

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Michael Rowley a prisoner at HMP Highpoint on 14 November 2017

A report by the Prisons and Probation Ombudsman

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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*



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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.

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

Mr Michael Rowley died in hospital on 14 November 2017 of a chest infection following a diagnosis of lung cancer while a prisoner at HMP Highpoint. He was 70 years old. We offer our condolences to those who knew him.

We are satisfied that the care Mr Rowley received at Highpoint was equivalent to that which he could have expected to receive in the community. However, while staff at Highpoint recognised that Mr Rowley would benefit from a transfer to a prison with 24-hour healthcare and made a referral, we are concerned that delays meant the transfer had not taken place before he died.

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

Elizabeth Moody
Acting Prisons and Probation Ombudsman

May 2018

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Summary

Events

1. Mr Michael Rowley was serving a life sentence for murder and had been at HMP Highpoint since 26 March 2007.
2. On 28 September 2017, Mr Rowley told a nurse that he had been coughing up blood for two years and was sent to West Suffolk Hospital the same day. He was subsequently diagnosed with invasive lung cancer.
3. On 20 October, Mr Rowley was told by a prison doctor that due to the progression of his cancer, only radiotherapy for symptom control would be offered. On 23 October, Mr Rowley saw an oncologist at Addenbrookes Hospital who gave him a prognosis of one to two months. Mr Rowley's pain was under control and he said he did not want to have radiotherapy as it would not prolong his life.
4. On 25 October, a nurse at Highpoint sent a referral to HMP Norwich requesting a transfer to the Older Persons Unit where 24-hour healthcare would be available to him.
5. On 27 October, Mr Rowley was taken to West Suffolk Hospital after complaining of pain. He was diagnosed with a chest infection and given intravenous antibiotics. The hospital agreed to keep him as an inpatient until he could be transferred to Norwich. He should have been transferred on 14 November but was unfit to travel and died at 8.20pm that evening.
6. During all escorts to hospital Mr Rowley was restrained by a single handcuff. This was changed to an escort chain once he arrived at hospital. Restraints were removed altogether on 1 November.
7. We were told that a prison manager discussed early compassionate release with Mr Rowley three days before he died. Mr Rowley was unsure and did not apply for release before his death. This discussion was not documented.

Findings

8. We found that Mr Rowley received prompt and appropriate treatment when he presented with lung cancer symptoms in September 2017. Thereafter, he was involved in the management of his care which included palliative therapy and end of life care. We consider that the clinical care Mr Rowley received at Highpoint was equivalent to that which he could have expected to receive in the community.
9. Although staff at Highpoint made a referral for Mr Rowley to transfer to Norwich, where 24-hour healthcare was available, the transfer did not happen before Mr Rowley's death. Mr Rowley spent longer in hospital than necessary while awaiting a space at Norwich. We found that the level of restraints used on Mr Rowley during his transfers to hospital was appropriate.
10. We accept that Mr Rowley probably did not wish to be released on compassionate grounds. Nevertheless, this should have been discussed with him earlier and details of the discussion should have been recorded.

Recommendations

- The Head of Healthcare at Norwich should ensure referrals to the Older Persons Unit are actioned as quickly as possible and referring prisons are kept up to date with the progress of the intended move.
- The Governor should ensure that staff discuss early release on compassionate grounds with prisoners as soon as possible after diagnosis of a terminal illness and record the outcome.

The Investigation Process

11. The investigator issued notices to staff and prisoners at HMP Highpoint informing them of the investigation and asking anyone with relevant information to contact her. No one responded.
12. The investigator obtained copies of relevant extracts from Mr Rowley's prison and medical records.
13. NHS England commissioned a clinical reviewer to review Mr Rowley's clinical care at the prison.
14. We informed HM Coroner for Greater Suffolk of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.
15. The investigation has assessed the main issues involved in Mr Rowley's care, including his diagnosis and treatment, whether appropriate palliative care was provided, his location, security arrangements for hospital escorts, liaison with his family, and whether compassionate release was considered.
16. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies and their action plan is annexed to this report.

Background Information

HMP Highpoint

17. HMP Highpoint is a medium security prison on two sites, Highpoint South and Highpoint North, and holds up to 1,319 men. Care UK provides general and mental healthcare services at the prison. The healthcare centre is open from 7.45am to 6.15pm, Monday to Friday, and from 8.00am to 6.00pm at weekends. Care UK delivers the GP Services, and there is a range of nurse-led clinics. There are no inpatient beds at the prison.

