Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Michael Lindsay a prisoner at HMP Lewes on 9 November 2016

A report by the Prisons and Probation Ombudsman
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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*

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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.

Mr Michael Lindsay died from sepsis due to blood cancer and secondary to vascular dementia on 9 November 2016. He was 72 years old. I offer my condolences to Mr Lindsay's family and friends.

I am satisfied that the healthcare Mr Lindsay received at Lewes was equivalent to what he could have expected to receive in the community. However, the prison did not appoint a family liaison officer promptly following a written request from Mr Lindsay's wife, or when it became clear that Mr Lindsay was seriously ill. This is an issue I have identified in previous investigations at HMP Lewes and I am disappointed to have to raise it again.

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 2017**

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Summary

Events

1. On 27 May 2015, Mr Lindsay was sentenced to six years imprisonment and sent to HMP Lewes. Mr Lindsay had suffered from Waldenstrom Macroglobulinemia (WM, a type of non-Hodgkin lymphoma, also known as lymphoplasmacytic lymphoma) since 1997. Mr Lindsay frequently attended orthopaedic and haematology appointments at hospital.

2. On 31 March 2016, Mr Lindsay told a doctor his left elbow had been swollen for a month. The doctor told him not to lean on his elbow, and arranged further tests which raised no issues. On 29 April, Mr Lindsay had a knee replacement operation.

3. A doctor noted Mr Lindsay's lower left forearm had a firm swelling on 8 June, diagnosed lymphoid tissue and requested an urgent referral to haematology. On 28 June, Mr Lindsay told a doctor he had lost sensation in his left hand. The doctor twice requested a more urgent haematology appointment.

4. Doctors continued to monitor his disease, discussed his case with hospital consultants, and sent Mr Lindsay to hospital on 27 July. Hospital investigations showed no abnormalities and arranged an ultrasound scan for 3 August. Mr Lindsay was returned to prison the same day, and sent back to hospital for more investigations on 5 August. Mr Lindsay was admitted as an inpatient and received ongoing treatment for a relapse of his lymphoplasmacytic lymphoma. He began to suffer from severe small vessel disease (blood vessel damage in the brain), and showed signs of delirium during his admission.

5. The hospital treated Mr Lindsay with palliative chemotherapy from 15 September. They said he had less then six months to live. The prison began to look for alternative accommodation for Mr Lindsay, but his health deteriorated before this could happen and he died at 11.20pm on 9 November.

Findings

6. We are satisfied that the healthcare Mr Lindsay received in prison was equivalent to what he could have expected to receive in the community. He was followed up correctly for the management of his lymphoma and received appropriate blood tests. There was a delay in arranging an urgent assessment by the specialist team in hospital once he had developed lymphatic swellings, but the actions of the hospital are outside of the PPO's remit. The prison asked for urgent appointments at the earliest opportunity, once the additional swelling appeared on Mr Lindsay's arm.

7. In September 2016, Mr Lindsay's wife wrote to the prison and asked for a family liaison officer to be appointed in order to have a dedicated point of contact in the prison. The prison did not reply to the letter until a month later and there was a further month's delay before a family liaison officer was appointed, only days before Mr Lindsay died. Contact was not made by the family liaison officer with Mr Lindsay's family until the day he died.

Recommendations

- The Governor should ensure that correspondence from prisoners' families is treated with appropriate seriousness and receives timely, accurate and informative replies.
- The Governor should ensure that an appropriate member of staff is appointed promptly to engage with and support the families of seriously ill prisoners.

The Investigation Process

8. The investigator issued notices to staff and prisoners at HMP Lewes informing them of the investigation and asking anyone with relevant information to contact him. No one responded.

9. The investigator obtained copies of relevant extracts from Mr Lindsay's prison and medical records.

10. NHS England commissioned a clinical reviewer to review Mr Lindsay's clinical care at the prison.

11. We informed HM Coroner for Sussex of the investigation who gave us the cause of death. We have sent the coroner a copy of this report.

