Prisons & Probation
Ombudsman
Independent Investigations

# Independent investigation into the death of Mr George Gallagher a prisoner at HMP Gartree on 20 May 2017

**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.**

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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.

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

Mr George Gallagher died on 20 July 2017 of kidney cancer while a prisoner at HMP Gartree. He was 62 years old. We offer our condolences to Mr Gallagher's family and friends.

Gartree was not the most appropriate location for a terminally ill man as it does not have a 24 hour inpatient healthcare facility. Staff at Gartree made repeated attempts to find an alternative prison location for him, but none were available. Nevertheless, we are satisfied that Mr Gallagher received a good standard of care and that his care was equivalent to that which he could have expected to receive in the community. We commend staff at Gartree for making this possible.

We are, however, concerned to see that a very ill and frail man was restrained when he attended hospital appointments.

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

**Elizabeth Moody**
**Acting Prisons and Probation Ombudsman** **March 2018**

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# Summary

## Events

1. On 25 February 2011, Mr George Gallagher was sentenced to life imprisonment for murder. After a short period at HMP Doncaster, he was transferred to HMP Gartree in July 2011.

2. Healthcare staff noted that Mr Gallagher had a history of hypertension (high blood pressure) before he arrived in prison. He had no significant contact with healthcare until February 2013 when he told healthcare staff he had felt dizzy and had lost some weight. He was monitored over the next three months his symptoms improved and his vital observations remained at normal levels. However, blood tests returned abnormal results. There is no evidence that these were followed up.

3. In March 2015, Mr Gallagher again reported feeling dizzy and expressed concerns about weight loss. A prison GP reviewed him and conducted various tests. In May, following an abnormal blood test result, the GP referred him urgently to hospital. In June 2015, hospital staff diagnosed him with kidney cancer. Subsequent tests revealed the cancer had spread to his lungs and lymph nodes and he was only suitable for palliative care. He began attending hospital for treatment in September 2015 and continued with treatment for the next 12 months with no significant issues.

4. His condition then began to deteriorate and he had two short spells as an inpatient in hospital. In March 2017, Mr Gallagher decided not to attend hospital for further treatment.

5. As his condition deteriorated, both healthcare and prison staff made good efforts to transfer Mr Gallagher to a prison with a 24 hour healthcare facility but there were no spaces available for him. Given the length of time he had left to serve, Mr Gallagher was not suitable for early release, and it was not possible to arrange transfer to a local hospice. Mr Gallagher made it clear that he wanted to remain at Gartree. As a transfer was not possible, healthcare staff made adaptations to his cell and, with the Governor's agreement, implemented an open door policy.

6. Healthcare staff monitored Mr Gallagher on a daily basis. The care plans designed for him were thorough and well documented and were adapted to suit his needs as his condition deteriorated. Mr Gallagher agreed with healthcare staff that it was not in his best interests to be resuscitated in the event of a cardio-pulmonary arrest.

7. Mr Gallagher's condition continued to decline. He died in prison on 20 May 2017.

## Findings

8. Although Mr Gallagher had abnormal blood test results in early 2013, healthcare staff did not follow the results up with further investigation. It is impossible to say whether his cancer could have been diagnosed earlier if the abnormal results had

been followed up, and we note that he did not present with any further symptoms during this period.

9. When Mr Gallagher did present with symptoms in the first part of 2015, prison healthcare staff quickly referred him to hospital specialists who diagnosed kidney cancer. The hospital offered him treatment to prolong his life but curative treatment was not an option for him. Mr Gallagher initially accepted treatment, which improved the quality of his life but, as his condition deteriorated, he chose to stop all treatment. He told healthcare staff he did not wish to prolong his life any further, accepting that he was going to die.

10. Overall, Mr Gallagher received a good standard of care that was equivalent to that which he could have expected to receive in the community. The clinical reviewer considered that the care provided following his diagnosis was also good.