HM Inspectorate of Prisons

18. The last inspection of HMP Highpoint was in October 2015. Inspectors reported that health services were reasonable and continued to improve, with good local partnership arrangements and effective governance processes. Prisoners were treated respectfully and could access an appropriate range of services. Operational leadership was clear and staffing levels appropriate. Staff had good access to relevant training and development opportunities. There was good access to appointments, both within the prison and externally. External appointments were risk rated to ensure that critical appointments were prioritised. Cancellations were rare and activity was monitored routinely.

Independent Monitoring Board

19. 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 31 December 2016, the IMB reported that a Board member regularly attended the Healthcare Forums, Governance and Service Delivery and Pharmacy meetings, when they were held. Regular multiagency meetings ensured prisoners' health needs were met and communicated appropriately. The Board noted that service delivery, as far as possible, mirrored that which could be found in the community.

Previous deaths at HMP Highpoint

20. Mr Rowley's was the second death from natural causes at Highpoint since July 2014. There are no similarities between the two deaths.

Findings

The diagnosis of Mr Rowley's terminal illness and informing him of his condition

21. Mr Michael Rowley was serving a life sentence for murder and had been at HMP Highpoint since 26 March 2007. He did not take any prescribed medication at the time and during the initial health screen, said he had no health concerns. Mr Rowley had limited contact with healthcare between 2007 and 2017. The only significant contact was on 19 September 2014, when Mr Rowley complained to a nurse of flecks of blood in his phlegm along with nose bleeds. He did not attend a follow-up appointment with the doctor the next day. Mr Rowley saw a nurse on 3 October, complaining of specks of blood when sneezing. The nurse considered this could be allergy related and prescribed antihistamines. There is no further mention of this issue in his medical records.
22. Mr Rowley was offered a NHS Health Check on 9 November 2016. (The NHS Health Check is a health check for adults in England aged 40 to 74 years. It aims to spot early signs of stroke, kidney and heart disease and other health conditions.) Mr Rowley did not attend this appointment and told an officer on the wing that he did not want to attend. Mr Rowley's appointment was rebooked on four further occasions between January and May 2017. He failed to attend on each occasion.
23. On 28 September 2017, Mr Rowley told a nurse that he felt unwell. He told her that he had been coughing up blood for two years and thought he had lost weight. A prison GP examined Mr Rowley and noted that he was a smoker of 50 years and was coughing up dark brown sputum. The GP sent Mr Rowley to West Suffolk Hospital for review the same day. Mr Rowley was admitted to hospital, and following a chest X-ray and computerised tomography (CT) scan (a scan that takes detailed images inside the body), he was diagnosed with possible left lung cancer that had spread to his rib. Mr Rowley was discharged back to prison on 30 September, and told he would need to return for a biopsy. Before discharge he was prescribed dalteparin for a possible pulmonary embolism (a blockage of a major blood vessel in the lung, usually by a blood clot) seen on his scan and a salbutamol asthma inhaler.
24. On 4 October, at a prison multidisciplinary meeting, a care plan was agreed and a referral made to the Social Care Team to provide extra support. The care plan required Mr Rowley to be weighed weekly, that staff regularly assess his daily living activities and ensure he had adequate pain relief. Staff were also asked to ensure that any future hospital appointments were not cancelled, and regular information was provided around his condition. Mr Rowley was discussed at all weekly multidisciplinary meetings thereafter.
25. A biopsy completed at Addenbrookes Hospital on 12 October confirmed invasive lung cancer. On 16 October, a letter from Addenbrookes Hospital explained that Mr Rowley was not a candidate for surgery due to the size of the tumour and likelihood that it had spread.

