Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Mehrban Hussain, a prisoner at HMP Wormwood Scrubs, on 1 April 2022

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

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.

If my office is to best assist HM 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.

Mr Mehrban Hussain died in hospital on 1 April 2022, while a prisoner at HMP Wormwood Scrubs. He was 49 years old. The cause of Mr Hussain's death was pneumonia arising from lung disease. I offer my condolences to his family and friends.

The clinical reviewer identified several weaknesses in Mr Hussain's clinical management and concluded that his clinical care was not equivalent to that which he could have expected to receive in the community. Her overriding concerns were the lack of a care plan to manage Mr Hussain's serious and complex lung disease, inconsistent monitoring of his condition and inadequate documenting of his refusals to attend hospital.

I make no judgement on the use of restraints for Mr Hussain's journey to hospital. However, I am concerned that the prison's policy and practice on security risk assessments for emergency escorts is somewhat rigid, with little or no scope for staff to take account of individual circumstances or medical needs in decisions on the use and level of restraints. While I understand that time is of the essence in emergencies, prison staff should make every effort to balance decency and security. It is also of concern that some of the managers who facilitated Mr Hussain's final admission to hospital seem to have a poor understanding of the national policy.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Adrian Usher
Prisons and Probation Ombudsman **December 2023**

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Summary

Events

1. Mr Mehrban Hussain was remanded to HMP Wormwood Scrubs on 24 July 2021. At his initial health screen, it was noted that he had asthma and a chest infection.

2. From September 2021, Mr Hussain had persistent respiratory problems, including shortness of breath, coughing and chest pain. Healthcare staff prescribed antibiotics, took regular clinical observations, discussed his condition at multi-professional complex care clinics and referred him to specialists.

3. On 10 January 2022, Mr Hussain was diagnosed with pneumonia, COVID-19 and interstitial lung disease. Between January and March, he was treated at hospital six times, but he also refused to attend on several occasions.

4. On 30 March, Mr Hussain became seriously ill with life-threatening symptoms. The GP at the prison requested an ambulance at 6.44pm but Mr Hussain refused to go when the first paramedics arrived, as he did not want to wear double handcuffs. Staff persuaded him to change his mind and he was taken to hospital by another paramedic crew just after 8.00pm. Mr Hussain did not recover and died on 1 April.

Findings

5. The clinical reviewer identified several shortcomings in the management of Mr Hussain's complex medical condition and concluded that his clinical care at Wormwood Scrubs was not equivalent to that which he could have expected to receive in the community.

6. A principal concern was that although healthcare staff saw Mr Hussain frequently, there was no care plan to manage his care reliably and consistently.

7. There was a high incidence of staff failing to follow up clinical actions or missing hospital discharge letters.

8. Mr Hussain often refused to go to hospital, citing reasons such as the lack of improvement following treatment, an unwillingness to miss court hearings and the discomfort of handcuffs. The clinical reviewer felt that discussions about his refusals and assessments of his mental capacity should have been better documented.

9. Mr Hussain's vulnerability to complications from COVID-19 was not assessed and when he tested positive for the virus he was not monitored as he should have been.

10. The standard practice for emergency escorts to hospital is that formal risk assessments are not completed, regardless of whether there is sufficient time to do so and the prisoner's medical condition and the impact on his risk is not routinely considered.

Recommendations

- The Head of Healthcare should ensure that individualised care plans are created for prisoners with acute and complex physical health needs.
- The Head of Healthcare should ensure that healthcare staff request hospital discharge summaries when they are not routinely provided.
- The Head of Healthcare should ensure that healthcare staff fully and clearly document conversations and decisions about patients who refuse medical treatment, including consideration of their mental capacity.
- The Governor should review Wormwood Scrubs' policy on escort risk assessments for emergency hospital journeys to ensure that staff take account of a prisoner's presenting medical condition, as well as public protection factors, when considering the level of restraints.
- 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.

The Investigation Process

11. We were notified of Mr Hussain's death on 1 April 2022. The initial investigator issued notices to staff and prisoners at HMP Wormwood Scrubs informing them of the investigation and asking anyone with relevant information to contact her. No one responded.

