Prisons & Probation Ombudsman
Independent Investigations

# Independent investigation into the death of Mr Leslie Lloyd on 30 April 2020, following his release from HMP Dovegate

**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.

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 Leslie Lloyd died in hospital from COVID-19 pneumonia on 30 April 2020, following his release from HMP Dovegate on 6 April. He was 77 years old. I offer my condolences to Mr Lloyd's family and friends.

Mr Lloyd was taken to hospital from Dovegate on 2 April, following a fall in his cell. He was diagnosed with a bleed on the brain and remained in hospital until his death. It appears likely that he contracted COVID-19 while he was in hospital.

The clinical reviewer concluded that the clinical care Mr Lloyd received at Dovegate was equivalent to that which he could have expected to receive in the community.

However, I am concerned that Mr Lloyd was restrained on at least two occasions when he was taken to hospital in March, which was not justified given his advanced age and poor mobility.

**Sue McAllister CB**
**Prisons and Probation Ombudsman** **December 2020**

## Contents

# Summary

## Events

1. On 27 January 2017, Mr Leslie Lloyd was recalled to prison for breaching his licence. On 28 January, he was sent to HMP Dovegate.

2. Mr Lloyd had several long-term health conditions, including heart disease, chronic obstructive pulmonary disease (COPD – the term for a group of serious lung diseases) and thrombosis (blood clots).

3. Mr Lloyd had a stroke on 2 May 2018. This resulted in significant impairment to his left side limbs, as well as to his memory and mental processing speed. Mr Lloyd frequently had falls during the rest of his time at Dovegate.

4. On 11 March 2020, Mr Lloyd went to hospital for planned leg surgery. He returned to Dovegate on 23 March. He had several falls over the next few days, including bangs to his head.

5. On 2 April, he had another fall and was taken to hospital, where he was found to have a bleed on his brain. Mr Lloyd was not well enough to have an operation.

6. On 6 April, Mr Lloyd was released from prison on parole, but remained in hospital.

7. On 30 April, Mr Lloyd died from chest sepsis caused by COVID-19 pneumonia. It is considered likely that Mr Lloyd contracted COVID-19 in hospital.

## Findings

8. The clinical reviewer was satisfied that, overall, the healthcare Mr Lloyd received at Dovegate was of a reasonable standard and was equivalent to that he could have expected to receive in the community. She commended the healthcare staff for their clinical care.

9. Mr Lloyd was restrained on at least two of the six occasions when he was taken to hospital in March. We know that he was unrestrained on two occasions, but we do not know whether he was restrained on the remaining two as the prison was unable to provide the escort risk assessments. We are concerned that the authorising managers' decisions about the use of restraints were inconsistent and did not always take into account Mr Lloyd's poor health and mobility.

## Recommendations

- The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments are proportionate, fully take into account a prisoner's health, and are based on the actual risk a prisoner presents at the time.
- The Director should share this report with both Assistant Directors and discuss the Ombudsman's findings with them.
- The Director should ensure that prison documentation is stored securely and provided promptly when requested during a PPO investigation.

## The Investigation Process

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

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

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

13. We informed HM Coroner for Staffordshire South of the investigation. The coroner provided us with the cause of death. We have sent the coroner a copy of this report.

14. One of the PPO's family liaison officers wrote to Mr Lloyd's next of kin to explain the investigation. He said he had no questions for the investigation.

15. The initial report was shared with Mr Lloyd's son. He did not make any comments.

16. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS found no factual inaccuracies. Their action plan is annexed to this final report.

# Background Information

### HM Prison Dovegate

17. HMP Dovegate is a category B prison near Uttoxeter in Staffordshire, managed by Serco. The main prison holds around 930 remanded and sentenced adult men. There is also a therapeutic community, separate to the main prison, which holds up to 220 men. Care UK provides 24-hour healthcare services. South Staffordshire and Shropshire Foundation Trust provides mental health services.

### HM Inspectorate of Prisons

21. The most recent inspection of Dovegate was in September–October 2019. Inspectors reported some improvements since their last inspection in 2017, and noted constructive staff-prisoner relationships, with good key worker input.

