Prisons & Probation
Ombudsman
Independent Investigations

Independent investigation into the death of Mr Bryan Aslin-Smith, a prisoner at HMP Leeds, on 5 March 2021

A report by the Prisons and Probation Ombudsman

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Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*
Respectful: *we are considerate and courteous*
Inclusive: *we value diversity*
Dedicated: *we are determined and focused*
Fair: *we are honest and act with integrity*

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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 Bryan Aslin-Smith died in hospital of COVID-19 pneumonia on 5 March 2021, while a prisoner at HMP Leeds. He was 75 years old. I offer my condolences to Mr Aslin-Smith's family and friends.

4. Mr Aslin-Smith had a number of medical conditions that made him extremely clinically vulnerable if he contracted COVID-19. Although he followed advice to shield, he showed symptoms of COVID-19 on 27 February and on 1 March, his test result came back positive. He was taken to hospital the following day and died there on 5 March.

5. The clinical reviewer concluded that Mr Aslin-Smith's clinical care at Leeds was equivalent to that which he could have expected in the community. However, she made two recommendations. One of these recommendations has already been implemented by Leeds, so we have not included it in our report.

6. We are concerned that when Mr Aslin-Smith became unwell with COVID-19, there is no evidence that the prison asked him if he wanted anyone notified. There was also a delay in notifying his next of kin when he was taken to hospital. This was not in line with national Prison Service guidelines on family liaison and communicating with prisoners' families during the pandemic.

Recommendations

- The Head of Healthcare should review the criteria for the prison's Multi-Professional Complex Case Clinic (MPCCC) caseload, to ensure that those who are on the caseload are regularly discussed and care plans are initiated accordingly.

- The Governor should ensure that if a prisoner is suspected of contracting COVID-19, he is given the opportunity for someone to be notified.

- The Governor should ensure, in line with Prison Rule 22, that a prisoner's next of kin is informed promptly if he becomes seriously ill.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Mr Aslin-Smith's clinical care at Leeds.

8. The PPO's investigator investigated non-clinical issues, including the prison's response to COVID-19 and shielding prisoners, the security arrangements for Mr Aslin-Smith's hospital escort, and liaison with his next of kin.

9. We informed HM Coroner for West Yorkshire Eastern District of the investigation. The Coroner provided the cause of death. We have sent the Coroner a copy of this report.

10. The Ombudsman's family liaison officer contacted Mr Aslin-Smith's next of kin, his daughter, to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She had no questions but asked for a copy of the report.

11. We shared our initial report with HM Prison and Probation Service (HMPPS). They found no factual inaccuracies. They provided an action plan which is annexed to this report.

12. We sent a copy of our initial report to Mr Aslin-Smith's daughter. She did not inform us of any factual inaccuracies.

Background Information

HMP Leeds

13. HMP Leeds holds up to 1,218 prisoners who are on remand, convicted or sentenced. Practice Plus Group provides health services at Leeds. These services include Primary Care, Inpatient, Social Care, Mental Health and Clinical Substance Misuse.

Previous deaths at HMP Leeds

14. Mr Aslin-Smith was the 23rd prisoner at Leeds to die since March 2019. Of the previous deaths, one was drug-related, eight were self-inflicted, and the rest were from natural causes. Mr Aslin-Smith's death was the third from COVID-19 at Leeds. There were no significant similarities between the findings in our investigation into Mr Aslin-Smith's death and our findings from the investigations into the previous deaths at Leeds. There have been no further COVID-19 related deaths at the prison.

COVID-19 (coronavirus)

15. 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.

16. COVID-19 can make anyone seriously ill, but some people are at higher risk of severe illness and developing complications from the infection. People at high risk (clinically extremely vulnerable) include those who have had an organ transplant; have severe lung or kidney disease; or are having certain types of cancer or other treatment which significantly increases the risk of infection. Examples of those at moderate risk (clinically vulnerable) are people over 70; people under 70 with an underlying health condition, such as diabetes, or chronic respiratory, heart, liver or kidney disease; those with a weakened immune system; or who are very overweight. (These lists are not exhaustive.)