11. When Mr Gallagher's condition deteriorated he was inappropriately restrained when he attended hospital. The risk assessments did not fully take into account his risk, given his very poor health and limited mobility. The restraints were appropriately removed when he received treatment.

12. Mr Gallagher's location at Gartree was not suitable for his terminal condition - the prison does not have a 24 hour healthcare facility and was not equipped to cater for his needs. Despite their best efforts, prison and healthcare staff were unable to secure a transfer to a more appropriate location. This is a concern. Nevertheless, staff at Gartree are to be commended for providing a good level of care in these circumstances.

13. We are also concerned that the prison did not provide us with a family liaison log to evidence the level and frequency of contact they had with Mr Gallagher's family.

## Recommendations

- The Governor and the Head of Healthcare should ensure that significant symptoms in prisoners, such as abnormal blood test results and unexplained weight loss are investigated, followed up on, and monitored to determine the underlying cause.
- The Governor should ensure that, in line with PSI 58/2010, the Prison and Probation Ombudsman is promptly provided with all requested documents following a death in custody.
- The Governor should ensure that risk assessments for prisoners attending hospital appointments fully take into account individual circumstances and are based on the actual risk a prisoner presents at the time.
- The Executive Director for Long Term and High Security prisons should review pathways and provision of care for very ill and terminally ill prisoners.

# The Investigation Process

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

15. The investigator obtained copies of relevant extracts from Mr Gallagher’s prison and medical records.

16. NHS England commissioned a clinical reviewer to review Mr Gallagher’s clinical care at the prison.

17. We informed HM Coroner for Leicester City and South District of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

18. The investigator wrote to Mr Gallagher’s next of kin to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He did not reply.

19. The investigation has assessed the main issues involved in Mr Gallagher’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.

20. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies.

# Background Information

### HMP Gartree

21. HMP Gartree, which is near Market Harborough in Leicestershire, held up to 708 men sentenced to life imprisonment and other indeterminate sentences at the time of Mr Gallagher's death. Leicestershire Partnership Trust is responsible for delivering primary physical and mental health services in the prison and Northamptonshire Healthcare NHS Foundation Trust runs secondary mental health inreach services. Nursing staff are available 24 hours a day.

### HM Inspectorate of Prisons

22. The last inspection of HMP Gartree was in March 2014. Inspectors were positive about the range and standard of health services. Prisoners' access to healthcare services was very good and waiting times for all clinics were short. Nurses held triage clinics daily with open access for prisoners with urgent needs. Prisoners were able to see a GP routinely within three days.

### Independent Monitoring Board

23. 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 November 2016, the IMB reported that a delay in renewing the healthcare contract had caused some uncertainty, but it had been decided that the existing providers would continue until the end of 2017 at least.

24. The IMB repeated their concerns of the previous year about the growing number of older prisoners, and those suffering from terminal illness or in need of surgical procedures, and the strain that places on resources when having to provide staff for escorts. However, they were pleased that the healthcare provider was working closely with Leicestershire County Council, and the prison, to ensure that a suitable plan can be jointly provided when prisoners require social care.

### Previous deaths at HMP Gartree

25. Mr Gallagher was the fourth prisoner to die at Gartree from natural causes since the beginning of 2015. There are no similarities with those cases.

## Findings

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

26. On 25 February 2011, Mr George Gallagher was sentenced to life imprisonment for the murder of his wife. He was sent to HMP Doncaster.

27. Mr Gallagher had a history of hypertension (high blood pressure) before he was imprisoned. Healthcare staff prescribed him Ramipril and Coracten (used to control blood pressure) and prophylactic aspirin (used as a preventative medicine for a number of conditions including heart conditions). While there was no mention of a blood pressure care plan in his medical records, healthcare staff reviewed him regularly. Healthcare staff also noted he had a family history of heart disease.

28. On 27 July 2011, Mr Gallagher was transferred to HMP Gartree. Healthcare staff reviewed him on his arrival and noted his medical history. His observations (temperature, respiratory rate, pulse, blood pressure and, where appropriate, blood oxygen saturation) were recorded along with his height and weight. Blood tests were taken, the results of which were normal.

