Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Richard Clitheroe a prisoner at HMP Leyhill on 16 April 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.

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.

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 Richard Clitheroe died on 16 April 2017 of bronchopneumonia as a result of lung cancer while a prisoner at HMP Leyhill. He was 81 years old. I offer my condolences to Mr Clitheroe's family and friends.

Mr Clitheroe received a good standard of care and we are satisfied that his care was equivalent to that which he could have expected to receive in the community.

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

Richard Pickering
Deputy Prisons and Probation Ombudsman **November 2017**

Contents

Summary

Events

1. On 8 December 2011, Mr Richard Clitheroe was sentenced to twelve years in prison for sexual offences. He was sent to HMP Belmarsh.

2. Mr Clitheroe had a history of chronic obstructive pulmonary disease (COPD – lung disease) and had been diagnosed with prostrate cancer in 2007 and bladder cancer in 2012, for which he refused surgical intervention. He was a heavy smoker who, despite numerous attempts by healthcare staff, for many years refused to stop smoking regardless of the help and advice offered to him.

3. In April 2016, hospital staff diagnosed him with lung cancer. They were of the opinion he was only suitable for palliative care.

4. In August 2016, prison staff noted that Mr Clitheroe seemed to be experiencing difficulties with his memory. A CT scan subsequently revealed he had developed brain cancer.

5. Healthcare staff monitored Mr Clitheroe 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 Clitheroe agreed with healthcare staff that it was not in his best interest to be resuscitated in the event of a cardio-pulmonary arrest.

6. Mr Clitheroe's condition continued to decline. He died at 5.06am on 16 April.

Findings

7. Mr Clitheroe arrived into prison with COPD. Despite the advice given to him by healthcare staff and secondary care providers, he continued to smoke. As his condition deteriorated, healthcare staff reviewed him regularly and made prompt and appropriate referrals. His treatment and care was in accordance with National Institute for Health and Clinical Excellence (NICE) guidelines for sufferers of COPD.

8. Overall, Mr Clitheroe 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.

9. Appropriately, officers did not restrain Mr Clitheroe when attending hospital appointments and admissions.

The Investigation Process

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

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

12. NHS England commissioned an independent clinical reviewer to review Mr Clitheroe's clinical care at the prison.

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

14. Mr Clitheroe's family were informed the initial report was available, but did not wish to receive a copy or make any comment.

15. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS pointed out some factual inaccuracies and this report has been amended accordingly.

16. The investigation has assessed the main issues involved in Mr Clitheroe'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.

Background Information

HMP Leyhill

17. HMP Leyhill is an open prison in South Gloucestershire, holding 515 prisoners who require minimum security. Some are life sentence prisoners preparing for release.

18. Inspire Better Health, a partnership of eight health care providers led by Bristol Community Health, provides all health and substance misuse services. Primary care services are available from 7.30am to 4.30pm, Monday to Friday. A local NHS centre, Hanham Health, provides GP and out of hours services.

HM Inspectorate of Prisons

19. The most recent inspection of HMP Leyhill was in September 2016. Inspectors reported that Leyhill was, overall, a safe and decent establishment. In terms of its healthcare provision, the inspection found that a small team of experienced nurses ran effective clinics for most long term conditions and GPs ran one for heart disease. However, after the inspection the Care Quality Commission issued a ”Requirement to Improve” notice to the social care provider AginCare. It related to a regulation concerning ”Person-Centred Care” and specifically AginCare’s failure to complete and review patient records.

Independent Monitoring Board

20. The most recent report of HMP Leyhill was in June 2017. Inspectors reported that Leyhill was, overall, a safe and decent establishment. In terms of its healthcare provision, the inspection found that despite staffing difficulties, a small team of experienced nurses ran effective clinics for most long term conditions. Inspectors reported that since their previous report, Leyhill had nurses who specialised in chronic lung diseases, nurse prescribing and palliative care. GPs also ran a clinic for heart disease. They considered that healthcare services provided are at least as good as those available in the outside community.

Previous deaths at HMP Leyhill

21. Mr Clitheroe was the seventh prisoner to die at Leyhill from natural causes since the beginning of 2015. There are no similarities with this case.

Findings

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

22. On 8 December 2011, Mr Richard Clitheroe was sentenced to 12 years in prison for sexual offences. He was sent to HMP Belmarsh.