17. In response to the initial pandemic outbreak, HM Prison and Probation Service (HMPPS) introduced several measures to try to contain the outbreak - to be implemented at local level, depending on the needs of individual prisons. (An outbreak is defined as two or more prisoners, or staff, in a prison who are clinically suspected, or have tested positive for COVID-19 within 14 days.) A key strategy is 'compartmentalisation' to cohort and protect prisoners at high and moderate risk; isolate those who are symptomatic; and separate newly received prisoners from the main population. Other measures include social distancing and the use of personal protective equipment (PPE).

Key Events

18. On 14 September 2018, Mr Bryan Aslin-Smith was sentenced to 10 years and 6 months in prison for sexual offences. He was sent to HMP Leeds.

19. Mr Aslin-Smith had several health conditions, including high blood pressure, type two diabetes, chronic kidney disease, ischaemic heart disease (a term given to heart problems caused by narrowed heart arteries) and had suffered a heart attack in 1999. Mr Aslin-Smith had a Body Mass Index (BMI) of 26.4 and so was clinically overweight.

20. In April 2020, healthcare staff identified that Mr Aslin-Smith was at high risk of complications if he contracted COVID-19 (clinically extremely vulnerable). He was also sent a Government letter on 14 May, advising him to shield. On 11 June, Mr Aslin-Smith was placed in a shielding cohort on the Vulnerable Prisoners wing (F Wing).

21. Mr Aslin-Smith was offered the COVID-19 vaccination on 1 and 10 February 2021, but he declined it both times.

22. On 27 February, despite consistently shielding, Mr Aslin-Smith and his cellmate displayed COVID-19 symptoms. They were both tested for COVID-19, and isolated. On 1 March, Mr Aslin-Smith's test came back positive.

23. On the afternoon of 2 March, a nurse found Mr Aslin-Smith on his bed covered in his own faeces, vomit and urine. He was semi-conscious, disorientated and his blood oxygen saturation level had dropped to 85% (a normal level is between 95-100%). Mr Aslin-Smith's pulse rate had increased to 112 beats per minute (a normal pulse rate is between 60-100 beats per minute), his blood pressure had risen to 160/60 (a normal level is less than 120/80 mm Hg) and his respiratory rate had risen to 22 breaths per minute (the normal respiratory rate is between 12-16 breaths per minute).

24. The nurse gave Mr Aslin-Smith oxygen and called a medical emergency code blue (used when a prisoner is unconscious or having breathing difficulties that alerts healthcare staff and prompts the control room to call an ambulance). Mr Aslin-Smith was taken to hospital, where he was admitted. As Mr Aslin-Smith was in a wheelchair, prison staff did not apply handcuffs during the transfer or while he was in hospital.

25. Mr Aslin-Smith was treated for COVID-19 in hospital, but his condition rapidly deteriorated. On 5 March, after discussions with his daughter, Mr Aslin-Smith was placed on an end of life pathway and a do not resuscitate (DNR) order was put in place. Mr Aslin-Smith died later that evening.

Cause of death

26. There was no post-mortem examination as the Coroner accepted the cause of death provided by a hospital doctor. The doctor gave the cause of death as COVID-19 pneumonia, with type two diabetes, hypertension, stroke and chronic kidney disease as contributory factors.

Findings

Clinical Findings

27. The clinical reviewer considered that the standard of care Mr Aslin-Smith received at Leeds was equivalent to that which he could have expected to receive in the community. However, she identified two areas of concern which we cover below.

Management of Mr Aslin-Smith's risk of infection from COVID-19

28. Mr Aslin-Smith had not left Leeds for over four weeks before he tested positive for COVID-19, and it appears therefore that he caught COVID-19 in prison. We have looked at whether the prison took adequate steps to protect him.

29. In March 2020, HM Prison and Probation Service (HMPPS) instructed all prisons to implement measures to contain COVID-19, including a restricted regime, social distancing, wherever possible, and shielding of the most vulnerable prisoners for 12 weeks.