29. Mr Gallagher had no further significant contact with healthcare until February 2013 when he told healthcare staff he had felt dizzy and experienced some weight loss. His observations were taken and noted as being normal. However, blood tests revealed a C-reactive protein (CRP) level of 17 (a normal CRP level is below 10, a raised level can be an indicator of infection or more serious long term disease). Healthcare staff repeated the test once a month for the next three months; the CRP levels were 14, 47 and 14. His symptoms improved and his vital observations remained at normal levels. However, there is no evidence in Mr Gallagher's medical records to indicate that healthcare staff followed up the raised CRP level.

30. In October 2014, healthcare staff created a blood pressure careplan. The careplan noted that Mr Gallagher required an annual blood pressure review.

31. On 9 March 2015, a nurse responded to a code blue radio call (an emergency radio call used by prison staff to indicate a prisoner with breathing difficulties). Mr Gallagher reported that he had fallen inn the shower after feeling dizzy. He told her that he had discussed the feeling of dizziness with a prison GP the previous month. He told her the GP had carried out an electrocardiogram (an ECG measures the rhythmical output of the heart) but it revealed nothing of note. She checked his blood pressure and noted it as 90/60, which was considered normal. She reviewed him the following day and noted that his symptoms had improved. No further action was taken.

32. On 12 March, a prison GP reviewed Mr Gallagher. He noted Mr Gallagher's concerns over his weight loss – he had lost around two stone since his imprisonment in 2011, and his spells of dizziness. He adjusted Mr Gallagher's medication and prescribed him Fortisip nutritional supplement drinks. He reviewed him again two weeks later. He noted that the feeling of dizziness had

lessened and that Mr Gallagher told him he felt better. He carried out another ECG, which showed no acute changes to his heart. He also carried out a full blood count test (which checks a person's general health as well as testing for more serious conditions).

33. On 28 April, a prison GP met Mr Gallagher to discuss the results of the blood tests. They indicated that he had mild anaemia, abnormal kidney function, abnormal calcium levels and possible type 2 diabetes. He diagnosed Mr Gallagher as being constipated and prescribed him a laxative. He arranged more blood tests to investigate his symptoms further, and to confirm the findings of the previous tests.

34. On 14 May, a prison GP met Mr Gallagher to discuss the results of the further blood tests he had carried out. The results confirmed Mr Gallagher had anaemia and type 2 diabetes. He also noted a raised CRP level of 167, a remarkably high reading. Following his review, he made a two week wait referral to the gastroenterology team at a hospital for further examination. Mr Gallagher's medication was reviewed and adjusted and he was placed on the diabetes register at the prison to ensure healthcare staff monitored him regularly. Healthcare staff also gave him dietary advice to try to help control his diabetes.

35. Mr Gallagher attended hospital on 10 June. Hospital staff carried out a number of tests and noted a large tumour in his right kidney. They also discovered secondary tumours in his lungs and chest lymph nodes. Hospital staff referred Mr Gallagher to their oncology department to asses the treatment options available to him.

36. Prison healthcare staff were made aware of Mr Gallagher's diagnosis before he left the hospital. On his return to the prison, they offered him support and discussed the diagnosis with him. They noted his appetite was poor and that he was losing weight. Healthcare staff prescribed him with nutritional supplements, but there is no indication in his medical records that they recorded his weight at that time.

37. On 17 July, hospital staff reviewed Mr Gallagher. They told him that due to the spread of his cancer, the treatment options open to him could possibly prolong his life but would not cure his condition. They prescribed him Votrient tablets (a drug used to inhibit the growth and spread of cancer cells) to be administered by prison healthcare staff. Before the treatment could begin, a renal biopsy was needed, which hospital staff carried out on 13 August. The biopsy confirmed the tumour in Mr Gallagher's kidney was malignant.

