Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr David McVicker, a prisoner at HMP Channings Wood, on 22 January 2025

A report by the Prisons and Probation Ombudsman

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OUR VISION

To deliver high quality and timely independent investigations and work closely with partners to achieve tangible benefits for the safety and confidence of those in custody and under community supervision.

WHAT WE DO



WHAT WE VALUE



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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. If my office is to best assist His Majesty's Prison and Probation Service (HMPPS) in ensuring the standard of care received by those within service remit is appropriate, our recommendations should be focused, evidenced and viable. This is especially the case if there is evidence of systemic failure.

3. Mr David McVicker died in hospital of a stroke on 22 January 2025, while a prisoner at HMP Channings Wood. He had been receiving treatment for terminal cancer. He was 63 years old. We offer our condolences to his family and friends.

4. The clinical reviewer concluded that the clinical care Mr McVicker received at Channings Wood was of a good standard and equivalent to that which he could have expected to receive in the community.

5. Mr McVicker was inappropriately cuffed for most of his hospital appointments up to October 2024. This was partly due to healthcare staff not completing the escort risk assessment accurately but also some poor consideration by authorising managers.

6. We also found that while an application for Mr McVicker's Early Release on Compassionate Grounds (ERCG) was started in October, it was not submitted before he died.

Recommendations

- The Governor and Head of Healthcare should introduce:
    - A 'no cuffing' list for prisoners who are terminally ill, elderly or frail, whose risk of escape is so low that it would make use of restraints inappropriate.
    - A robust quality assurance process to check that healthcare staff are recording the correct medical information on the escort risk assessment and the authorising manager is taking this information into account.
- The Governor should review the Early Release on Compassionate Grounds (ERCG) process and ensure that:
    - Staff responsible for applications fully understand the criteria outlined in the ERCG Policy Framework and their responsibility to submit timely applications where the criteria are met.
    - A nominated person is responsible for coordinating applications.
    - All information required is proactively sought and obtained for terminally ill patients to prevent delays in submitting applications to PPCS.

The Investigation Process

7. HMPPS notified us of Mr McVicker's death on 22 January 2025.

8. NHS England commissioned an independent clinical reviewer to review Mr McVicker's clinical care at HMP Channings Wood.

9. The PPO investigator investigated the non-clinical issues relating to Mr McVicker's care.

10. She interviewed one member of staff from Channings Wood by video call on 4 April 2025.

11. The Ombudsman's office wrote to Mr McVicker's wife to explain the investigation and to ask if she had any matters she wanted us to consider. She had no questions but asked for a copy of our report.

12. We shared our initial report with HMPPS and the prison's healthcare provider, Oxleas NHS Foundation trust. HMPPS did not find any factual inaccuracies and their action plan is annexed to this report.

13. Mr McVicker's wife received a copy of the initial report. She did not make any comments.

Previous deaths at HMP Channings Wood

14. Mr McVicker was the tenth prisoner to die at Channings Wood since January 2022. Of the previous deaths, seven were from natural causes, one was self-inflicted, and one was drug related. In our most recent investigation into another death at Channings Wood in January 2025, we found delays in applying for Early Release on Compassionate Grounds (ERCG).

Key Events

15. On 9 February 2021, Mr David McVicker was sentenced to 11 years in prison for sexual offences. On 4 February 2022, he was moved to HMP Dartmoor.

16. On 28 February 2024, Mr McVicker was diagnosed with stage three bladder cancer (advanced bladder cancer that has not spread to other parts of the body). He started chemotherapy and radiotherapy.

17. On 13 June, an oncologist (cancer doctor) told Mr McVicker that the cancer had spread to his liver and was terminal. Mr McVicker asked prison staff to start an application for Early Release on Compassionate Grounds (ERCG).

18. On 25 July, prison staff at Dartmoor told Mr McVicker that his application for ERCG had been withdrawn as his prognosis was around 18 months (generally a prognosis of three months or less is needed to qualify for ERCG).

19. On 26 July, Mr McVicker was moved to HMP Channings Wood because of the discovery of high levels of radon gas at Dartmoor. He was not cuffed during the transfer.