30. Although Practice Plus Group did not have a formal process for identifying vulnerable prisoners until May 2020, Leeds had devised their own 'at risk' list and in April, Mr Aslin-Smith was identified as being clinically extremely vulnerable to COVID-19. In June, he was placed in a shielding cohort on the Vulnerable Prisoners Wing (F Wing). Mr Aslin-Smith followed the rules of the cohort and advice from Government letters to shield.

31. When the prison became an outbreak site in October 2020, Leeds used 'track and trace' to identify infected staff and those at risk. The exercise identified that some staff were not complying with guidelines, such as social distancing. Therefore, further guidance and daily briefings were issued, reiterating the key requirements.

32. Although Mr Aslin-Smith contracted COVID-19 at Leeds, we are satisfied that the prison had appropriate policies and procedures in place and had taken reasonable steps to manage the risk to prisoners, including Mr Aslin-Smith, of being infected with COVID-19.

Monitoring Mr Aslin-Smith after he contracted COVID-19

33. The clinical reviewer noted that at the time Mr Aslin-Smith tested positive, there was no process in place at Leeds to ensure that prisoners who were vulnerable to COVID-19 were routinely monitored and reviewed by healthcare staff for early signs that their health was deteriorating.

34. The clinical reviewer could not say whether an increase in observations might have changed the outcome, but said that it might have increased the chances of earlier detection of any deterioration, which in turn, may have resulted in earlier intervention.

35. Practice Plus Group conducted an internal investigation, and as a result there has been a change in practice at Leeds, where prisoners who test positive for

COVID-19 are now reviewed by a member of healthcare staff and prisoners are now provided with a pulse oximeter, to assist in early detection of deterioration.

36. As Leeds have adopted this new practice and the clinical reviewer has reinforced this with a recommendation, we do not consider it necessary for us to repeat that recommendation in this report.

Management of Mr Aslin-Smith's overall clinical care

37. Mr Aslin-Smith had a history of refusing his medication and in February 2021, he twice declined the first dose of the COVID-19 vaccine. Despite this, the clinical reviewer was satisfied that healthcare staff had appropriately concluded that Mr Aslin-Smith had the mental capacity to make his own decisions.

38. However, as Mr Aslin-Smith declined the COVID-19 vaccine on two occasions, the clinical reviewer said that a more coordinated approach to his management plan may have provided the opportunity to identify all the healthcare challenges he presented. The clinical reviewer said that the Multi-Professional Complex Case Clinic (MPCC) meeting would have been an ideal opportunity to discuss, among other issues, Mr Aslin-Smith's decision to decline the COVID-19 vaccine. We recommend:

The Head of Healthcare should review the criteria for the prison's Multi-Professional Complex Case Clinic (MPCCC) caseload, to ensure that those who are on the caseload are regularly discussed and care plans are initiated accordingly.

Contacting Mr Aslin-Smith's next of kin

39. Prison Rule 22 states that prisons should inform the next of kin immediately if a prisoner becomes seriously ill. In March 2020, this obligation was reinforced in national Prison Service guidance on family liaison and communicating with prisoners' families during the pandemic. The guidance also states that if a prisoner is suspected of having contracted COVID-19 (a formal diagnosis is not required), they should be given the opportunity to have someone informed.

40. Mr Aslin-Smith showed COVID-19 symptoms on 27 February and was confirmed positive on 1 March. There is no evidence that prison staff asked him if he wanted his next of kin to be told. Mr Aslin-Smith was taken to hospital on 2 March but a family liaison officer (FLO) was not appointed until two days later. The FLO did not make contact with Mr Aslin-Smith's daughter until 5 March, though he noted that someone from Safer Custody had spoken to the family the day before. We consider that the family should have been contacted when Mr Aslin-Smith was taken to hospital. We recommend:

The Governor should ensure that if a prisoner is suspected of contracting COVID-19, he is given the opportunity for someone to be notified.

The Governor should ensure, in line with Prison Rule 22, that a prisoner's next of kin is informed promptly if he becomes seriously ill.

Sue McAllister CB
Prisons and Probation Ombudsman **December 2021**

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