12. One of the Ombudsman's managers wrote to Mr Lindsay's wife to explain the investigation and to ask if she had any matters she wanted the investigation to consider. Mr Lindsay's wife raised concerns that it took several months for her husband to be referred to a specialist, and concerns about the care he received. She also commented that it took a month to receive a response to a letter she wrote to the Governor, and that the family liaison officer was not appointed when she requested this in September 2016.

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

14. Mr Lindsay's family's solicitor received a copy of the initial report. They did not raise any further issues, or comment on the factual accuracy of the report.

15. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

Background Information

HMP Lewes

16. HMP Lewes is a combination of original Victorian wings comprising mainly shared accommodation and a new build unit consisting of 174 single cells. It holds up to 692 male convicted and remanded offenders.

17. Health care services are provided by Sussex Partnership NHS Foundation Trust, apart from GPs, who are managed by Medco. HMP Lewes has a health care centre with a full time senior medical officer, which makes use of specialist NHS facilities when needed. Health care is provided on a 24 hour basis, there is a 12 bed inpatient unit, an outpatient facility, a pharmacy and a range of clinics

HM Inspectorate of Prisons

18. The most recent inspection of HMP Lewes was in January 2016. Inspectors reported health care was reasonably good but far too many external hospital appointments were missed as a result of a lack of escort staff. A senior nurse cared for older prisoners and a specific clinic and age-appropriate screening was in place. Prisoners had access to mobility and health aids. Arrangements for patients with palliative or end of life needs were very good and links with local palliative care services were effective.

Independent Monitoring Board

19. 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 their latest annual report, for the year to February 2016, the IMB reported that external appointments were often cancelled due to another prisoner having a more urgent need. There were also problems with prison staff not being available for escort duty.

Previous deaths at HMP Lewes

20. There have been eleven deaths at HMP Lewes since November 2014. Ten of these were from natural causes. We have previously raised issues regarding delays in appointing a family liaison officer and dealing with correspondence.

Findings

The diagnosis of Mr Lindsay's terminal illness and informing him of his condition

21. On 27 May 2015, Mr Lindsay was sentenced to six years imprisonment for sexual offences and was sent to HMP Lewes. Healthcare staff noted Mr Lindsay suffered from Waldenstrom Macroglobulinemia (WM – cancer affecting B cells, an incurable disease which can transform into a more aggressive form and rapidly progress). Diagnosed in 1997, doctors treated Mr Lindsay with chemotherapy at different times over the years, and the disease progressed. Mr Lindsay suffered from chronic osteoarthritis, underwent a right knee operation (anthroscopy) in March 2015 and was awaiting a total right knee replacement (TKR). He walked with the aid of a walking stick and wore a splint on his left wrist for carpal tunnel syndrome (CTS – causes pain and numbness in the fingers). Mr Lindsay was initially admitted to the healthcare centre for assessment before moving to the main prison on 15 June.

22. Mr Lindsay went to hospital for appointments for his various conditions, and had specific haematology appointments for his cancer at the hospital. On 9 February, a prison GP examined Mr Lindsay, who told him he felt short of breath. The GP noted Mr Lindsay had slightly swollen ankles but took amlodipine (to treat chest pain and high blood pressure) and referred him to a cardiologist for assessment. The GP also requested a blood test. The blood results indicated Mr Lindsay had a chest infection and, on 17 February, a prison GP prescribed him amoxicillin (an antibiotic).

23. On 31 March, a prison GP examined Mr Lindsay, who reported his left elbow had been swollen for a month. The doctor considered the swelling could be due to gout. The GP told Mr Lindsay not to lean on the elbow, arranged a uric acid level test and prescribed him naproxen (an anti-inflammatory). On 7 April, his uric acid test was reported as normal.

24. On 29 April, Mr Lindsay had a TKR operation at hospital. He returned to prison on 3 May. Mr Lindsay was monitored after his operation, and the dressing of his knee changed frequently. It healed well and Mr Lindsay received physiotherapy.