38. Mr Gallagher's treatment began on 9 September 2015. Prison healthcare staff noted his observations, which were normal, and recorded his weight as 12 stone 9 pounds. They adjusted his diabetes care plan on 17 December to reflect the change in his medication. Mr Gallagher continued with his treatment for the next 12 months with no significant issues. Both healthcare and oncology staff at a hospital reviewed him regularly. No significant side effects were recorded and Mr Gallagher's weight increased.

39. On 22 September 2016, a nurse reviewed Mr Gallagher after an oncology review revealed his blood pressure was low. During the review, he told the nurse that he had lost his appetite, and experienced weight loss and dizziness. The nurse noted Mr Gallagher's weight as 12 stone 4 pounds. He made a referral to a prison GP, who reviewed him on 3 October. The prison GP recorded Mr Gallagher's weight as 12 stone 2 pounds and prescribed him further nutritional supplements. Neither he nor the nurse recorded Mr Gallagher's blood pressure.

40. On 5 October, Mr Gallagher was due to attend an appointment with the oncology department at a hospital. However, he became unwell shortly before he was due to leave. A nurse reviewed Mr Gallagher and noted that he appeared unwell and had not been eating properly. He recorded Mr Gallagher's weight as 12 stone and 1 pound. The nurse asked a prison GP to review Mr Gallagher as a matter of urgency. He increased Mr Gallagher's prescription of Fortisip to twice daily. Again, neither the nurse nor the GP recorded his blood pressure.

41. On 14 November, Mr Gallagher attended his annual blood pressure check. A nurse noted that his blood pressure was 113/90, which was in the normal range.

42. On 4 January 2017, a nurse assessed Mr Gallagher's fitness to attend hospital for a routine appointment. She noted that Mr Gallagher appeared breathless and unwell. She did not record his vital observations or blood pressure. Despite feeling unwell, Mr Gallagher insisted that he wanted to attend the appointment. While being reviewed by hospital staff, Mr Gallagher was noted as experiencing dizzy spells, being unsteady on his feet and being very short of breath. They checked his blood pressure and noted that it was low. Hospital staff telephoned the prison and advised that his blood pressure medication be stopped and that his fluid intake be monitored. A prison GP immediately removed Ramipril from Mr Gallagher's prescription to reflect the advice given by the hospital.

43. On 25 January, Mr Gallagher's condition deteriorated A prison GP carried out a review and noted that he appeared frail and tired. He also noted Mr Gallagher had lost his appetite and had difficulty drinking. He telephoned the oncology department at a hospital for advice. They agreed that Mr Gallagher should be admitted to hospital for further examination. He was taken to hospital the same day.

44. While in hospital, a secondary gastric tumour was discovered which was thought to be the cause of Mr Gallagher's anaemia. Hospital staff gave him a course of radiotherapy in an attempt to reduce any further blood loss and he returned to Gartree on 2 February.

45. A prison GP noted that Gartree might not be a suitable prison for Mr Gallagher. He asked prison staff to enquire about transferring him to an establishment that could provide 24 hour healthcare. A nurse manager asked the prison's Offender Management Unit (OMU, responsible for transferring prisoners) to contact suitable prisons. Enquiries were made with a number of prisons, but no spaces were available.

46. Healthcare staff monitored Mr Gallagher's condition on a daily basis. On 27 February, Mr Gallagher attended healthcare for a routine blood test. A

healthcare assistant noted that he appeared very unsteady on his feet and he again complained of dizziness. She recorded his blood pressure as 76/52, a very low reading. She asked a nurse to review him, and decided to send him to hospital. Hospital staff examined Mr Gallagher and diagnosed anaemia, requiring a blood transfusion. They also noted the advanced stage of his cancer. They too considered that Mr Gallagher required palliative care in a prison with a 24 hour healthcare facility. Mr Gallagher remained in hospital as an inpatient until 3 March.