23. Mr Clitheroe arrived into prison with a number of pre-existing medical conditions. He had a history of chronic obstructive pulmonary disease (COPD – the name for a collection of lung diseases such as chronic bronchitis and emphysema) necessitating the use of a wheelchair for longer distances. Healthcare staff prescribed him Carbocysteine (used to break down phlegm to ease breathing), Salbutamol and Seretide inhalers and oral steroids. In 2007 hospital staff had diagnosed Mr Clitheroe with prostate cancer and in 2012 with bladder cancer, for which he was receiving treatment and secondary care. Healthcare staff devised care plans to manage his COPD and post chemotherapy care and reviewed him regularly.

24. Mr Clitheroe told healthcare staff he had suffered a number of heart attacks in the past. There was no evidence of this in his medical records. He had been prescribed GTN spray (glyceryl trinitrate used to alleviate chest pain) for angina.

25. Mr Clitheroe was a heavy smoker. Healthcare staff offered him smoking cessation advice on a number of occasions, which he refused. In February 2015, Mr Clitheroe successfully stopped smoking.

26. In accordance with National Institute for Health and Care Excellence (NICE) guidelines, healthcare staff offered Mr Clitheroe an annual influenza injection and monitored him regularly to ensure he used his inhalers effectively.

27. Mr Clitheroe moved to HMP Albany on 22 July 2013. Healthcare staff continued with the care plans Belmarsh had put in place, referred him to relevant secondary care providers and reviewed him regularly.

28. On 7 October, one of the prison GPs reviewed Mr Clitheroe. He told the GP that he had decided not to continue with a planned surgical intervention to remove the cancerous tissue in his bladder. He had considered the risks the anaesthetist had pointed out to him and took the decision not to proceed. The GP explained that if he did not have the procedure, there was a chance the cancer could spread to other areas of his body. Mr Clitheroe was adamant that he did not wish to have an operation.

29. On 30 December, a prison GP reviewed Mr Clitheroe. He again explained the risk of not having the planned surgery and asked him if he had reconsidered his decision. Mr Clitheroe told the GP he had not changed his mind and had no wish to have surgery.

30. Over the months that followed, both healthcare and secondary care staff continued to regularly review Mr Clitheroe. They prescribed him Fentanyl transdermal patches (patches placed on the skin for slow release pain relief for chronic pain management) and reviewed and adjusted his medications regularly.

31. On 4 August 2015, Mr Clitheroe was transferred to HMP Ashfield.

32. A prison GP reviewed Mr Clitheroe on 21 September. He noted a raised PSA level (prostrate-specific antigen levels indicate prostrate issues). He made a two week wait referral. However, Mr Clitheroe later refused to attend the appointment despite having the importance of attending explained to him on a number of occasions.

33. A prison GP reviewed Mr Clitheroe on 29 September and urged him to consider attending the appointment if he were able to rearrange it. He agreed and attended hospital on 15 October. However, he subsequently refused the hospital staff's advice when they again offered him surgical intervention.

34. On 1 April 2016, a prison GP reviewed Mr Clitheroe. He was concerned at the deterioration in his lung function. He made a two week referral to the hospital and Mr Clitheroe had a chest X-ray on 3 April. The examination showed he had developed lung cancer and that it was likely it had spread to his lymph nodes (an organ which forms part of the immune system).

35. On 28 April, a prison GP met with Mr Clitheroe to discuss the results of the chest X-ray. She had a frank discussion with him about his cancer and informed him that his prognosis was as little as a few months. She told him the only treatment option open to him was palliative care. He told her he wished to apply for compassionate release and wanted to be with his family. She noted that while he was shocked, he had thanked her for her honesty.

36. On 3 May, a nurse reviewed Mr Clitheroe. He told her a GP had told him he had developed lung cancer and only had months to live. She noted that despite the news, he appeared calm and relaxed. He told her hospital staff had prescribed morphine to help him with his breathing, but it made him feel worse. She requested that a GP prescribe him with Lorazepam (a sedative used to aid patients with breathing difficulties). Following her review she contacted a healthcare manager at the prison to discuss the arrangements for his palliative care. They decided he should be moved to HMP Leyhill, a prison with a palliative care suite.

37. On 12 May, a GP at Ashfield reviewed Mr Clitheroe. They discussed his prognosis and deteriorating health. He agreed to sign a Do Not Attempt Cardiopulmonary Resuscitation Order (DNACPR). However, on 16 May, he changed his mind and told healthcare staff he now wished to be resuscitated should anything happen to him. Healthcare staff discussed the issue of resuscitation with him on many occasions, but he was adamant that he would not sign a DNACPR.

38. On 19 May, staff at the hospital oxygen therapy clinic assessed his suitability for oxygen therapy. They had not been considered it to be a treatment option previously as he had refused to give up smoking. However, they felt Mr Clitheroe was at a stage in his illness at which prescribing the therapy was one of the few treatment options left open to him.