20. On 7 August, a GP spoke with Mr McVicker about his Treatment Escalation Plan (TEP) which outlined the care he would receive should his condition worsen. Mr McVicker said he wanted to live as long as possible and wanted all active treatment, including resuscitation if he had a cardiac arrest.

21. On 5 September, a CT scan showed the cancer had spread to his spine, bones, and liver. He was not cuffed for the hospital visit. The authorising manager recorded on the escort risk assessment that this was due to Mr McVicker receiving treatment for a terminal illness.

22. On 17 September, Mr McVicker went to hospital for palliative chemotherapy (used to reduce symptoms). The healthcare team provided the same medical information on Mr McVicker's escort risk assessment as before. However, next to the section of the form that says, "Consider and record the appropriateness for the use of restraints for those who are terminally ill or with limited mobility", the authorising manager had recorded "N/A", and they authorised the use of single cuffs (where a set of handcuffs is used to attach a prisoner's wrist to an officer's wrist). Due to an abnormal blood test, Mr McVicker was unable to have chemotherapy and returned to Channings Wood.

23. On 20 September, Mr McVicker went to hospital for an appointment. A nurse incorrectly circled "No" to the question, "Is the person in custody suffering from a terminal illness or receiving treatment for a life-threatening illness?" on the escort risk assessment. The authorising manager decided single cuffs should be used. At the appointment, an oncologist told Mr McVicker that his prognosis was likely to be short months. They referred him to an outreach hospice team for pain and symptom management.

24. On 27 September, Mr McVicker went to hospital for palliative chemotherapy. A nurse again incorrectly recorded on the escort risk assessment that Mr McVicker did not have a terminal illness. The authorising manager decided single cuffs should

be used. The escorting officer had approval to swap to an escort cable (a cable with a handcuff at each end, one of which is attached to the prisoner's wrist and the other to an officer's wrist) for the duration of his treatment. As Mr McVicker's blood test was abnormal, he was unable to have chemotherapy and returned to Channings Wood.

25. On 2 October, staff at Channings Wood started a new application for ERCG for Mr McVicker. On 4 October, the healthcare team completed the medical section of the form and submitted it to prison staff.

26. On 7 October, Mr McVicker went to hospital again for chemotherapy. A nurse again incorrectly recorded on the escort risk assessment that Mr McVicker did not have a terminal illness. Despite this, the authorising manager noted that Mr McVicker was terminally ill and decided not to use cuffs. As Mr McVicker's blood test was abnormal, he was unable to have chemotherapy and returned to Channings Wood.

27. On 16 October, Mr McVicker saw his oncologist. A nurse again incorrectly recorded on his escort risk assessment that he did not have a terminal illness. The authorising manager decided single cuffs should be used.

28. On 21 October, Mr McVicker went to hospital for palliative chemotherapy. A nurse again incorrectly recorded on the escort risk assessment that Mr McVicker did not have a terminal illness. The authorising manager decided single cuffs should be used. As Mr McVicker's blood test was abnormal, he was not able to have chemotherapy and returned to Channings Wood.

29. The next day, Mr McVicker had a scan at the hospital. The nurse completing his escort risk assessment recorded that he had a terminal illness and noted "mobility good at present". The authorising manager decided single cuffs should be used because, "full capacity and mobility remain at present".

30. On 30 October, a GP told Mr McVicker was that the police had refused the release address he had proposed for the ERCG application. The council was looking for alternative accommodation.

31. On 20 November, the Head of Healthcare at Channings Wood held a multidisciplinary team meeting with prison and community services. At the meeting, they agreed that they were unable to show how the public would be protected if Mr McVicker was released into the community. They decided to continue with the ERCG application with a hospice as the release address. The housing officer from the council closed Mr McVicker's referral, stopping his search for housing.