47. Following his return to prison from hospital, healthcare staff regularly reviewed Mr Gallagher's blood pressure, diabetes and nutritional care plans. His blood pressure readings were noted as being normal and he was eating and drinking. However, healthcare staff did not record his weight.

48. On 15 March, Mr Gallagher told a nurse that he wanted to refuse all future hospital appointments. He signed a disclaimer that stated he only wanted to be cared for by healthcare staff. Over the weeks that followed, Mr Gallagher's condition continued to deteriorate. Healthcare staff reviewed his medical needs on a daily basis and attended to his care needs three times a day. His care plans were reviewed and updated regularly.

49. On the morning of 14 April, a nurse reviewed Mr Gallagher after prison officers found him lying on the floor of his cell. He told the nurse he had been there since 10.00pm after falling out of bed. She examined him and found nothing of note but called for an emergency ambulance. Paramedics examined Mr Gallagher but found no serious injuries and decided not to admit him to hospital. However, they did note his haemoglobin level was 83 (half what is considered to be a normal level), an indicator of serious anaemia. They advised that if his haemoglobin level dropped any further, he would need a blood transfusion. Healthcare staff created a falls prevention care plan and made adjustments to his cell, including a panic alarm system to help him attract the attention of staff if needed, to make it a safer environment for him. They also made a referral to the palliative care team for further management of his symptoms.

50. On 18 April, a nurse manager reviewed Mr Gallagher. She noted he was only eating and drinking small amounts, but did have nutritional supplements. She also noted that Mr Gallagher had a 'buddy prisoner' (a prisoner who volunteers to assist less able prisoners with personal hygiene) who was assisting him with his daily tasks. She told Mr Gallagher it would be in his best interests if he moved to a prison that could provide him with 24 hour healthcare support. However, Mr Gallagher said that he wanted to stay at Gartree among his friends and peers. In his best interests, she contacted OMU and asked them to find a more suitable prison for him. After her meeting with Mr Gallagher, she considered that he had the mental capacity to make decisions about his care.

51. After contacting a number of prisons, there were no spaces available for Mr Gallagher. The nurse manager contacted social services to discuss a possible transfer to a hospice.

52. A prison GP reviewed Mr Gallagher the same day. As part of his review, he carried out a full blood count and recorded that Mr Gallagher had a low

haemoglobin reading of 87. He noted that if his haemoglobin reading was to fall below that figure, he would need to be admitted to hospital for a blood transfusion. To confirm his findings, he carried out a second full blood count. A nurse reviewed the results later that evening and noted a haemoglobin reading of 78. She contacted an out of hours GP for advice. He told her Mr Gallagher was a palliative care patient and any treatment should be for relief of suffering, which did not include a blood transfusion. He added that Mr Gallagher was not suitable for any further medication or blood monitoring.

53. On 28 April, a prison GP reviewed Mr Gallagher after prison officers raised concerns about his deteriorating condition. He noted that Mr Gallagher was extremely frail and, although he responded to questions, his answers were brief and laboured. Following his review, he assisted by other healthcare staff, updated Mr Gallagher’s care plans to ensure his increasing health needs were being met.

54. A prison GP considered that it was appropriate to discuss the issue of resuscitation with Mr Gallagher. Following their discussion, Mr Gallagher signed a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) order (which means that, in the event of cardiac or respiratory arrest, no attempt at resuscitation will be made. All other appropriate treatment and care would continue to be provided.) He noted that, in his opinion, Mr Gallagher had the mental capacity to make decisions about his care and resuscitation. Mr Gallagher signed the DNACPR form on 5 May.

55. On 2 May, a nurse manager noted in Mr Gallagher’s medical records that it had not been possible to secure him a place at another establishment more suited to his medical needs. She contacted a hospice to enquire about obtaining a hospital bed for him. Staff at the hospice told her, she would need to direct her request to Community Nursing Services; however, they were also unable to provide a bed as Mr Gallagher was not on their caseload. She told Leicester Partnership Trust, the providers of healthcare at Gartree, the difficulties she was experiencing securing the equipment Mr Gallagher required and the lack of suitable prison spaces. They gave her permission to order a hospital bed directly from the provider at their expense.