12. The investigator visited obtained copies of relevant extracts from Mr Hussain's prison and medical records.

13. NHS England and NHS Improvement (NHSE&I) commissioned a clinical reviewer to review Mr Hussain's clinical care at the prison. The investigator and clinical reviewer interviewed three healthcare staff, three operational staff and a prisoner in June and July 2022. The interviews were conducted using Microsoft Teams video conferencing. Another investigator completed the latter stages of the investigation.

14. We informed HM Coroner for West London of the investigation. She gave us the cause of Mr Hussain's death. We have sent the coroner a copy of this report.

15. The Ombudsman's family liaison officer contacted Mr Hussain's cousin, to explain the investigation and to ask if he had any matters he wanted us to consider. He did not reply.

16. We shared the initial report with HM Prison and Probation Service (HMPPS). They found no factual inaccuracies and accepted our recommendations.

Background Information

HMP Wormwood Scrubs

17. HMP Wormwood Scrubs is a local prison in West London, which holds men on remand from West London courts, or prisoners serving short sentences or coming to the end of long sentences. The operational capacity is 1,273. Practice Plus Group provides physical health services and Barnet, Enfield and Haringey Mental Health Trust provides mental health services.

HM Inspectorate of Prisons

18. The most recent inspection of HMP Wormwood Scrubs was in June 2021. Inspectors reported that there was a strong management team and good communication between staff and stakeholders. They noted that in response to substantial failures of care highlighted in PPO investigations, a new model of care had been implemented, with a clearer focus on early days, planned and emergency care. Policies and procedures had been reviewed and staff had received training, as well as regular operational and clinical supervision.

19. Inspectors found there was a wide range of primary health services and clinics, with reasonable waiting times and the management of patients with long-term health conditions had improved. However, further work was needed to support some patients, particularly to ensure that care plans were sufficiently personalised.

Independent Monitoring Board

20. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. In its latest annual report, for the year to May 2022, the IMB reported that the appointment of a modern matron and a senior paramedic had enhanced clinical leadership and emergency response. However, serious staff shortages had affected the wider delivery of healthcare. Agency and temporary staff had covered GP and nursing vacancies and this had impaired team planning and continuity.

21. The Board noted that PPO investigations into deaths at the prison had highlighted unsatisfactory and inadequate healthcare responses. Healthcare provision was therefore being restructured to provide an integrated and coordinated approach throughout the time in custody.

Previous deaths at HMP Wormwood Scrubs

22. Mr Hussain was the eleventh prisoner at Wormwood Scrubs to die since April 2019. Of the previous deaths, six were self-inflicted and nine were from natural causes. There have since been five deaths, three self-inflicted, one from natural causes and one unascertained. We have previously raised concerns about care plans for complex conditions; and security risk assessments. The prison said that care plans were being refreshed nationally and would be implemented for all prisoners with long-term conditions. Staff were reminded of their responsibilities in respect of escort risk assessments and guidance was reissued.

Key Events

23. Mr Mehrban Hussain was remanded to HMP Wormwood Scrubs on 24 July 2021, as an immigration detainee.

24. At his initial health screen, Mr Hussain's existing medical conditions were recorded as asthma and an enlarged thyroid. He told a GP at the prison that he had a chest infection and had been in hospital for seven days in the previous week (and later said that his breathing problems had been constant for a year). Healthcare staff could not find his community records and this was not followed up. (Mr Hussain received COVID-19 vaccines on 4 August and 30 September.)

25. Mr Hussain personal and medical records contained references to limited English. However, he was generally able to communicate and understand what was said to him and his cell mate helped to translate during interactions about complex medical issues.

26. On 1 September, Mr Hussain reported shortness of breath. A nurse took clinical observations, which were within normal range and placed him on the waiting list for the long-term conditions clinic. Mr Hussain's symptoms continued over the following days. The GP at the prison diagnosed a chest infection and prescribed antibiotics. He also asked healthcare staff to request Mr Hussain's community records and noted that he should be reviewed in two weeks. There is no evidence that either of these actions were completed.