32. On 25 November, Mr McVicker went to hospital for chemotherapy. The nurse who completed the escort risk assessment objected to restraints due to "end of life care/increased frailty". The authorising manager agreed, and Mr McVicker was not cuffed. He was not cuffed for any future hospital visits,

33. On 28 November, Mr McVicker told a palliative care doctor that he had received a letter from the council indicating that they would not be able to find accommodation for him. On 2 December, Mr McVicker told a nurse that the Governor had told him he would not be granted ERCG (there is no record of this other than the record the nurse made).

34. On 19 December, Mr McVicker's oncologist phoned to say his most recent CT scan showed his cancer had rapidly spread. Mr McVicker stopped chemotherapy, and his prognosis was now just weeks.

35. On 17 January 2025, a hospice doctor visited Mr McVicker in his cell. She noted he was frail and tired, and likely in the final weeks of life. She advised she would not recommend resuscitation if he had a cardiac arrest, and Mr McVicker agreed. She added him to the hospice admission list.

36. Later that day, a GP saw Mr McVicker due to shortness of breath and low blood oxygen levels. Suspecting pneumonia, the GP asked the prison to phone an ambulance to take him to hospital for an X-ray and intravenous antibiotics. An ambulance arrived and took Mr McVicker to hospital, where he was admitted.

37. On 20 January, a hospice nurse visited Mr McVicker in hospital. Due to his care needs it was not possible for him to return to Channings Wood. The nurse advised he would remain at hospital until a hospice bed became available.

38. Mr McVicker's condition worsened over the next few days. He died in hospital on 22 January.

Cause of death

39. The Coroner accepted the cause of death provided by a hospital doctor and no post-mortem examination was carried out. The doctor gave the cause of death as spontaneous intracerebral haemorrhage (a type of stroke). Pneumonia, metastatic bladder cancer, asthma and bronchiectasis (a long-term lung condition) were listed as contributing factors.

Findings

Clinical findings

40. The clinical reviewer concluded that the care Mr McVicker received at Channings Wood was of a good standard and was equivalent to that which he could have expected to receive in the community. She found that the end-of-life care provided to Mr McVicker was compassionate, responsive and of a high clinical standard.

Use of restraints

41. 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. 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. It said 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.

42. The Prevention of Escape: External Escorts policy framework states the use of restraints on a prisoner receiving chemotherapy (or other lifesaving treatment) is degrading and inhumane unless justified by other relevant considerations.

43. The escort risk assessment in use at Channings Wood is designed to show clearly whether the prisoner has a terminal illness or is receiving treatment for a life-threatening illness. It also has a space for the authorising manager to record that they have considered this information when assessing the appropriateness of restraints. When reviewing the escort risk assessments for Mr McVicker's hospital visits, we found numerous examples of healthcare staff incorrectly recording that Mr McVicker did not have a terminal illness. On four of those occasions, Mr McVicker was cuffed and two of those visits were for palliative chemotherapy.

44. We also found inconsistent decision making by the authorising managers. On 5 September, the authorising manager decided not to use cuffs on Mr McVicker because he was being treated for a terminal illness. Yet, less than two weeks later on 17 September, and despite a nurse recording that Mr McVicker had a terminal illness, the authorising manager authorised the use of cuffs. The authorising manager failed to demonstrate how he had taken the terminal illness into account as he recorded "N/A" on the form. Subsequently Mr McVicker was sometimes cuffed and sometimes not cuffed, even though he continued to be receiving treatment for a terminal illness.

45. The investigator spoke with the Head of Security at Channings Wood, who said that the decision to apply restraints is based on the information provided by healthcare on a prisoner's health and mobility, alongside their risk. On 22 October, the information provided by healthcare indicated that Mr McVicker's mobility had improved and therefore this was considered when deciding to cuff him. However, he

agreed there were times when Mr McVicker was cuffed despite the medical information not saying his mobility had improved.

46. He told the investigator that he was taking steps to improve the quality of the medical section of the risk assessments by working with healthcare managers to improve the sharing of relevant, up to date and appropriate information to assist operational managers in making decisions based on current risk. He said this would be monitored and discussed at the monthly local delivery quality board between healthcare providers and key stakeholders. A local 'no cuff' register would also be introduced and would be included in a daily briefing for all managers to view.

