey, who was in bed, how she felt. She sat up to reply and then collapsed. He called to the nurses for help and radioed the control room for an

ambulance. Two nurses went to help. A nurse found Mrs Jeffrey unresponsive, with fixed and dilated pupils and she had difficulty breathing.

34. Three paramedics arrived at around 7.55am. The nurses gave a full handover, including that Mrs Jeffrey did not want to be resuscitated. As her heart had not stopped and she was still breathing, the paramedics decided to take her to hospital and moved her to the ambulance at 8.10am. However, at 8.14am, before they set off, Mrs Jeffrey died.

35. The report of the post-mortem examination concluded that Mrs Jeffrey's cause of death was lobar pneumonia, a terminal complication of lung cancer. Fatty liver had contributed to the death.

36. The clinical reviewer considered that the care Mrs Jeffrey received at Low Newton was equivalent to that she could have expected in the community. We are satisfied that healthcare staff at Low Newton provided good care, in close consultation with a palliative care specialist. They reviewed Mrs Jeffrey daily, taking account of her wishes about treatment and managed her pain effectively.

Mrs Jeffrey's location

37. On 26 September, a nurse had a long discussion with Mrs Jeffrey and offered her a bed in the inpatient unit. Mrs Jeffrey said she felt well supported by her friends and the officers on F Wing where she lived, and wanted to stay there for as long as possible. The nurse told her that she could change her mind at any time. With her permission, the nurse wrote in the wing observation book that wing officers should alert healthcare staff if Mrs Jeffrey asked to see a nurse, day or night, or if they noticed any change in her condition. On 11 October, Mrs Jeffrey agreed to move to the healthcare centre. At the palliative care review on 19 October, she said that she wanted to stay at Low Newton for end of life care and would prefer not to go to a hospital or a hospice.

38. We are satisfied that the prison considered and discussed Mrs Jeffrey's location with her and that she was appropriately located throughout her terminal illness.

Restraints, security and escorts

39. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility. A judgment in the High Court in 2007 made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. The judgment indicated that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change.

40. Two risk assessments completed for hospital appointments on 23 September and 8 October, indicated that Mrs Jeffrey was a medium risk of escape and to the public, with a low risk of outside assistance. The medical section of both noted that there was no objection to the use of restraints and that Mrs Jeffrey was

capable of escaping unaided. Prison managers decided that two prison officers should escort her, using single handcuffs and requiring prior approval from prison managers before removing them for scans or treatment. (In fact, the escort officers used an escort chain - a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer.) No reasons were given for the decisions on risk levels and use of restraints, but previous risk assessments completed in 2014 and 2015, noted that she had 'implied' she might escape in March 2012.

41. On 20 October, the day Mrs Jeffrey died, the member of staff who completed the medical section of the risk assessment objected to the use of restraints and drew attention to Mrs Jeffrey's condition. Despite this, the initial risk assessment concluded that escort officers should use restraints. Prison managers rescinded this decision when paramedics said that it was clear that she was dying.

42. Public protection is fundamental, but security measures must be proportionate to a prisoner's individual circumstances. In assessing Mrs Jeffrey's risk, prison and healthcare staff gave little evident consideration to how her poor health and mobility affected her risk, as the 2007 High Court judgment requires. Mrs Jeffrey had used a wheelchair since before she was sentenced and it was noted that she could walk no more that ten feet. It is difficult to see how any objective assessment of her risk could have concluded that a 66 year old wheelchair user (known to have advanced cancer at the time of the 8 October assessment) had the ability to escape unaided from two escort officers. We are not satisfied that staff appropriately assessed Mrs Jeffrey's risk. We make the following recommendation:

The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position, and that assessments fully take into account the health of the prisoner and are based on the actual risk the prisoner presents at the time.

Liaison with Mrs Jeffrey's family

43. Mrs Jeffrey had no visitors during her time in prison. Her records listed her husband as her next of kin, but he had died in prison in 2013. After his death, Mrs Jeffrey told staff she had lost contact with other family members and wanted no contact with her children, who had been the victims of their parents' offences. On 26 September, she told a nurse that she did not want the prison to contact her family if she went into hospital.

44. On 6 October, Mrs Jeffrey told the Macmillan nurse that she had written to her sister-in-law to ask her to act as next of kin and was waiting for a reply. Staff confirmed this at the multidisciplinary meeting on 9 October. After Mrs Jeffrey's death, prison staff obtained contact details for Mrs Jeffrey's sister-in-law from the police. Prison staff telephoned her and she said she had intended to agree to Mrs Jeffrey's request, but would prefer the prison to arrange the funeral. As she was disabled and a wheelchair user, the prison offered assistance with travelling if she wanted to attend. A Probation Service victim liaison officer notified Mrs Jeffrey's children of her death.

45. In line with national guidance, the prison arranged and paid for Mrs Jeffrey's funeral, which was held on 10 November. One of Mrs Jeffrey's daughters and her granddaughter attended, but wanted no other involvement.

46. We are satisfied that the prison appropriately discussed family contact with Mrs Jeffrey and complied with her wishes.

Compassionate release

47. Prisoners can be released before their sentence has expired, on compassionate grounds for medical reasons. This is usually if they are suffering from a terminal illness and have a life expectancy of less than three months.

48. On 24 September, the day after Mrs Jeffrey received her initial diagnosis, she told a doctor that she wanted to apply for early release from prison. However, when she moved to the inpatient unit on 11 October, she told a nurse that wanted to stay at Low Newton as she knew the prison medical staff and had no family or other support in the community. She said she did not want to be cared for by people she did not know. We are satisfied that the prison discussed the possibility of compassionate release with Mrs Jeffrey and respected her preference to remain at Low Newton.

Prisons & Probation Ombudsman
Independent Investigations

PO Box 70769
London, SE1P 4XY

Email: mail@ppo.gsi.gov.uk
Web: www.ppo.gov.uk

T | 020 7633 4100
F | 020 7633 4141