

**Prisons &
Probation**

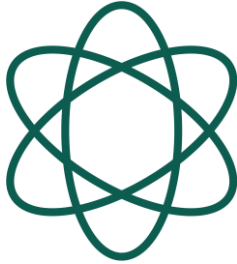
Ombudsman
Independent Investigations

**Independent investigation into
the death of Mr Bradley Sayers,
a prisoner at HMP Brixton,
on 4 March 2021**



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

OGL

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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. We carry out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.
3. Mr Bradley Sayers died in hospital of COVID-19 pneumonitis on 4 March 2021, while a prisoner at HMP Brixton. He was 51 years old. I offer my condolences to Mr Sayers' family and friends.
4. Mr Sayers was tested for COVID-19 on 14 January 2021, during mass testing at Brixton. On 18 January, his test came back positive. He was taken to hospital two days later and died there on 4 March.
5. The clinical reviewer concluded that Mr Sayers' clinical care at Brixton was equivalent to that which he could have expected in the community. However, she noted that Mr Sayers was not monitored daily as he should have been after testing positive for COVID-19. There was no record that staff took Mr Sayers' clinical observations on 18 January. On 19 January, Mr Sayers refused to have his clinical observations taken, but there was no record that staff assessed his mental capacity to make that decision.
6. Mr Sayers was restrained when taken to hospital, though the restraints were removed later that evening. The prison was unable to provide an escort risk assessment, so we do not know the level of restraints used.

Recommendations

- The Head of Healthcare should ensure that healthcare staff:
 - monitor deterioration in prisoners in line with the 'Monitoring of patients who test positive for COVID' policy; and
 - assess mental capacity for prisoners who decline medical advice and treatment and record the outcome.
- 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:
 - authorising managers must complete an escort risk assessment for all prisoner transfers to hospital; and
 - healthcare staff complete the medical information section of the escort risk assessment to say whether the prisoner's current medical condition affects their mobility and risk of escape.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Mr Sayers' clinical care at Brixton.
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 Sayers' hospital escort, and liaison with his next of kin.
9. We informed HM Coroner for Inner South London District of the investigation. The Coroner gave us the cause of death. We have sent the Coroner a copy of this report.
10. The Ombudsman's family liaison officer contacted Mr Sayers' next of kin, his mother, to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She did not respond.
11. We shared our initial report with HM Prison and Probation Service (HMPPS). They identified one factual inaccuracy which has been amended in this report.

Background Information

HMP Brixton

12. HMP Brixton is a category C prison and holds up to 810 men. Practice Plus Group, an independent company providing health and social care, provides healthcare services to the prison.

Previous deaths at HMP Brixton

13. Mr Sayers was the fifth prisoner at Brixton to die since March 2019. Of the previous deaths at Brixton, one was self-inflicted, and the other three were from natural causes. Mr Sayers' death was the second COVID-19 related death at Brixton. There were no significant similarities between the findings in our investigation into Mr Sayers' death and our findings from the investigations into the previous deaths at Brixton.

COVID-19 (coronavirus)

14. 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.
15. 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.)
16. 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

17. On 14 October 2018, Mr Bradley Sayers was sentenced to three years and nine months in prison for burglary. He was released on licence on 7 February 2020 but was recalled a few weeks later for theft. He was released and then recalled twice more, the last time being on 28 April.
18. Mr Sayers arrived at Brixton on 14 July. Reception staff noted that Mr Sayers had angina (chest pains caused by a reduced flow of blood to the heart) and hepatitis C (a liver disease caused by the hepatitis C virus). There was mention of chronic obstructive pulmonary disease (COPD – the term for a group of serious lung diseases) in Mr Sayers' healthcare records, although there appears to have been no formal diagnosis and he was not on any medication to treat this condition. Mr Sayers also had a history of drug dependency and was on a methadone treatment programme.
19. On 15 July, healthcare staff discussed Mr Sayers at a 'shielding meeting' where, in line with Public Health England shielding guidance, he was assessed as low risk of developing complications from COVID-19.
20. On 14 January 2021, Mr Sayers was tested for COVID-19 during mass testing at Brixton. Mr Sayers received a positive result on 18 January. He was then isolated in his cell.
21. On 18 January, in line with Practice Plus Group's 'Monitoring of patients who test positive for COVID' policy, a prison GP calculated Mr Sayers' COVID age as 81, which placed him in the high risk of complications category. Patients in this category are required to have clinical observations taken at least once a day. The GP prescribed paracetamol.
22. On 19 January, Mr Sayers refused to have the daily COVID-19 check by healthcare staff.
23. At 4.00pm on 20 January, a prison GP examined Mr Sayers and found that he had shortness of breath and a very low blood oxygen level. The GP administered 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 Sayers was taken by ambulance to Kings College Hospital at 5.12pm. Mr Sayers was escorted by two prison officers and was restrained. A prison manager authorised the removal of restraints at 10.08pm.
24. On 23 January, Mr Sayers' condition deteriorated, and he was placed onto a mechanical ventilator to help with his breathing. Healthcare staff at Brixton kept in touch with the hospital over the following weeks to check on his condition. On 26 February, hospital staff told the prison and Mr Sayers' family that they had decided not to attempt cardiopulmonary resuscitation (CPR) should his heart or breathing stop.
25. Mr Sayers' condition continued to deteriorate, and hospital doctors pronounced that he had died at 1.30am on 4 March.