39. On 6 June, Mr Clitheroe was moved to Leyhill. A nurse carried out an initial healthscreen. She noted Mr Clitheroe's numerous medications and all of his

medical conditions. She advised residential staff to allocate him a double cell, which provided him with enough room for his wheelchair and for him to be able to have a hospital bed. She set up his oxygen therapy at 1.5 litres per minute and ensured he was confident in using the equipment.

40. A GP at Leyhill reviewed him on 16 June. He ensured he had adequate supplies of all of his medications and updated the numerous care plans put in place to manage his medical conditions.

41. Healthcare staff continued to review Mr Clitheroe on a regular basis. They updated his care plans, sought advice from secondary care providers and held multi disciplinary team meetings on a weekly basis to ensure he received the level care that he required.

42. On 20 August, a nurse and a GP at the prison met Mr Clitheroe and his family to have a frank conversation with them about his condition and prognosis. They explained what to expect as his health deteriorated and discussed the issue of DNACPR. Mr Clitheroe maintained that he wished to be resuscitated, but his family asked for more information so that they were could consider it further. The nurse explained that she would be Mr Clitheroe's named nurse while he was at Leyhill and that she would also act as the family's point of contact for any medical questions they might have.

43. A prison GP met with Mr Clitheroe on 23 August; they again discussed the issue of DNACPR. Following that discussion, the GP took the decision to sign the form himself in Mr Clitheroe's best interest. He noted that Mr Clitheroe had accepted his decision.

44. The named nurse and the team of GPs at the prison continued to review Mr Clitheroe regularly. Although he remained independent, social care providers provided him with care equipment and aids as his condition deteriorated. His care plans were updated regularly and weekly meetings continued to discuss, and meet, his care requirements.

45. On 20 January 2017, a nurse reviewed Mr Clitheroe after prison staff had noticed that he was experiencing difficulty with his memory. She referred him to the prison's mental health team for assessment.

46. Mr Clitheroe was reviewed on 27 January and he had a mini mental state exam (MMSE test used as an early indicator for dementia). The results did not reveal nothing of note. They considered that lack of sleep, due to the discomfort he was experiencing from his condition, could be causing the issues with his memory. In order to establish the cause of his confusion, a prison GP referred him to hospital for a computerised tomography (CT) scan of his brain.

47. On 1 February, a nurse reviewed Mr Clitheroe after he had been incontinent in his cell. She considered that he required a higher level of input from social carers and prison disability orderlies (prisoners who assist less able prisoners with daily tasks). She told Mr Clitheroe that she would advise transferring him to a prison that could provide 24 hour care, something Leyhill were unable to provide.

48. The named nurse reviewed Mr Clitheroe again on 5 February. She noted that although he looked tired and frail, he told her his pain relief was working well as were the Fortisip supplement drinks he had been prescribed. He told her he felt well in himself with no issues. However, Mr Clitheroe's memory was still causing concern, she carried out a urine test for signs of infection (a urine infection can cause bouts of confusion). The result was negative for infection.

49. On 13 February, hospital staff carried out the CT scan on Mr Clitheroe's brain.

50. On 17 February, his condition had deteriorated to the point where it became necessary to move him to the prison's palliative care suite. The following day a prison GP, the named nurse and a Senior Officer (SO), who the prison had earlier appointed as family liaison officer, met Mr Clitheroe and his family to discuss the results of the CT scan. The scan had showed Mr Clitheroe had developed cancer in a number of areas of his brain. To ensure healthcare staff were able to deliver the care Mr Clitheroe needed, the GP contacted a hospice and the hospital for advice and support.

51. Following his move to the palliative care suite, a dedicated team of healthcare staff looked after Mr Clitheroe on a daily basis. They liaised with other agencies, held regular multi disciplinary team meetings and involved Mr Clitheroe and his family in the decisions they made about his care.

52. Over the weeks that followed, Mr Clitheroe's health continued to deteriorate.

53. On 10 April the named nurse noted a marked change in his condition. He became more confused, more dependent on healthcare staff and in more pain than previously. The decision was taken to administer a syringe driver (used to administer pain relief to those patients who can no longer swallow medication). She contacted Mr Clitheroe's family and informed them that it was likely he only had a matter of hours left to live. They stayed in a nearby hotel and visited Mr Clitheroe at every opportunity they could. His condition continued to worsen.

54. On 16 April at 5.06am, a healthcare assistant, who had been looking after Mr Clitheroe overnight, noticed he appeared to have stopped breathing. She telephoned the named nurse, who immediately made her way to the prison. The healthcare assistant also telephoned an on-call GP to attend the prison.

