Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Ms Nicola Law, a prisoner at HMP New Hall, on 1 March 2021

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

3. Ms Nicola Law died in hospital on 1 March 2021, while a prisoner at HMP New Hall. She was 41 years old. The cause of Ms Law's death was COVID-19. I offer my condolences to her family and friends.

4. The clinical reviewer concluded that Ms Law's clinical care at New Hall was of a high standard, equivalent to that she could have expected to receive in the community. She made one recommendation, which was not directly related to the cause of Ms Law's death.

5. We are satisfied that Ms Law's COVID-19 risk was managed in line with national guidelines and that she was actively monitored when she became ill. Despite the protective measures, she appears to have contracted COVID-19 at New Hall, as she had not left the prison in the weeks before her diagnosis.

6. There was no clinical contribution to Ms Law's initial security risk assessment to confirm the impact of her illness on her condition at the time she was taken to hospital; and restraints were used while she was critically ill, receiving intravenous treatment. We are also concerned about the accuracy and judgements in subsequent assessments and that there is no requirement on the risk assessment form for the clinician to sign and date the medical entry.

Recommendation

- The Governor 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 in all cases:
    - healthcare staff complete the medical information section of the escort risk assessment, accurately reflecting how the prisoner's current health and medical condition affects their risk of escape; and
    - authorising managers show that they have taken this information into account when assessing a prisoner's current level of risk.
- The Governor should revise the security risk assessment form to include a section for the name and signature of the clinician responsible for completing the medical entry.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Ms Law's clinical care at HMP New Hall.

8. The PPO investigator investigated the non-clinical issues, including aspects of the prison's response to COVID-19 and shielding prisoners; Ms Law's location; the security arrangements for her journey and admission to hospital; liaison with her family; and whether early release was considered.

9. The Ombudsman's family liaison officer wrote to Ms Law's next of kin, her father, to explain the investigation. She did not receive a reply.

10. 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.

Previous deaths at HMP New Hall

11. Ms Law was the fourth prisoner at New Hall to die since March 2019. Two of the previous deaths were from natural causes relating to COVID-19 and one was drug-related. There has since been a self-inflicted death. There are no similarities between our findings in this investigation and those of previous deaths at New Hall.

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, sneezes, speaks or breathes heavily. On 11 March 2020, the World Health Organisation (WHO) declared COVID-19 a worldwide pandemic.

13. 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.)

14. In response to the initial pandemic outbreak, HM Prison and Probation Service (HMPPS) introduced several measures to try and 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, 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-arrived prisoners from the main population. Other measures include social distancing and the use of personal protective equipment (PPE).

Key Events

15. Ms Nicola Law was released from prison on licence in March 2020. Due to further offences, her licence was revoked. She was recalled to prison and remanded to HMP New Hall on 16 May. (Ms Law was convicted of burglary, assault and arson on 12 June and sentenced to 30 months imprisonment.)

16. Initial and secondary health screens were held on 16 and 19 May, respectively. Ms Law's medical conditions included asthma, arthritis and deep vein thrombosis. She was dependent on heroin, crack cocaine and alcohol and used psychoactive substances. This had led to several mental health and behavioural disorders and she received support from the mental health and substance misuse teams.

17. In line with the policy on accommodating new prisoners during the COVID-19 pandemic, Ms Law was isolated from the main prison population for 14 days (known as reverse cohorting).

18. Ms Law was at moderate risk of complications from COVID-19 and this was noted in her medical records on 22 May and 22 September. She received regular welfare checks and staff confirmed that she understood the regime and the restrictions.

19. Ms Law's behaviour was challenging, with verbal and physical aggression towards healthcare and operational staff. She did not always accept medical advice, often refusing to attend healthcare and hospital appointments, or receive treatment and tests. Healthcare staff assessed Ms Law as having the mental capacity to make decisions about her care and suggested several strategies to help her feel more at ease, such as staff or a family member accompanying her to hospital appointments.