22. Healthcare provision was judged to be reasonably good overall and Dovegate prisoners were more satisfied with the service than at comparator prisons. The inspectors said that since their previous visit, the management of patients with long-term conditions had improved and that the patients' needs were met. They said social care provision was good and the social carers were well trained, supervised and supported.

### Independent Monitoring Board

18. 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 30 September 2019, the IMB said that healthcare staffing levels were good. The report also said that healthcare services were good, and as a result of changes in escorting provisions, very few hospital appointments were cancelled.

### Previous deaths at HMP Dovegate

19. Mr Lloyd was released from Dovegate shortly before his death on 30 April 2020. In the two years before that, there were eight deaths at Dovegate. Of the previous deaths, three were self-inflicted, three were from natural causes, and two were drug-related. There are no significant similarities between the investigation findings in Mr Lloyds's case and the findings in the previous investigations at Dovegate. There have been no other COVID-19 related deaths at the prison.

### COVID-19 (coronavirus)

20. COVID-19 is an infectious disease that affects the lungs and airways. It is mainly spread through droplets when an infected person coughs or sneezes. The first reported case of COVID-19 in the UK was in February 2020. On 11 March, the World Health Organisation (WHO) declared COVID-19 as a worldwide pandemic.

21. COVID-19 can make anyone seriously ill, but the risk is higher for some people. There are two levels of higher risk: high-risk (clinically extremely vulnerable); and moderate risk (clinically vulnerable). People at high risk include those who have had an organ transplant; have a severe lung condition; are

having certain types of treatment for cancer; or have a condition with a very high risk of getting infections. Those at moderate risk include people over 70; people with a lung condition or a chronic medical condition, such as diabetes, heart, liver, or chronic kidney disease; or those who are very obese (this list is not exhaustive).

22. To reduce the spread of the virus, the Government introduced voluntary and mandatory actions, such as 'social distancing' and 'lockdown' (on 16 and 23 March, respectively). Public Health England (PHE), HM Prison & Probation Service (HMPPS) and NHS England worked together to devise measures to contain the outbreak, achieve social distancing, reduce the risk to the most vulnerable in prisons in England and protect the NHS (by reducing the number of people requiring specialist care in community-based hospitals).

23. On 13 March, PHE's National Health and Justice team issued an interim notice providing advice on preventing and controlling outbreaks of COVID-19 in prisons. HMPPS issued further instructions over the following weeks with guidance on the appropriate use of personal protective equipment (PPE), hygiene, cleaning schedules and stock checks. The guidance set out the importance of effective preventative measures and that methodical cleaning would help prevent infection spread.

24. On 24 March, HMPPS issued an instruction, in line with Government advice, to all prisons to introduce social distancing and to implement a restricted regime and supported enforcement of social distancing of two metres for staff and prisoners wherever possible. The most vulnerable prisoners were identified and put into protective isolation.

25. On 31 March HMPPS, in consultation with PHE, issued an order to significantly reduce transfers between prisons. Other measures, known as 'compartmentalisation' were also announced. These measures were designed to be implemented at local level, depending on the needs of each individual establishment, and included:

    - Protective Isolation Units (PIUs): to accommodate known or probable COVID-19 cases, ideally in single-cell accommodation.
    - Shielding Units (SUs): to protect the most vulnerable identified through collaboration with NHS England, with enhanced levels of bio-security including dedicated staff;
    - Reverse Cohorting Units (RCUs): to accommodate new receptions or transfers in for a period of 14 days to detect any emergent infectious cases before entering general population. These units could also accommodate any one returning from hospital.

# Key Events

26. Mr Leslie Lloyd had previously received a life sentence for murder but had been in the community since being released on licence in 2001. Following inappropriate communications with a vulnerable young adult, his licence was revoked on 27 January 2017. He was sent to HMP Dovegate on 28 January.

27. Mr Lloyd had several long-term health conditions, including heart disease, chronic obstructive pulmonary disease (COPD – the term for a group of serious lung diseases), and problems with thrombosis (blood clots, in his case in his legs and lungs). He developed several other serious conditions while he was at Dovegate, including essential thrombocythaemia (a disorder which thickens the blood and increases the risk of strokes), an abdominal aortic aneurysm (a swelling of the main blood vessel running down to the lower body), and a hiatus hernia (a bulge of the stomach upwards into the chest). Mr Lloyd also suffered considerable leg pains, which were related to circulation problems. Staff put care plans in place for asthma, COPD and hypertension (high blood pressure).