25. Mr Lindsay attended clinical haematology at the hospital for a non-Hodgkin screening on 17 May. On 8 June, a prison GP examined Mr Lindsay and noted his lower left forearm had a firm swelling and diagnosed a build up of lymphoid tissue (an immune response). The GP requested an urgent referral back to haematology and took bloods for testing. The results showed no concerns.

26. A nurse attended to Mr Lindsay in his cell on 26 June, as officers were concerned about his arm. Noting Mr Lindsay's arm did not appear to have increased in size, the nurse gave Mr Lindsay a sling and referred him to a GP.

27. Mr Lindsay told a prison GP on 28 June that he had lost sensation in his left hand and was unable to use it. The GP noted Mr Lindsay had appointments in the orthopaedic department on 29 July and haematology on 11 August, and wrote a letter to the haematology department asking for this appointment to be brought forward. On 2 July, a prison GP requested a more urgent appointment by letter.

28. On 7 July, a prison GP noted the swelling in Mr Lindsay's forearm had increased. The doctor diagnosed WM cells in the forearm, a rare but a possible complication of the disease. The GP noted there was no date for the urgent orthopaedics appointment, planned to await it and gave Mr Lindsay codeine and paracetamol for pain relief.

29. On 15 July, a nurse discussed Mr Lindsay's symptoms and care with a lymphoma nurse specialist at the hospital. The lymphoma nurse told the prison nurse the consultant was not overly concerned but wanted to rule out a blood clot, and arranged a CT scan for 25 July at the hospital. On 25 July, the prison cancelled the CT scan because staff were delayed on another outside appointment. Doctors rescheduled the appointment for 3 August.

30. On 27 July, a pharmacy technician noted Mr Lindsay looked pale, withdrawn, struggled to stand, and was unable to move his left arm. He referred him to a prison GP, who arranged to send Mr Lindsay to hospital that day. At the hospital, Mr Lindsay had an electrocardiogram (ECG – measures the electrical rhythm of the heart), an x-ray and blood samples taken with no abnormalities detected. The hospital discharged Mr Lindsay the same day, with the plan to return once the acute medical team had concluded further tests. Healthcare staff admitted Mr Lindsay to the healthcare department on his return to prison.

31. On 1 August, a nurse reviewed Mr Lindsay because officers were concerned that he seemed confused and unable to locate the telephones. The nurse found Mr Lindsay talked rationally and did not appear confused. The nurse advised officers to monitor the situation and to contact healthcare if they had any concerns. On 3 August, Mr Lindsay attended hospital for an ultrasound scan. The next morning, the pharmacy technician saw Mr Lindsay in his cell and noted he looked pale, dazed and appeared confused.

32. On 5 August, Mr Lindsay was sent to hospital escorted by one officer and without any restraints, where he was admitted to the haematology ward for various investigations including a biopsy of the mass on his arm. Mr Lindsay received ongoing treatment for WM and a subsequent relapse of his lymphoplasmacytic lymphoma. Doctors also found Mr Lindsay to have severe small vessel disease following an MRI scan of his head and he suffered from delirium during his admission.

33. We consider that the deterioration in Mr Lindsay's condition was diagnosed promptly, and he was sent to hospital appropriately.

Mr Lindsay's clinical care

34. On 15 September, a hospital specialist informed healthcare staff that Mr Lindsay was now receiving palliative chemotherapy. They gave Mr Lindsay a prognosis of less than six months. The hospital doctor suggested discharging Mr Lindsay to a nursing home.

35. On 27 September, a nurse discussed discharge plans for Mr Lindsay with the hospital. They decided Mr Lindsay was not currently suitable for hospice care or to return to prison given his prognosis and level of support needed. Chemotherapy finished on 7 October. On 11 October, a nurse assessed Mr

Lindsay in the hospital and contacted HMP Isle of Wight to discuss a transfer to their inpatient department where he could be fully supported.