27. Mr Hussain's breathing problems, coughing and chest pain continued in October and November. Further antibiotics were prescribed, weekly clinical observations were completed and his care was discussed at the prison's multi-professional complex care clinic.

28. On 10 November, Mr Hussain had an asthma review and a care plan was created. It was noted that he struggled to climb the stairs to the treatment room and had to recover before the assessment. Due to his low assessment score, a GP review was arranged for 2 December. There is no evidence that this took place.

29. On 30 December, Mr Hussain's cell mate tested positive for COVID-19. As a result of this, Mr Hussain should have received a COVID-19 PCR test, but there is no evidence that this was actioned. Mr Hussain was also said to have tested positive for the virus after mass testing on 31 December, but this was not documented in his personal records and no monitoring was arranged.

2022

30. In the early hours of 10 January 2022, Mr Hussain had breathing difficulties and was admitted to hospital, with pneumonia and COVID-19.

31. After his discharge from hospital on 13 January, Mr Hussain was admitted to the prison's protective isolation unit. His discharge summary noted a provisional diagnosis of interstitial lung disease (an umbrella term for a group of diseases that cause scarring of the lungs).

32. Mr Hussain continued to experience chest and respiratory problems. Between 9 and 18 February, he had a further inpatient stay in hospital. When he returned to Wormwood Scrubs, he struggled to walk to his cell, stopping intermittently. After examination by the GP that afternoon, he was readmitted to hospital until 20 February and diagnosed with cystic fibrosis and an acute pulmonary embolism.

33. On 24 February, Mr Hussain's clinical observations indicated he needed urgent assessment by a critical care team, but his blood oxygen levels improved after receiving oxygen. Healthcare staff noted that he would not necessarily benefit from another emergency admission and that he was due to attend a hospital endocrinology appointment that afternoon. Mr Hussain missed this appointment, as a healthcare administrator had not placed him on the external appointments list, so no officers had been allocated to escort him.

34. After falling ill during the night of 25/26 February and collapsing in the morning, Mr Hussain was sent to hospital, but returned the same day.

35. On 28 February, Mr Hussain's blood oxygen level was low. He refused to go to hospital and persistently refused in the following days, as he felt that previous hospital visits had not helped him. He changed his mind on 9 March and was in hospital overnight.

36. On 10 March, the hospital changed a planned outpatient respiratory appointment from 22 March to 17 May. Due to Mr Hussain's worsening cough and persistent refusal to go to hospital as an emergency, healthcare staff asked the hospital to reconsider and bring the appointment forward.

37. During medical examinations on 22 and 23 March, Mr Hussain told healthcare staff that his cough had worsened. On 26 March, he was again short of breath and his clinical observations were abnormal, but he again refused to go to hospital.

38. Mr Hussain attended court on 24, 28, 29 and 30 March. Healthcare staff assessed him as 'fit for court' after completing desktop, rather than face to face reviews. Court staff noted his poor health and ensured that he did not have to use stairs.

Events from 30 March to 1 April

39. On 30 March, after returning from his court hearing, Mr Hussain again had difficulty breathing. At 6.44pm, a prison GP requested an ambulance by calling a code blue medical emergency (which indicates that a prisoner has breathing difficulties or is unresponsive). Mr Hussain refused to go to hospital, as he did not want to wear double handcuffs.

40. Two Custodial Managers consulted the Duty Governor. They felt that as Mr Hussain had no release date and was an immigration detainee, his risk was too high to leave the prison without handcuffs. The paramedics and healthcare staff agreed that Mr Hussain had the mental capacity to take this decision and that he understood that not going to hospital could have serious consequences, including the possibility that he might die.

41. Mr Hussain's breathing difficulties did not improve and he had low blood oxygen saturation levels of around 72%. The GP strongly advised him to go to hospital and

prison staff helped to persuade him. Just after 8.00pm, he agreed to be handcuffed. Another ambulance was requested and he left the prison at around 9.30pm. He was escorted by two prison officers, using double handcuffs for the journey, which were replaced with an escort chain in hospital.