56. As she had been unable to arrange a transfer to more suitable prison or hospice, she asked the Governor of Gartree, to allow Mr Gallagher to move to a double cell. She also requested that his cell door be left open to allow staff to provide 24 hour care to him. The Governor agreed. When the nurse manager told Mr Gallagher of the arrangements, he reiterated that he wanted to remain at Gartree among his friends and peers until he died.

57. On 9 May, the nurse manager contacted a hospice, for guidance on meeting Mr Gallagher’s increasing care needs. A consultant in palliative care, confirmed that the care plan in place at Gartree was equivalent to what was expected in the community. He advised her that the GPs at the prison should prescribe end of life anticipatory medications to ensure a peaceful death (anticipatory medications are usually administered when a patient can no longer swallow). The consultant advised that Mr Gallagher be prescribed Glycopyrronium bromide,

Levomepromazine, Midazolam and Morphine Sulphate, and the dosages required.

58. On 12 May, a hospital bed, mattress, sheets, commode and bedside table were delivered to the prison. Mr Gallagher moved into a larger cell the same day and healthcare staff implemented the open door policy.

59. On 17 May, the nurse manager contacted a hospice for advice again. She was concerned the dosage of morphine healthcare staff had been advised to administer to Mr Gallagher might shorten his life. A consultant at the hospice assured her the medications and dosages in place were on a par with normal practice in both the community and in a hospice setting.

60. Mr Gallagher's condition continued to deteriorate over the days that followed. Healthcare staff reviewed him three times a day and his care plans were regularly reviewed and updated.

61. At 2.00pm on 20 May, while attending to Mr Gallagher's personal care needs, a nurse noted that his breathing had become laboured and he was very pale. She notified other healthcare and prison staff of his condition and remained with him.

62. At 4.30pm, Mr Gallagher died. A nurse contacted the ambulance service to inform them of Mr Gallagher's death. They advised her to telephone an out of hours GP to confirm the death. An out of hours GP confirmed Mr Gallagher had died at 6.26pm.

63. We are satisfied that Mr Gallagher was treated well while in prison and received a good standard of care. Healthcare staff appropriately investigated his symptoms and appropriately referred him to specialists when his symptoms worsened.

### Mr Gallagher's clinical care

64. The clinical reviewer noted that although Mr Gallagher had an abnormal blood test result two years before he was diagnosed with kidney cancer, healthcare staff did not follow that result up with further investigation. It is impossible to say whether an earlier diagnosis could have been made if that abnormal result had been followed up as Mr Gallagher did not present with any further significant symptoms.

65. However, the clinical reviewer found that when Mr Gallagher did present with symptoms, healthcare staff quickly referred him to appropriate secondary care providers. They diagnosed kidney cancer and offered him treatment to prolong his life. Mr Gallagher initially accepted treatment, which improved the quality of his life but as his condition worsened he chose to stop all treatment.

66. Following his diagnosis, healthcare staff devised, and implemented care plans in order to manage his health problems. As his condition deteriorated, healthcare and prison staff worked in partnership to provide both palliative, and end of life care, allowing Mr Gallagher to die peacefully. Healthcare staff appropriately involved Mr Gallagher in the choices and decisions about his treatment, pain management and resuscitation.

67. The clinical reviewer has made a number of recommendations which we do not repeat in this report but which the Head of Healthcare will wish to address. Despite these recommendations, the clinical reviewer considers that Mr Gallagher's chronic medical conditions were managed well at Gartree and that his healthcare was comparable with the provision available in the community.

68. We agree with the clinical reviewer that overall the response to Mr Gallagher's chronic health problems, and his final illness, were appropriate, and that the care he received at Gartree was good.

