

## **INVESTIGATION PROCEDURE**

**[The procedures were adopted in February 2008. Updating information since then has been added in square brackets in August 2008]**

1. The investigation is commissioned by the Director of High Security Prisons to enquire into the circumstances surrounding the death of Bernard (Sonny) Lodge at HMP Manchester on 28 August 1998. Full terms of reference are attached (Annex 1) [See Terms of Reference and List of Issues]
2. The Chair of the investigation is Ms Barbara Stow, who will have sole responsibility for the report.
3. This document sets out the procedures that the investigation has decided to adopt.

### **Contact details**

4. The solicitor to the investigation is Mr Christopher Topping, Jackson and Canter, Solicitors, 88 Church Street, Liverpool, L1 3HD (Telephone: 0151 282 1700). This is the correspondence address for the investigation.
5. [The solicitor to the investigation may be contacted by e-mail at [lodgeinvestigation@jacksoncanter.co.uk](mailto:lodgeinvestigation@jacksoncanter.co.uk).]
6. The investigation will be announced by press release and on a website

### **Interested parties**

7. The interested parties identified so far are Mr Lodge's sisters, represented by Mr Robert Lizar, solicitor, and Mr Pete Weatherby, Counsel, and the Ministry of Justice, represented by the Treasury Solicitor, Ms Alex Forgaard, and Counsel, Mr Nick Moss. Anyone else who wishes to be treated as an interested party should apply to the Chair through the solicitor to the investigation. Each application will be considered and determined by the Chair.

### **Preliminary evidence gathering**

8. The investigation has examined the evidence obtained for the Prison Service Investigation and a disciplinary investigation, written statements made to the inquest and a summary note of oral evidence, and other documentary evidence provided by the interested parties. A chronology of evidence based on that material has been supplied as a working tool for the interested parties and may be made available in whole or in part to other witnesses to whom it may be helpful. The chronology will not form part of the final report but users are asked to tell the solicitor to the investigation about any errors or omissions.

9. These documents form core bundles 1 to 3 which have been supplied to the interested parties.
10. The investigation requests parties and anyone who holds documents which they consider are relevant to its work to supply those documents to the Solicitor to the investigation. The investigation may request further documents from the parties or other persons whom it considers hold relevant material.
11. The investigation will distribute to the interested parties in the form of additional bundle(s) copies of such additional documentary evidence as may be obtained in the course of the investigation. [Further documents and photographs have been added to Bundle 3 since February 2008. Additional bundles contain correspondence with witnesses and witness statements and documents obtained from the Coroner's files.]
12. Particular documents may be provided to persons and bodies who are not interested parties if appropriate.

### **Sharing of information provided to the investigation**

13. This is an Article 2-compliant investigation and it will be conducted in an open and transparent manner. The investigation will normally assume that all the material it receives may be distributed to the interested parties and referred to at the investigation's hearings.
14. Where a person considers that any part of a document, transcript, statement or other material should not be treated in this way, he or she should inform the solicitor to the investigation of the reasons for this view when the document or statement is provided. The investigation will consider each such representation on its merits and deal with it as it considers appropriate.

### **List of issues**

15. Drawing on the preliminary evidence-gathering and submissions by the interested parties, the investigation has drawn up a list of issues for further examination. These are incorporated in the terms of reference. Additional issues may be added in the course of the investigation.

### **Clinical Review**

16. The investigation will commission a clinical review from an appropriate independent practitioner.

## **Witnesses**

17. The investigation has identified a provisional list of persons who will be asked to provide a written statement in reply to specific questions and a further list of people to be notified of the investigation and invited to contribute if they can add significant information to their previous evidence. [Written statements have been obtained and certain witnesses have been requested to attend the public hearings to give oral evidence.]
18. All the persons approached will be directed to the issues about which it is considered they may have relevant evidence. They will be supplied with copies of such of their own previous statements as the investigation possesses, and documents that are relevant. They will be told that they may be asked to give oral evidence.
19. The Chair will visit Manchester prison and write to the persons identified shortly afterwards. A notice about the investigation and the Chair's visit will be distributed to staff and prisoners at Manchester prison. [The Chair visited Manchester prison on 24 January 2008.]
20. If the Chair's visit or notice of the investigation elicits further relevant witnesses or lines of investigation these will be added.
21. Witnesses will be asked to return written statements within six weeks of the investigation's request. The investigation will copy statements to the interested parties.