42. Over the next few hours, Mr Hussain's condition became critical and he moved to the intensive care unit at around 7.00am on 31 March. The restraints were removed and were not reapplied.

Contact with Mr Hussain's family

43. Mid-morning on 31 March, a consultant told the escort officers that Mr Hussain's condition was terminal, with a life expectancy of weeks or months and suggested that his next of kin visit him. As his next of kin details were not recorded in his personal records at the prison, the escort officers asked Mr Hussain and he gave two telephone numbers. At 1.00pm, the prison's family liaison officer notified his family that he was in hospital, but said the prison's policy was they could not disclose his location.

44. At around 11.15pm, the escort officers informed the prison that Mr Hussain was unlikely to survive through the night. Members of his family went to visit him in the early hours of 1 April.

45. The hospital stopped active treatment on 1 April and began palliative care. Mr Hussain's family were with him when he died later that day.

46. A prison manager went to the hospital shortly after Mr Hussain's death to offer condolences, information and immediate support to his family. The family liaison officer spoke to Mr Hussain's cousin the next day and kept in touch over the following weeks.

47. Mr Hussain's funeral was held on 6 April. In line with national policy, the prison contributed to the funeral expenses.

Support for prisoners and staff

48. The prison manager at the hospital debriefed the escort officers to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also telephoned the officers. The manager checked with the nurse in charge of the intensive care unit that there were no concerns about the prison staff.

49. The prison posted notices informing other prisoners and staff of Mr Hussain's death, and offering support.

Post-mortem report

50. No post-mortem examination was carried out. The coroner accepted certification by a hospital doctor that the cause of Mr Hussain's death was pneumonia, arising from interstitial lung disease. A pulmonary embolism and COVID-19 were listed as contributory factors.

Findings

Clinical findings

51. The clinical reviewer's findings are set out in detail in the clinical review report. She found several weaknesses in Mr Hussain's clinical management, notably that there was no care plan to manage his complex medical condition; there was no recorded assessment of his risk of complications from COVID-19; the handling of his refusals of medical attention was insufficiently documented; the assessments of his fitness for court were paper reviews rather than face to face; and a hospital appointment was missed due to an administrative error.

52. In view of the deficiencies highlighted, the clinical reviewer concluded that Mr Hussain's clinical care at Wormwood Scrubs was not of the standard reasonably expected and not equivalent to that which he could have expected to receive in the community. We reflect the issues directly linked to Mr Hussain's cause of death. The Head of Healthcare will also need to consider the wider concerns.

Reviewing and monitoring Mr Hussain's chronic health conditions

53. Mr Hussain had been diagnosed with a serious and complex lung condition for which he often required treatment in hospital. Although he was seen regularly by healthcare staff, no formal care plan was in place to consistently monitor and review his condition. Poor implementation of care plans at Wormwood Scrubs is an issue that has been previously highlighted by HM Chief Inspector of Prisons.

54. There was also a high incidence of failures to follow up Mr Hussain's care; and staff did not obtain hospital discharge summaries when they were not routinely provided. We recommend:

    The Head of Healthcare should ensure that individualised care plans are created for prisoners with acute and complex physical health needs.

    The Head of Healthcare should ensure that healthcare staff request hospital discharge summaries when they are not routinely provided.

Documenting refusals to attend hospital

55. Between 10 January and 30 March, Mr Hussain went to hospital six times, but he also refused to attend on six occasions during this period. He cited several different reasons, including frustration that treatment had not improved his condition, fear of missing his court dates and the discomfort of double handcuffs. The clinical reviewer considered that the discussions around his refusals and assessments of his mental capacity should have been better documented. We recommend:

    The Head of Healthcare should ensure that healthcare staff fully and clearly document conversations and decisions about patients who refuse medical treatment, including consideration of their mental capacity.