28. On 2 May 2018, Mr Lloyd was taken to hospital following a fall in his cell, and there it was confirmed that he had had a stroke. On his return to prison, Mr Lloyd's healthcare needs were considerable. His mobility and independence were significantly affected by impairment to his left side limbs. There was also a marked deterioration in both his memory and his ability to process information following his stroke. He spent much of his remaining time at Dovegate in the prison's healthcare unit.

29. Mr Lloyd required extensive clinical care and he was often verbally aggressive towards staff, and not always compliant with his prescribed medication. Following his stroke, Mr Lloyd had many falls and the frequency of these increased from the last quarter of 2019 onwards.

30. The problems that Mr Lloyd was experiencing with pain in his legs also worsened, and on 11 March 2020, he went to hospital for an arterial bypass in his left leg (to increase the blood flow to his lower leg and foot) and had his big toe on that leg amputated.

31. Mr Lloyd returned to prison on 23 March. However, he had very frequent falls, some of which included injuries to his head, and he was taken back to hospital on 26 and 29 March for precautionary checks.

32. Following another fall in his cell in which he hit his head on 2 April, he was taken to hospital again. This time he was found to have a bleed on his brain. He was assessed by the hospital doctors as not being strong enough for surgery and he was not well enough to return to prison.

33. Prior to his surgery in March, Dovegate had proactively considered the question of early release on compassionate grounds (ERCG). Because Mr Lloyd did not have a terminal end of life diagnosis, he was found not to fit the criteria at that time. However, an application was prepared so it would be ready if it became relevant following his surgery.

34. Mr Lloyd had also been under consideration for parole for some time, but because of his deteriorating health, there were complications in arranging suitable post-release care and accommodation. He was eventually released on parole on 6 April, after which time he ceased to be a prisoner at Dovegate. However, he remained in hospital until his death on 30 April.

### Contact with Mr Lloyd's next of kin

35. Initially, Mr Lloyd had not identified any next of kin for his prison records. He told prison staff that he had no contact with his family and had no wish to. However, in response to Mr Lloyd's declining health and expected operation on his leg, the prison appointed a family liaison officer on 28 February. On 3 March, Mr Lloyd gave permission for the prison to contact one of his daughters. Unfortunately, the contact details that Mr Lloyd supplied were probably out of date and several attempts at contact were unsuccessful.

36. Later in March, staff told Mr Lloyd that they had managed to locate a son in another prison and had contacted him, but that he did want to make contact with his father. Although communication was not established between the two while Mr Lloyd was still a prisoner at Dovegate, the prison's social worker later facilitated contact while Mr Lloyd was in hospital.

37. The prison paid for Mr Lloyd's funeral in line with national policy.

### Cause of death

38. There was no post-mortem examination as the coroner accepted the cause of death provided by the hospital. The cause of death was given as chest sepsis, caused by COVID-19 (which was thought to have been acquired in hospital) and an acute-on-chronic subdural haematoma (a complex bleed on the brain) from a traumatic injury. Contributory factors were given as COPD, ischaemic heart disease (a restriction in the blood supply to the heart due to blockages in the arteries), previous stroke, previous heart attack, and apixaban (a blood thinning medication to treat blood clots, but which can have the side effect of causing more bleeding than normal) for previous pulmonary embolism (blood clots on the lung).

# Findings

## Clinical care

39. Mr Lloyd arrived at Dovegate with major health issues, some of which deteriorated significantly while he was there. He also developed some serious new conditions and his health deteriorated significantly after his stroke in May 2018.

40. Mr Lloyd began to have falls very regularly, and a final fall on 2 April 2020, resulted in the hospitalisation during which he died. However, the clinical reviewer was satisfied that Mr Lloyd's falls assessment and social care plan took adequate account of his difficulties.