47. We recommend:

The Governor and Head of Healthcare should introduce:

- **A 'no cuffing' list for prisoners who are terminally ill, elderly or frail, whose risk of escape is so low that it would make use of restraints inappropriate.**

- **A robust quality assurance process to check that healthcare staff are recording the correct medical information on the escort risk assessment and the authorising manager is taking this information into account.**

48. We note that Channings Wood is not using the standard template for escort risk assessments that is annexed to the Prevention of Escape: External Escorts policy framework. We bring this to the Governor's attention.

Early Release on Compassionate Grounds (ERCG)

49. Release on compassionate grounds is a means by which prisoners who are seriously ill, usually with a life expectancy of less than three months, can be permanently released from custody before their sentence has expired. A clear medical opinion of life expectancy is required. The criteria for early release are set out in the Early Release on Compassionate Grounds (ERCG) Policy Framework. An application for ERCG must be submitted to the Public Protection Casework Section (PPCS) of HMPPS.

50. Section 4.18 of the ERCG Policy Framework says:

"ERCG may be considered for prisoners suffering from a terminal illness who are in the last few months of life and medical advice provides that the prisoner would be better accommodated at a hospice/hospital or in some cases, a domestic setting providing the necessary care can be provided."

51. The framework also says where the criteria due to the prisoner's health and/or social care needs are met, the case must be submitted to PPCS, irrespective of whether the prison Governor supports release or not.

52. Although staff started a second application for ERCG for Mr McVicker on 2 October, following his updated prognosis of short months, it was not submitted to PPCS before he died.

53. The Head of Healthcare told the investigator that the decision not to proceed with the application for ERCG was made at a multidisciplinary team (MDT) meeting on 20 November. Police attended the MDT meeting, and it was discussed that the council would be unlikely to find a release address for Mr McVicker that they would approve. They also discussed that Mr McVicker's risk had not been tested in the community. At the meeting, they agreed to continue with Mr McVicker's ERCG application, but only with a hospice placement.

54. On 2 December, a nurse recorded in Mr McVicker's medical record that he said the Governor had told him he would not be getting ERCG.

55. The investigator interviewed the Head of the Offender Management Unit (OMU) at Channings Wood at the time. He said he had not been directly involved with Mr McVicker's ERCG application as it had not reached him for a decision (though records show he attended the MDT meeting). He thought the address issue would have only temporarily paused the application, while another address was sought. He said a prisoner's risk must be considered when preparing an ERCG application and those involved with the application must try to mitigate this, such as through finding an alternative release address, prior to submitting to PPCS.

56. The policy team for the ERCG Policy Framework told us that a proposed release address would not need to be provided before submitting an application to PPCS, nor would the police need to approve a release address before submitting an application to PPCS, though the community offender manager would be asked for any comments, such as if the police had a view/approved the proposed release address. If the police raised concerns, this would be taken into consideration at the decision-making stage. The prison should still submit an application to PPCS if the case clearly meets the medical criteria set out in section 4.18 of the ERCG policy framework.

57. We are concerned that in Mr McVicker's case, prison staff decided not to progress his ERCG application despite him meeting the requirements in section 4.18 of the Policy Framework. It is not for prison staff to predict PPCS's decision and decide not to progress or submit an ERCG application because in their opinion, it is likely to be refused.

58. We also found that prison staff were not clear on who was responsible for the overall management of the ERCG application, and this lack of oversight contributed to it not being submitted to PPCS. We recommend:

The Governor should review the Early Release on Compassionate Grounds (ERCG) process and ensure:

- **Staff responsible for applications fully understand the criteria set out in the ERCG Policy Framework and their responsibility to submit timely applications where the criteria are met.**
- **A nominated person is responsible for coordinating applications.**
- **All information required is proactively sought and obtained for terminally ill patients to prevent delays in submitting applications to PPCS.**

Adrian Usher
Prisons and Probation Ombudsman **September 2025**

Inquest

At the inquest, held on 18 November 2026, the Coroner concluded that Mr McVicker died from natural causes. The Coroner recorded Mr McVicker's cause of death as metastatic bladder cancer.

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