COVID-19 diagnosis in February 2021

20. At the beginning of February 2021, there was an outbreak of COVID-19 on Ms Law's wing and all the residents were tested.

21. On 5 February 2021, while a nurse was taking a swab, Ms Law reported symptoms of COVID-19, including a sore throat, headache and shortness of breath. (The test returned as positive the next day.) Ms Law was placed in protective isolation and the regime and support networks were explained. She was given a pulse oximeter (a device to test her blood oxygen saturation level) and told to take readings three times a day. Healthcare staff took clinical observations daily.

22. During a clinical check at around 10.30am on 7 February, a nurse found that Ms Law's blood oxygen saturation level was critically low at 85%. Ms Law refused to go to hospital. The nurse explained the possible consequences if she did not receive treatment, including the risk of respiratory failure, blood clots, COVID-19 pneumonia and death. Ms Law signed a disclaimer, indicating that she understood the potential risks.

23. Despite Ms Law's refusal, the nurse requested an ambulance. Ms Law persistently rejected the advice of the paramedics and refused to leave the prison, although her oxygen level remained low. She was assessed as having the mental capacity to

decline treatment. An on-call GP suggested forcible removal to hospital, but the duty governor felt this was inappropriate.

24. Healthcare staff checked Ms Law's oxygen every 15 minutes and hourly through the night. She withheld consent for her family to be informed that she was unwell.

25. Ms Law's cooperation remained variable and her mental capacity was checked each time. Paramedics attended late evening on 8 February and warned her she could die that night.

26. Paramedics attended again on the morning of 9 February. After a further refusal to attend hospital, the prison GP and the Head of Healthcare spoke to Ms Law. She accepted oxygen but no other treatment and was continuously monitored. The GP said that as it was a potential end of life situation, she would inform her family. She then spoke to Ms Law's sister, who was keen to help persuade her.

27. At 4.25pm, another ambulance was requested as Ms Law's oxygen level was dangerously low at 35% and she was rapidly deteriorating. After an assessment, the paramedics decided that she did not have the mental capacity to refuse treatment and it was in her best interests to attend hospital. Two prison officers escorted Ms Law, using restraints. Healthcare staff telephoned the hospital daily for updates on her condition.

28. On 10 February, Ms Law was diagnosed with COVID-19 pneumonia. She was admitted to the high dependency unit, where she was treated with intravenous antibiotics and non-invasive ventilation. The prison GP informed Ms Law's sister and told her that a family liaison officer would be appointed.

29. Ms Law asked for her next of kin, her partner, to be informed that she was in hospital. However, due to his personal circumstances, the contact details were not immediately available. With Ms Law's consent, the family liaison officer spoke to her father, who had been listed as her emergency contact. She later asked for him to be treated as her next of kin and for her partner to be kept informed of her condition. The family liaison officer regularly updated Ms Law's family and made several attempts to contact her partner.

30. On 11 February, the prison considered release on temporary licence (ROTL) in order to remove or reduce the escort staff. However, the ROTL Board concluded that due to her difficult behaviour, Ms Law required supervision to ensure the safety of hospital staff and other patients. They also considered that if her condition improved, there was a high risk she would abscond. Ms Law's restraints were removed during the afternoon and she moved to the intensive care unit in the evening.

31. In the early hours of 23 February, Ms Law was placed in a medically induced coma and hospital staff thought she might not survive the next 24 hours. The family liaison officer arranged for Ms Law's father and sister to visit that day and met them at the hospital. She also made further unsuccessful attempts to contact Ms Law's partner.

32. Ms Law did not respond to various treatments and methods of ventilation. On 27 February, it was decided that she would not be resuscitated if her heart or breathing stopped.

33. On 1 March, Ms Law's treatment was withdrawn. Her sisters were with her when she died at 10.45pm. The family liaison officer met them at the hospital to offer support and telephoned Ms Law's father the next morning. She kept in close contact with family members over an extended period, to provide advice and help with arrangements. She also liaised with various agencies to provide support and information for her partner and other relatives.