41. Mr Lloyd's healthcare needs were extensive, and the clinical reviewer found that the care he received at Dovegate was equivalent to that which he could have expected to receive in the community. She noted that Mr Lloyd was difficult and obstructive at times and said that healthcare staff should be commended for the ongoing care they provided him.

### *Management of Mr Lloyd's risk of catching COVID-19*

42. There is very little mention in Mr Lloyd's medical records of COVID-19 measures. However, in correspondence with the clinical reviewer, Dovegate said that as Mr Lloyd was located in the healthcare centre as an in-patient, he was shielding from 12 March, along with all other in-patients.

43. The first mention in his notes of COVID-19 was on 28 March, when he was put into isolation as a precaution because he had a cough. However, the Head of Healthcare told the clinical reviewer that Mr Lloyd never had a high temperature at Dovegate and he was never considered to have symptoms of COVID-19 during his time there. Mr Lloyd was not tested for COVID-19 while he was at Dovegate. He was taken to hospital on 2 April, following his fall, and remained there until he died four weeks later. The coroner determined that his infection with COVID-19 was likely to have occurred in hospital.

## Restraints

44. 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.

45. 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.

46. Mr Lloyd was taken to hospital several times for investigations and treatment in March 2020 as follows:

| Date | Event |
|---|---|
| 04/03/2020 | Taken to hospital with suspected deep vein blood clot. Returned to prison late evening. Single cuffed. |
| 05/03/2020 | Taken to hospital with suspected blood clot on lungs. Returned to prison same day. No risk assessment provided so we do not know whether restraints were used. |
| 07/03/2020 | Taken to hospital after fall. Returned same day. No restraints used. |
| 11/03/2020 | Taken to hospital for operation. Returned 23/24 March. No restraints used. |
| 26/03/2020 | Taken to hospital after fall. Returned same day. Single cuffed. |
| 29/03/2020 | Taken to hospital after fall. Returned same day. No risk assessment provided so we do not know whether restraints were used. |

47. Mr Lloyd was taken to hospital again on 2 April following another fall. Dovegate was unable to provide the risk assessment and bedwatch records for the period 2-6 April, after which Mr Lloyd was released from custody. We therefore do not know whether restraints were used during that period.

48. The only risk assessments that Dovegate was able to provide for the hospital admissions during March were for 4, 7 and 26 March. These showed that Mr Lloyd was single cuffed (where a single pair of handcuffs is used, with one cuff attached to the prisoner and the other to an officer) on 4 and 26 March on the authority of two Assistant Directors respectively, despite healthcare staff having noted on the risk assessment that Mr Lloyd was unable to move unaided.

49. Public protection is fundamental, but security measures must be proportionate to a prisoner's individual circumstances. Mr Lloyd was an elderly Category C prisoner with limited mobility who had had leg surgery, including the amputation of one of his big toes on 11 March. The level of restraints has to be determined on actual risk rather than a precautionary approach. While we note that Mr Lloyd was not restrained on 7 and 11 March, we are concerned about the inconsistency in approach from the authorising managers. We note that healthcare staff recorded that Mr Lloyd could not walk unaided, and yet only one of the authorising managers appears to have taken this into account when deciding whether restraints were appropriate. We recommend:

**The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments are**

**proportionate, fully take into account a prisoner's health, and are based on the actual risk a prisoner presents at the time.**

**The Director should share this report with both Assistant Directors and discuss the Ombudsman's findings with them.**

### Failure to provide prison documents

50. The Prisons and Probation Ombudsman has unfettered access to relevant documents during their investigations and PSI 58/2010, *Prisons and Probation Ombudsman,* makes it clear that prisons must provide information requested by the PPO investigator.

51. Dovegate was unable to provide the risk assessment and bedwatch records for Mr Lloyd's final days in custody or the risk assessments for his trips to hospital on 5, 11 and 29 March. The guidance for prisons on the handling of records is in PSI 35/2014, Records*, Archiving, Retention and Disposal*, which says that records handling should be overseen by a Local Information Manager (LIM), who should ensure that "records are clearly labelled and organised and can be retrieved quickly when required". We recommend:

**The Director should ensure that prison documentation is stored securely and provided promptly when requested during a PPO investigation.**

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