### Blood pressure and weight observations

69. In February 2013, healthcare staff carried out a full blood count. The test results indicated an abnormal result. During the same review, Mr Gallagher told healthcare staff that he had also lost weight. However, neither the blood test result nor the reported weight loss was investigated further.

70. In March 2015, Mr Gallagher again reported dizziness and significant weight loss. Healthcare staff reviewed Mr Gallagher but again his weight was not recorded.

71. A blood test carried out in May 2015 confirmed Mr Gallagher was anaemic and revealed he had type 2 diabetes. A CRP level of 167 was also noted. Mr Gallagher told healthcare staff he had lost more weight. Despite that reported weight loss, and his previous history, his weight was neither checked nor recorded.

72. There were a number of occasions in September 2016 when it would have been appropriate to record Mr Gallagher's weight and blood pressure, given his medical history and symptoms. While we do not consider this had an impact on the outcome for Mr Gallagher, it may do so in future cases. We make the following recommendation:

    **The Head of Healthcare should ensure that significant symptoms in prisoners, such as abnormal blood tests results and unexplained weight loss are investigated, followed up on and monitored to determine the underlying cause.**

### Mr Gallagher's location

73. As Mr Gallagher's condition deteriorated and he needed closer observation, healthcare staff moved him to larger cell with equipment that catered to his needs and other adaptations that made his environment as safe and comfortable as possible. Healthcare staff implemented an open door policy, with the Governor's agreement, and dedicated staff provided him with the care he required. In addition, disability orderlies assisted with his daily tasks.

74. HMP Gartree was not an ideal location for Mr Gallagher as his condition deteriorated because it did not have a 24 hour healthcare facility. However, we are satisfied that good efforts were made to find him appropriate accommodation in other prisons. Healthcare staff, in conjunction with OMU staff, made efforts to secure a bed place at HMP Leeds and HMP Doncaster, but there were no spaces available. They also made enquiries with HMP Hewell, HMP Birmingham, HMP Cardiff, HMP Parc and HMP Norwich, again without success.

75. Although Gartree was not an appropriate location for a terminally ill man, Mr Gallagher expressed his wish to stay at Gartree on a number of occasions, and we commend staff for the good level of care they provided. We recognise that the prison made good efforts to try and find Mr Gallagher alternative accommodation but the pressure on a relatively small number of suitable prison spaces in other establishments meant Mr Gallagher had to remain at Gartree. We make the following recommendation:

**The Executive Director for Long Term and High Security prisons should review pathways and provision of care for very ill and terminally ill prisoners.**

### Restraints, security and escorts

76. 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.

77. 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.

78. On the occasions Mr Gallagher attended hospital, he was escorted by two prison officers and restrained with an escort chain (an escort chain is a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer). His restraints were removed while he was receiving treatment.

79. We consider that given that when Mr Gallagher's health deteriorated and he became increasingly frail and immobile, restraints were unnecessary. It is hard to see the legal requirements justifying restraint were met. Risk assessments did not appropriately take into account his health when deciding on the level of restraint required.

**The Governor should ensure that risk assessments for prisoners attending hospital appointments fully take into account individual circumstances and are based on the actual risk a prisoner presents at the time.**

### Contact with Mr Gallagher's family

80. Prison Service Instruction (PSI) 58/2010 contains a mandatory instruction "when the PPO is carrying out investigations or enquiries, staff must comply with requests for information and assistance". Despite repeated requests, the prison did not provide a family liaison log to evidence the level and frequency of contact they had with Mr Gallagher's family. We make the following recommendation:

**The Governor should ensure that, in line with PSI 58/2010, the Prison and Probation Ombudsman is promptly provided with all requested documents following a death in custody.**

81. Mr Gallagher's funeral was held on 8 June. The prison contributed to the funeral costs in line with national guidance.

### Compassionate release

82. 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.

83. Healthcare staff considered compassionate release for Mr Gallagher, but due to the length of sentence and no suitable release address, he was not eligible for consideration.

84. We are satisfied that the prison appropriately considered compassionate release for Mr Gallagher.

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