## **Oral evidence**

22. The investigation may ask a person who has provided a written statement or other persons to appear before the investigation and give oral evidence in public. Oral evidence from witnesses will only be required for one or more of the following purposes:
  - (a) to clarify and amplify matters in the statement in respect of which further information is required to assist the investigation.
  - (b) to assist the Investigation by giving the witness the opportunity of addressing matters raised by other statements or documents or the oral evidence of other witnesses and to test the accuracy of matters upon which evidence is given.
  - (c) to deal with any other matter which the investigation considers appropriate

[Nine witnesses have been requested to attend to give oral evidence. In addition it is anticipated that the investigation's clinical adviser will give oral evidence and the Prison Service has been asked to provide written and oral evidence about particular matters.]

23. A person asked to give oral evidence may apply to be represented during his or her evidence.

### **Pre-hearing meeting**

24. Not less than 10 weeks after requests for written statements are issued and not less than 12 weeks before oral hearings, the investigation will meet the interested parties, in private, to discuss the conduct of the hearings, which witnesses should be called, lines of questioning and any other relevant matters.
25. Any party who wishes to make submissions about oral evidence, lines of questioning or other matters must do so in writing to the Solicitor to the investigation at least one week in advance of the preliminary meeting. [The pre-hearing meeting took place on 21 May 2008.]
26. The issue of which witnesses are to be called to the public hearing will then be dealt with at the preliminary meeting by the Chair and her decision will be final.

### **Notice of matters requiring explanation**

27. Before any person is requested to give oral evidence at the investigation's hearings, he or she will normally be sent a letter setting out the main issues that the investigation intends to address in the course of questioning. The issues set out should not be treated as a definitive list as further issues may emerge about which the witness may be able to provide relevant evidence. The letter is designed to assist the witness (and his or her representative) in preparing for the investigation's hearings by identifying at least some of the matters about which the investigation is particularly concerned.
28. As far as it is possible to do so, the investigation will endeavour to provide witnesses asked to give oral evidence with a list of the main documents to which questions are likely to refer.
29. In some cases the letter may also include a list of matters in respect of which the solicitor to the investigation considers it possible that the witness might be subject to criticism. Each witness will be given the opportunity to address each potential criticism during the course of his or her oral evidence. It should be emphasised that the matters listed in this way will have been identified during the preliminary review of documents and in no way represent the settled view of the Chair.

### **Conduct of hearings**

30. The investigation will open the public sessions with a statement first about the history, purpose and procedure of the investigation, followed by a narrative summary of facts as indicated by the evidence so far,

and a statement of the issues the investigation will examine. The interested parties will be invited to make brief opening statements within a timetable to be decided by the Chair. The interested parties are asked to provide opening statements in writing to the investigation not less than one week before the hearing. Statements will be copied to interested parties. [The public sessions will take place in Court Room 4 at the Manchester Civil Justice Centre, 1 Bridge Street West, Manchester M60 9DJ. They will begin at 1000 on 30 September 2008 and are expected to last five days.]

31. Any person requested to give oral evidence will be questioned by the solicitor to the investigation and/or by the Chair. Before dismissing a witness, the Chair will ask the interested parties whether there are any further matters that the witnesses should be asked to address. If the Chair is satisfied that further questions should be asked, the solicitor to the investigation or the Chair will put them to the witness.
32. Once the evidence at the investigation's hearings has been concluded, the Chair will invite the interested parties to submit closing statements in writing and offer the opportunity for closing oral statements.

#### **Draft report**

33. A draft investigation report will be made available in confidence to the Director of High Security Prisons and the representatives of Mr Lodge's family so that any factual inaccuracies may be addressed before final publication.
34. Relevant extracts from the draft report will be sent in confidence to witnesses (and any other identifiable persons who may be mentioned adversely in the report) for identification of errors or omissions and any comment. Any witness or other identifiable person who may be mentioned adversely will be told of relevant probable findings so that they may comment if they wish before final publication. The investigation may send the draft or extracts in confidence for comment to other persons who are not mentioned adversely.
35. The draft will take due account of any applications made in respect of sensitive information (such as the identification of vulnerable prisoners or intelligence sources) that may require redaction.

## **Final report**

36. The Investigation Report will be presented to the Director of High Security Prisons in the Prison Service. The report will be both provided to Mr Lodge's family and become a public document, subject always to any applications that are made in respect of sensitive information (such as identification of vulnerable prisoners or intelligence sources) that may require redaction.

Barbara Stow  
6 February 2008