36. On 24 October, the Matron at HMP Isle of Wight informed the nurse that Mr Lindsay did not yet meet their criteria as they only took prisoners for post-operative care or terminally ill patients, and did not offer long-term nursing home care. The nurse began to plan a discharge back to Lewes, for Mr Lindsay to be nursed in the healthcare inpatients unit. They treated Mr Lindsay with end of life care from 4 November. Before he could be moved, Mr Lindsay died at 11.20pm on 9 November at hospital.

37. The care Mr Lindsay received was equivalent to that he could have expected to receive in the community. He was followed up correctly for the management of his condition and received appropriate blood tests. The prison made urgent referrals appropriately, but the hospital did not book the appointments urgently. This is outside of the PPO remit.

Mr Lindsay's location

38. Mr Lindsay was located in one of the prison wings. Healthcare staff monitored him frequently and doctors and consultants examined him. When his condition deteriorated doctors sent him to hospital in August 2016, and remained there until he died. The prison were trying to arrange an appropriate transfer to another setting. We are satisfied that Lewes appropriately located Mr Lindsay throughout his illness.

Restraints, security and escorts

39. When prisoners have to travel outside of the prison, a risk assessment determines the nature and level of security arrangements, including restraints. The Prison Service has a duty to protect the public but this has to be balanced with a responsibility to treat prisoners with humanity. Any restraints used should be necessary and decisions should be based on the security risk taking into account factors such as the prisoner's health and mobility.

40. When Mr Lindsay went to hospital on 5 August, one officer escorted him and no restraints were used. We consider that Lewes appropriately took into account Mr Lindsay's age, health and mobility when reaching this decision.

Liaison with Mr Lindsay's family

41. Mr Lindsay's wife and daughter visited Mr Lindsay in hospital. On 5 September, Mr Lindsay's wife wrote to Lewes expressing her concerns that her husband's cancer had spread, limiting his treatment and life expectancy. She requested a release on licence for treatment or that he be transferred to a hospice. She also asked for a family liaison officer to be appointed in order to have a dedicated point of contact in the prison. A month later, on 6 October, a Matron replied to the letter and informed Mr Lindsay's wife about looking for alternative accommodation.

42. On 4 November, the prison appointed an officer as a family liaison officer. He first attended the hospital to meet Mr Lindsay and his wife at 1.50pm on 9 November. A nurse notified Mr Lindsay's wife of her husband's death the same

day. The officer was informed at 9.30am the next morning. He contacted Mr Lindsay's wife, offering support and visited her that afternoon. He offered ongoing support. Mr Lindsay's funeral was held on 25 November. The prison contributed towards the costs of the funeral in line with national policy.

43. Prison Service Instruction (PSI) 64/2011, safer custody, states that where prisoners suffer a rapid deterioration in their physical health or are seriously ill, prisons must have in place procedures for supporting the prisoner and engaging with their next of kin. On 5 September, Mr Lindsay's wife wrote to the Governor at Lewes expressing some concerns and asking for a family liaison officer to be appointed. On 15 September, healthcare staff were informed by the haematology department in hospital that the lymphoma team were going to treat Mr Lindsay with palliative chemotherapy and gave him a prognosis of less than six months to live. We are concerned that the prison took a month to reply to Mr Lindsay's wife, and that a family liaison officer was not appointed until days before Mr Lindsay died, rather then when Mr Lindsay became a palliative patent and was obviously seriously ill. They then did not contact the family and Mr Lindsay, until the day he died. We are concerned that we have made similar recommendations recently and make the following recommendations:

The Governor should ensure that correspondence from prisoners' families is treated with appropriate seriousness and receives timely, accurate and informative replies.

The Governor should ensure that an appropriate member of staff is appointed promptly to engage with and support the families of seriously ill prisoners.

Compassionate release

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

45. Mr Lindsay was diagnosed with WM in 1997. WM is an incurable disease and can transform into a more aggressive form and rapidly progress. He was sentenced in 2015, when his disease was already well developed. It is unlikely that an application for early release would have been successful, and we are therefore not critical that an application was not made. As an alternative, other accommodation was being sought and it is unfortunate that this did not happen before Mr Lindsay died.

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