55. The named nurse arrived at the palliative care suite at 5.31am. She examined Mr Clitheroe, but there were no signs of life. She offered support to his family who were with him when he died. At 5.55am, a prison GP confirmed his death.

56. We are satisfied that Mr Clitheroe 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 Clitheroe's clinical care

57. Healthcare staff devised, and implemented care plans in order to manage Mr Clitheroe's chronic health problems soon after his arrival at Leyhill. Healthcare staff promptly and appropriately referred him to specialist clinics both within Leyhill, and with secondary care providers. They involved him in the choices and decisions about his treatment, pain management and resuscitation. Overall, the

response to Mr Clitheroe's acute health problems and his final illness were appropriate.

58. Mr Clitheroe was encouraged to stop smoking on a number of occasions. Healthcare staff offered him support, explained to him the dangers of continuing to smoke and prescribed him with aids to help him to stop. He initially refused their help but they continued to offer him assistance. He eventually gave up smoking in February 2015.

59. In April 2016, healthcare staff at HMP Ashfield noted deterioration in Mr Clitheroe's lung function. They made an urgent referral to hospital. As a result of that referral, hospital staff discovered he had developed lung cancer. Following their diagnosis, he received a good standard of care from healthcare and secondary care providers.

60. The clinical reviewer has made one recommendation which we do not repeat in this report but which the Head of Healthcare will wish to address.

61. The clinical reviewer considers that Mr Clitheroe's chronic medical conditions were managed well at Leyhill and his healthcare was comparable with the provision available in the community. We agree with the clinical reviewer that Mr Clitheroe received a good standard of care at Leyhill.

Mr Clitheroe's location

62. Following his move to HMP Leyhill, Mr Clitheroe lived in a large room on a house block equipped with a hospital bed. He felt supported by his friends and had assistance from his disability orderlies. Nurses reviewed him regularly to ensure he was coping, taking his medication and managing his pain.

63. As Mr Clitheroe's condition deteriorated and he required closer observation, healthcare staff moved him to the prison's palliative care unit. There was an open door policy in that unit and a team dedicated to providing him with the care he required. These moves were made with his consent.

64. We are satisfied that Mr Clitheroe was appropriately located throughout his illness and his needs were met in line with his wishes.

Restraints, security and escorts

65. 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.

66. Mr Clitheroe was escorted by one prison officer when he attended hospital. Appropriately, no restraints were applied and the risk assessments took account of his health and risk to the public.

Contact with Mr Clitheroe's family

67. On1 February 2017, the prison appointed a Senior Officer (SO) as the family liaison officer (FLO).

68. Mr Clitheroe's family were able to visit him regularly while he was in prison. When healthcare staff moved him to the palliative care unit, extended visiting hours were made available to the family. It was also agreed that should Mr Clitheroe's condition deteriorate rapidly, his family would be able to access the unit outside of the agreed visiting times.

69. On 20 August, hospital staff discovered Mr Clitheroe had developed brain cancer. Following that diagnosis, a nurse and a prison GP arranged to meet with the family and discuss the results and prognosis with them in person. At that meeting, the nurse told the family she was Mr Clitheroe's named nurse, and that they should contact her if they had any questions or concerns.

70. A CM and a SO regularly invited the family to the multi disciplinary team meetings held at the prison to discuss and plan Mr Clitheroe's ongoing care. At those meetings, the family were able to have input on the decisions made about his care as his condition deteriorated.

71. Following Mr Clitheroe's death on 16 April, the family liaison officer team remained in contact with the family offering them support and advice.

72. Mr Clitheroe's funeral was held on 19 May. The prison contributed to the funeral costs in line with national policy.

73. We are satisfied there was good, supportive liaison with Mr Clitheroe's family.

Compassionate release

74. 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.

75. On 28 April 2016, Mr Clitheroe applied for release on compassionate grounds. On 25 May, his application was refused due to his high risk of reoffending (Mr Clitheroe did not admit to aspects of his offending behaviour).

76. He made a second application on 12 August, however the release address he supplied was not deemed to be suitable. Despite repeated attempts by prison staff, Mr Clitheroe failed to supply an alternative address. A social care assessment suggested that he be released to an Approved Premises (formerly known as a Probation Hostel) but that was also deemed to be unsuitable. On 14 February, his application was refused.

77. On 23 February, after Mr Clitheroe's health had deteriorated significantly, healthcare staff discussed the option of releasing him to a hospice. On 2 March, they decided that he did not meet the criteria for such a move. The option of suitable housing was also considered, but again it was felt not to be a suitable option.

78. We are satisfied that the prison appropriately discussed compassionate release with Mr Clitheroe.

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