Post-mortem report

26. The post-mortem report concluded that Mr Sayers' cause of death was COVID-19 pneumonitis.

Findings

Clinical Findings

27. The clinical reviewer considered that the healthcare Mr Sayers received at Brixton was of a reasonable standard and was at least 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 Sayers' risk of infection from COVID-19

28. Mr Sayers had not left Brixton in the weeks before he tested positive for COVID-19, and it appears therefore that he caught COVID-19 in prison. We have therefore looked at whether the prison took adequate steps to protect him.
29. In line with national Prison Service practice, during the first phase of the COVID-19 pandemic at the beginning of 2020, Brixton set up a system for quarantining new prisoners, and those returning to prison from hospital. Known as reverse cohorting, prisoners are kept separate from the main prison population for 14 days to minimise the chances of the coronavirus being brought into the prison from outside and spread among other prisoners.
30. When Brixton became an outbreak site in December 2020, healthcare staff were testing every prisoner for COVID-19 during the outbreak on a weekly basis.
31. At the time of Mr Sayers' death, Brixton was under a COVID-19 regime: 22 prisoners were allowed out of their cells together on a wing for 30 minutes a day to make telephone calls and take showers. Medication and meals were given to prisoners at their cell doors. Prisoners were also given clear guidance explaining the importance of wearing masks and social distancing and were kept up to date with community notices explaining the COVID-19 regime.
32. Mr Sayers was found to be positive for COVID-19 because of a mass testing programme at Brixton. There is no evidence that Mr Sayers reported symptoms prior to testing positive.
33. After testing positive, Mr Sayers was isolated in his cell, away from other prisoners. Meals were brought to him, and a mobile phone so he had access to family phone calls. Prisoners who were isolating were allowed out in a controlled manner once every three days for a shower, when no other prisoners were on the landings. Everything was then deep cleaned.
34. Based on the findings of this investigation, Brixton had appropriate policies and procedures in place regarding the management of risk to prisoners, including Mr Sayers, of being infected by COVID-19.

Assessment of Mr Sayers' risk of complications from COVID-19

35. In line with national guidance for the general population, prisons were expected to identify prisoners at risk of serious illness if they contracted COVID-19 and provide the opportunity to shield. Healthcare staff at Brixton assessed Mr Sayers as low risk

on 15 July. However, six months later, a prison GP assessed him as high risk after Mr Sayers had tested positive on 18 January. The clinical reviewer was satisfied that each assessment was carried out correctly and in-line with the guidance in place at the time.

Monitoring Mr Sayers after he contracted COVID-19

36. Mr Sayers was assessed as at high risk of complications from COVID-19 after testing positive on 18 January, and therefore he should have had clinical observations taken daily. There is no record that this was done on 18 January, and on 19 January, Mr Sayers refused to have observations taken. The clinical reviewer said that if Mr Sayers had received clinical monitoring on 18 and 19 January, then he may have been admitted to hospital sooner - although she could not say whether it would have affected the outcome.
37. The clinical reviewer noted that there was no record that Mr Sayers' mental capacity was assessed after his refusal to have observations taken on 19 January.
38. We recommend:

The Head of Healthcare should ensure that healthcare staff:

- **monitor deterioration in prisoners in line with the 'Monitoring of patients who test positive for COVID' policy; and**
- **assess mental capacity for prisoners who decline medical advice and treatment, and record the outcome.**

Security risk assessments and the use of restraints

39. 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.
40. 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 he has 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.
41. Staff at Brixton said that they did not think an escort risk assessment for Mr Sayers' transfer to hospital on 20 January 2021 had been completed. They said that this was because of the urgent needed to transfer Mr Sayers to hospital. The bed watch logs show that he arrived at the hospital in restraints, and these were removed at 10.08pm that evening. The investigator asked staff at Brixton what restraints were used for Mr Sayers' transfer to hospital, and they said that they thought an escort chain was used.

42. The use of restraints must be justified through a thorough risk assessment, with input from healthcare staff. As Brixton could not supply an escort risk assessment, I cannot say whether the use of or type of restraints was justified or not.

43. 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:

- **authorising managers must complete an escort risk assessment for all prisoner transfers to hospital; and**
- **healthcare staff complete the medical information section of the escort risk assessment to say whether the prisoner's current medical condition affects their mobility and risk of escape.**

**Sue McAllister CB
Prisons and Probation Ombudsman**

December 2021

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