COVID-19 risks and tests

56. We are not satisfied that Mr Hussain's risks relating to COVID-19 were correctly managed and monitored. There is no evidence that his risk of complications from COVID-19 was assessed or communicated to him when he was remanded to prison, or that he was given advice about shielding and other protective measures, in line with HMPPS' policy at that time. Additionally, when his cell mate contracted COVID-19 and Mr Hussain tested positive a day later, staff did not comply with HMPPS and Practice Plus Group policies on testing and monitoring prisoners. These were significant omissions, given Mr Hussain's history of asthma before his imprisonment and his subsequent diagnosis of a serious respiratory disease.

57. Given the lapse of time and consequent changes in COVID-19 policy and practice, we make no formal recommendations, but the Head of Healthcare should note the weaknesses highlighted.

Security risk assessments and the use of restraints

58. 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.

59. 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.

60. These requirements are reflected in HMPPS' Prevention of Escape – External Escorts Policy framework, on the use of restraints. The policy encourages sensitive handling to ensure that the needs of security are balanced against the clinical needs of a seriously ill prisoner. It also states that restraints should not be used if the prisoner's medical condition, or a physical impairment renders restraints inappropriate.

61. Mr Hussain was a remand prisoner, who had been to hospital many times with no negative incidents. It was well documented that although he could walk unaided, he struggled with distances due to his respiratory problems. On 30 March, he had low blood oxygen saturation levels of around 72% and the GP had warned that he could die without hospital treatment. As there was no formal security risk assessment for journey to hospital and the rationale for the decisions on restraints was not recorded, they were explored at interview. There were differing perspectives on Mr Hussain's initial refusal to wear handcuffs.

62. A nurse said that Mr Hussain was slight in stature and found double handcuffs heavy and painful, but he had asked staff if an escort chain could be used instead. A Custodial Manager said that he refused any type of restraints because they were uncomfortable, and the GP had said that restraints would not impact on his medical

condition. A prison GP recalled asking if single handcuffs could be used to help him to change his mind but was told this was not possible. The managers also expressed concern that previous hospital visits might have been a ruse for Mr Hussain to familiarise himself with the escort procedures.

63. A paramedic who attended the first emergency call on 30 March, recorded that Mr Hussain was concerned about missing a court date if he went to hospital and that the compromise of an escort chain had been suggested (they did not say by whom).

64. The staff who contributed to the decision on restraints had received no training on security risk assessments and were unaware of the High Court Judgement. They said that there was a set protocol for dealing with emergency transfers to hospital. Formal risk assessments are never completed before the journey; healthcare staff are sometimes consulted verbally but there is no provision to record their opinion; and double handcuffs are used as standard for Category A, B or unsentenced prisoners. A short form is completed with a tick box to confirm the level of restraints. The staff believed that Mr Hussain was Category B, but he was unsentenced.

65. We acknowledge and support the discretion for prison managers to allow prisoners to leave the prison without a formal risk assessment in an emergency and it is important that they are not influenced by prisoners demanding concessions. There was an opportunity to complete such an assessment between the departure of the first ambulance and the arrival of the second. Had this happened, it might have provided a better focus and balance between health and security concerns, with a more considered judgement on the level of restraints required.

66. We were unable to assess whether the level of restraints used was proportionate to Mr Hussain's risk due to the lack of tangible evidence. However, on the information given by staff in this and a previous investigation, where it was clear that there was adequate time to complete a more thorough risk assessment, we consider that Wormwood Scrubs' practice on emergency escorts is flawed:

- formal risk assessments are never required for emergency transfers to hospital, even when there is sufficient time to complete them;
- there is no requirement for a clinical opinion on the impact of the prisoner's condition on their risk of escape, despite the availability of healthcare staff; and
- decisions on the level of restraints are rigid and not determined by individual circumstances.

We recommend:

The Governor should review Wormwood Scrubs' policy on escort risk assessments for emergency hospital journeys to ensure that staff take account of a prisoner's presenting medical condition, as well as public protection factors, when considering the level of restraints.

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.

Inquest

67. At an inquest held on 17th September 2025, the Coroner concluded that Mr Hussain died of natural causes.

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