Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Paul Stevens, a prisoner at HMP Channings Wood, on 4 May 2020

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*

Summary

1. 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.

2. 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.

3. Mr Paul Stevens died in hospital of COVID-19 pneumonia on 4 May 2020, while a prisoner at HMP Channings Wood. He was 69 years old. I offer my condolences to Mr Stevens' family and friends.

4. The clinical reviewer concluded that the clinical care Mr Stevens received at Channings Wood was equivalent to that he could have expected to receive in the community. He made no formal recommendations but noted that some of the records made by healthcare staff lacked detail. We have made a recommendation on this.

5. We consider that the decision to restrain Mr Stevens when he was taken to hospital was unjustified given Mr Stevens' age and state of health at the time.

Recommendations

- The Head of Healthcare should ensure that healthcare staff who are asked to assess a prisoner make a detailed note on the prisoner's medical record, including the name of the person making the request.

- The Governor should ensure that all staff undertaking risk assessments for prisoners in hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

- The Governor should share a copy of this report with the manager who authorised the use of restraints and discuss the Ombudsman's findings with him.

The Investigation Process

6. NHS England commissioned an independent clinical reviewer to review Mr Stevens' clinical care at the prison.

7. The PPO investigator has investigated non-clinical issues, including the prison's response to COVID-19 and shielding prisoners, the security arrangements for Mr Stevens' hospital escorts and liaison with his next of kin. He also interviewed a prison nurse.

8. One of the Ombudsman's family liaison officers contacted Mr Stevens' sister to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She asked when her brother became unwell, which

has been covered in this report. She raised some other issues that have been addressed in separate correspondence.

Background Information

HMP Channings Wood

9. HMP Channings Wood is a medium security prison near Newton Abbot in Devon. It holds over 700 men. Care UK provides health services at the prison. There is one permanent GP, with locum GPs running additional clinics. Nurses are on duty every day between 7.30am and 7.30pm Monday to Wednesday and 7.30am and 5.30pm Thursday to Sunday. There is an out of hours GP service.

Previous deaths at HMP Channings Wood

10. Mr Stevens was the seventh Channings Wood prisoner to die since May 2018. Of the previous deaths, two were from natural causes (including one from COVID-19), two were self-inflicted, and two were drug related. There have been no deaths since Mr Stevens'.

11. We have previously made recommendations on record keeping by healthcare staff and the inappropriate use of restraints on ill and elderly prisoners.

COVID-19 (coronavirus)

12. 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.

13. 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).

14. 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).

15. On 13 March, the 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 outlined the importance of effective

preventative measures and that methodical cleaning would help prevent infection spread. 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.

16. On 31 March HMPPS, in consultation with Public Health England (PHE), issued an order to significantly reduce transfers between prisons and other measures were implemented. These measures were designed to be implemented at local level, depending on the needs of each individual establishment and known as 'compartmentalisation' which 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

17. On 6 December 2017, Mr Paul Stevens was convicted of sexual offences. He was subsequently sentenced to 42 months imprisonment. He was released on licence on 16 October 2019 but was recalled on 28 February 2020, after breaching his licence conditions and being charged with further offences. He was sent to HMP Bristol.

18. Mr Stevens had several long-term health conditions, including heart disease, diabetes and osteoarthritis. His family said that he had suffered with anxiety and depression, although on reception Mr Stevens denied having any mental health problems. He had previously been fitted with a pacemaker, and his family said that he had been fitted with an implantable cardioverter defibrillator in December 2019. When Mr Stevens arrived at Bristol, he complained of shortness of breath and flu-like symptoms, and he had a high temperature. He was given an appointment for an electrocardiogram (ECG - a test to check the heart's rhythm) for 4 March. On 1 March, Mr Stevens told staff that he felt fine. The results of the ECG showed no changes since the previous ECG.

19. On 13 March, Mr Stevens was moved to HMP Channings Wood.

20. On 1 April, prison staff assessed which prisoners met the government-published criteria for shielding. Although Mr Stevens did not meet the criteria, healthcare staff noted that he had several health issues and decided to offer him the choice to shield. They sent him a letter recommending that he followed shielding precautions. On 6 April, a member of staff discussed the situation with him. A note on his medical record said that he was uninfected but accepted the advice to go into preventative self-isolation. Staff explained to him how the restricted regime would operate. This included time out of his cell, access to showers and a telephone, and meals brought to his cell by officers in personal protective equipment.

21. On 18 April, a member of the Safer Custody department made a welfare check on Mr Stevens. He asked about being provided with some e-cigarettes and razors. He said he had asked for someone from the healthcare team to assess some shoulder pain he had been suffering. He said that he was in a high-risk group as he had suffered a heart attack, but that he had no symptoms of Covid-19 and was in good spirits. Mr Stevens was due to have a secondary health screening but because he was in the shielding group staff were unable to see him face to face. A nurse checked his notes. He had recently had scheduled blood tests and these had been sent to the GP as requested.

22. On the evening of 27 April, staff on the wing contacted the healthcare department and asked for someone to see Mr Stevens as he had not been eating. A nurse noted on Mr Stevens' medical record that there were no reports of him being unwell and that someone would see him the next day. The medical record does not indicate for how long he had not been eating. An unsigned entry in the wing observation book noted that food had been left or thrown in the bin but does not specify how many times.