34. The duty governor held a comprehensive debrief with the escort officers, family liaison officer, healthcare and operational staff. A representative from the care team attended and offered support.

35. Notices were issued to staff and prisoners informing them of Ms Law's death and reminding them of the avenues for support.

36. Ms Law's funeral was held on 23 April. The prison contributed to the funeral expenses, in line with national policy.

Cause of death

37. An inquest on 12 March 2021, concluded that Ms Law's cause of death was COVID-19.

Clinical Findings

Clinical care

38. The clinical reviewer considered that Ms Law received a very high standard of care at New Hall, equivalent to that she would have expected to receive in the community. We agree with the clinical reviewer's findings, which are set out in detail in the clinical review report.

39. The clinical reviewer made one recommendation (unrelated to the cause of Ms Law's death) about recording electrocardiogram reports, which the Head of Healthcare will need to consider.

Management of Ms Law's risk and monitoring her COVID-19 infection

40. Prison and healthcare staff at New Hall jointly developed and agreed a COVID-19 protocol that was updated during the pandemic to reflect national policy. There was a restricted regime across the prison and vulnerable prisoners were advised of their risk. The Head of Healthcare told the investigator that as Ms Law's asthma was well controlled, she did not meet the criteria for shielding.

41. Ms Law was initially isolated in a cohort of prisoners who had arrived at the prison within the same week. When she moved to a residential wing she remained in a cohort for activities, such as exercise and showers. After the outbreak of COVID-19 on the wing, the women were placed in cohorts based on the date they tested positive, in order to remain in the same group throughout their isolation period.

42. Ms Law had not left New Hall in the weeks before she tested positive, so it seems that she contracted COVID-19 within the prison. She was actively monitored and when her symptoms worsened, healthcare staff and paramedics made repeated efforts to convince her that secondary care was crucial.

43. We are satisfied that protective measures were in place to minimise Ms Law's risk of infection and that she was managed appropriately when she became ill.

Security risk assessments and the use of 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 they have 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. These requirements are reflected in Prison Service Instruction (PSI) 33/2015 on external prisoner movements.

46. The initial security risk assessment on 9 February, indicated that Ms Law was low risk on all the specific factors of concern, including the risk of escape. (Further reviews on 11 and 12 February, raised her risk to the public to medium.) The assessment reflected a history of violence, listing examples of threatening and violent behaviour. The medical section of the form was blank.

47. Subject to risk assessment, the national COVID-19 external escort policy allows the use of an escort chain in place of a second handcuff when prisoners are double handcuffed, to preserve social distancing, or use of an escort chain instead of single handcuffs. The type of restraint was not specified on Ms Law's form, but it was annotated that she was COVID-19 positive and staff should follow the standard operating procedures for such prisoners. (The prison informed the investigator that an escort chain had been used, but this was not evidenced in any of the security or escort records provided.)

48. Ms Law was acutely unwell and continued to deteriorate in hospital. Legitimate concerns about her past behaviour were rightly reflected in the risk assessment, to ensure the safety of staff and others. However, without a clinician's input on the extent of her physical incapacity and how it affected her risk, the decision to use restraints was unsound. It is perplexing that Ms Law's risk to the public was thought to have increased as her condition worsened and it was unacceptable to use restraints during intravenous treatment.

49. We also question the medical opinions in subsequent risk assessments. At a time when she was subject to high dependency and intensive care, the entries indicated that Ms Law's medical condition did not affect the escort and there was no objection to restraints. This suggests that some aspects of the risk assessment were not considered afresh following updates on her condition and there was no provision on the form for the clinician to sign and date the medical entry. We recommend:

The Governor 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 in all cases:

- **healthcare staff complete the medical information section of the escort risk assessment, accurately reflecting how the prisoner's current health and medical condition affects their risk of escape; and**
- **authorising managers show that they have taken this information into account when assessing a prisoner's current level of risk.**

The Governor should revise the security risk assessment form to include a section for the name and signature of the clinician responsible for completing the medical entry.

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