23. The following morning, at approximately 8.40am, a nurse went to see Mr Stevens in his cell. He had been suffering from diarrhoea and had not been eating. He

was very short of breath, struggling to speak in sentences, and said he had a headache. It was agreed that he should go to hospital. Initially, Mr Stevens declined to do so, but staff persuaded him that he should. Ambulance service records show that an ambulance was requested at 9.11am, and it arrived at the prison at 9.26am. Mr Stevens was taken to Torbay Hospital and was admitted. He was accompanied by two prison officers and restrained using double handcuffs (a cuff attached to each wrist) as well as an escort chain (a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to a prison officer).

24. When he arrived at the hospital, Mr Stevens was assessed and taken to the intensive care unit. Medical staff asked that the restraints be removed. A prison manager authorised the removal of restraints. Mr Stevens was put onto a ventilation unit. The prison's family liaison officer contacted Mr Stevens' next of kin, and they visited him in hospital on the afternoon of 3 May.

25. Mr Stevens remained on life support until 5.05pm on 3 May. He died at 10.18am on 4 May.

26. The Coroner accepted the cause of death provided by a hospital doctor and no post-mortem examination was carried out. The doctor gave Mr Stevens' cause of death as COVID-19 pneumonia.

Findings

Clinical Findings

27. The clinical reviewer considered that the standard of care Mr Stevens received at Channings Wood was equivalent to that which he could have expected to receive in the community. He found that prison healthcare staff appropriately managed Mr Stevens' long-term health conditions and when he became ill with suspected COVID-19, they took appropriate action.

28. The clinical reviewer noted that Mr Stevens had suffered diarrhoea, a potential COVID-19 symptom, for two days prior to being seen by a nurse on 28 April. However, it was unclear whether officers were aware of this on 27 April, when they asked a nurse to see Mr Stevens, given that he had been isolating in his cell. The clinical reviewer was satisfied that even if this had been known and communicated, it was unlikely to have led to earlier hospitalisation.

29. The nurse said at interview that the officer who called her on 27 April gave no indication that Mr Stevens needed to be seen urgently. She said that she was not told that he was unwell, just that he had not been eating. The clinical reviewer noted that it would have been helpful if the nurse's entry in Mr Stevens' medical record had given more detail, including the name of the officer who had spoken to her. We recommend:

    The Head of Healthcare should ensure that healthcare staff who are asked to assess a prisoner make a detailed note on the prisoner's medical record, including the name of the person making the request.

Management of Mr Stevens' risk of catching Covid-19

30. Channings Wood's healthcare department followed NHS guidance on who should be offered the opportunity to shield. In the week commencing 6 April, staff personally handed letters to all prisoners who were being asked to shield and explained the situation to them.

31. Mr Stevens did not meet published criteria for shielding, but the prison identified him as at higher risk and offered him the option to shield, which he accepted. This was good practice.

32. The clinical reviewer was satisfied that Channings Wood had followed Government guidance.

Non-Clinical Findings

Compassionate release

33. 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. In addition, End of Custody Temporary Release on licence (ECTR) was introduced in response to the COVID-19 pandemic, to enable risk-assessed prisoners, who were within two months of their release date, to be temporarily released from custody, as part of the national approach to managing public

services. In deciding which prisoners should be eligible for early release, a number of factors had to be taken into account, these include:

- The need to minimise the risk to public protection, so those assessed as a high risk of serious harm or convicted of sexual or violent offences are excluded.
- The need to maintain public confidence in the justice system, so only those who are already close to release and who have already served at least half of their time in prison are considered
- The need to comply with Government directions on COVID-19 will mean that only those who have suitable accommodation and whose healthcare needs (including Covid-related ones) can be safely managed on release are eligible.
- Some groups of prisoners have separate processes governing their release so those serving a recall to custody are excluded.

34. Mr Stevens was not eligible to be considered for early release under ECTR. He had been identified as eligible to apply for temporary release under a Special Purpose Licence but, when the application forms were distributed, he was already in hospital. The prison was not in the position to take forward arrangements for compassionate release as Mr Stevens did not have a prognosis. In the circumstances, it was reasonable that Mr Stevens was not considered for release.

Restraints, security and escorts

35. When prisoners have to travel outside 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 must 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, considering factors such as the prisoner's health and mobility.

36. 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.

37. Prison Service Instruction 33/2015, *External Prisoner Movements*, says normal practice is for male Category B and Escape-List prisoners to be double cuffed while on escort. All other prisoners will be single cuffed unless the individual risk assessment indicates that double cuffing is required and is proportionate. It goes on to say that restraints should not normally be used where the prisoner's mobility is severely limited (for example, due to advanced age or disability) unless there are grounds for believing that an escape attempt may be made with external assistance.

38. When Mr Stevens was taken to hospital he was restrained by double handcuffs and an escort chain. The authorising manager was one of the prison's senior

managers. He told the investigator that it was standard procedure for prisoners to go to hospital in double-cuffs, so that is what he authorised. Mr Stevens was in an emergency ambulance, and the authorising manager said he was asked to complete the risk assessment without seeing Mr Stevens.

39. A nurse noted in the healthcare section of the Escort Risk Assessment that Mr Stevens had mobility issues. She said he was short of breath and had a high temperature. There is no indication that the authorising manager took this into account when making the decision to double-cuff Mr Stevens.

40. We consider that the use of the double-cuffing method on Mr Stevens was inappropriate given he was a Category C prisoner and a 69-year old in poor health. We recommend:

The Governor should ensure that all staff undertaking risk assessments for prisoners in hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

The Governor should share a copy of this report with the manager who authorised the use of restraints and discuss the Ombudsman's findings with him.

Sue McAllister CB **November 2020**
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