Mr Rowley's clinical care

26. On 17 October, Mr Rowley was taken to hospital with right-sided pain. He was returned to Highpoint in the early hours of 18 October with a prescription for tramadol, a strong pain killer.
27. On 18 October, a nurse went to see Mr Rowley in his cell. He said that he knew he may only have months to live with or without treatment and therefore did not want to have chemotherapy. The nurse discussed a possible move to the Older Persons Unit at HMP Norwich where 24-hour healthcare would be available. Pain relief was discussed and she explained that if he wanted to continue having tramadol issued by the hospital he would need to attend the healthcare department twice a day as this medication could not be kept in his cell. A prison GP changed Mr Rowley's pain relief and prescribed fentanyl patches, a slow release pain relief patch later that day. Mr Rowley told a nurse that he had no friends or family outside the prison for support.
28. A nurse spoke to another nurse at HMP Norwich on 19 October to discuss a possible move to the Older Persons Unit. The nurse at Norwich provided the nurse at Highpoint with referral paperwork to apply for a transfer.
29. On 20 October, a Nurse Specialist from Addenbrookes Hospital telephoned a prison GP. A skin biopsy had confirmed that Mr Rowley had skin cancer secondary to his lung cancer, and they would now only be offering radiotherapy for symptom control.
30. The prison GP spoke to Mr Rowley later that day to discuss his diagnosis. The GP discussed a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) order. (A DNACPR order means that in the event of cardiac or respiratory arrest no attempt at resuscitation will be made. All other appropriate treatment and care will continue to be provided). Mr Rowley asked if he could think about it before he made a decision. He was offered an extra mattress and pillows for comfort. He accepted extra pillows.
31. On 23 October, Mr Rowley saw an oncologist at Addenbrookes Hospital. The oncologist told Mr Rowley that he had a prognosis of one to two months. Mr Rowley refused active treatment and said that, as his pain was under control, he did not want radiotherapy as it would not prolong his life. A nurse went to see Mr Rowley later that day in his cell. He told her that he did not want to go to Norwich prison and wanted to go to a hospice. The nurse referred Mr Rowley to the hospital palliative care team who agreed to review him. While waiting for the review, on 25 October, the nurse sent a referral to Norwich for transfer to the Older Persons Unit. Mr Rowley signed a DNACPR the same day.
32. On 27 October, Mr Rowley complained of rib pain, dizziness and being short of breath. He was taken to West Suffolk Hospital for assessment. Mr Rowley was diagnosed with a chest infection and after being admitted to a ward was given intravenous antibiotics.
33. A nurse at Highpoint contacted a nurse at Norwich on 30 October. The nurse at Norwich agreed Mr Rowley would benefit from a transfer to the Older Persons

Unit but they had no space available. He said they hoped to move a prisoner to free up space for Mr Rowley.

34. A palliative care consultant assessed Mr Rowley's condition the next day, on 1 November. Mr Rowley's pain was under control and did not require end of life care at that time, so did not meet the criteria for a transfer to a hospice. She was aware that Highpoint did not have 24-hour healthcare and agreed to keep Mr Rowley in hospital until a place became available at Norwich.
35. On 1, 2 and 3 November, healthcare staff at Highpoint made several telephone calls to Norwich but despite leaving messages, no one returned their calls. On 6 November, the Healthcare Manager, having learned that Norwich's Head of Healthcare was on leave, emailed the regional manager to seek assistance in securing a transfer for Mr Rowley. She telephoned and emailed him on 8 November but was unable to make contact.
36. On 9 November, the Healthcare Manager received a call to say that a place was now available at Norwich. However, a social care assessment was required before the transfer could take place. The assessment was completed the next day and confirmed that while Mr Rowley's life expectancy was short, he did not need end of life treatment. He remained independent with all basic daily living tasks.
37. Mr Rowley should have been transferred to Norwich on 14 November. However, he was found unfit to travel after he started to vomit brown fluid. Mr Rowley died at 8.20pm that evening.
38. The clinical reviewer concluded that Mr Rowley received prompt and appropriate treatment when he presented with lung cancer symptoms in September 2017. Mr Rowley told staff that he had been coughing up blood for two years but he did not report this to staff and he failed to attend several health check appointments in 2016 and 2017. It is likely that diagnosis was delayed because of Mr Rowley's failure to report his worsening symptoms. Following diagnosis, he was involved in the management of his care, which included palliative therapy and end of life care. We are satisfied that the treatment Mr Rowley received at Highpoint was equivalent to that which he could have expected to receive in the community.

Mr Rowley's location

39. Mr Rowley was self-caring and at the time of his diagnosis did not require any additional help. After a hospital admission on 17 October 2017, it was decided that to ensure his continued safety and comfort, Mr Rowley should be moved to a prison with 24-hour healthcare. Staff at Highpoint made a referral to Norwich on 25 October. Despite Norwich agreeing that a transfer would be appropriate, and Highpoint staff chasing this up, a space was not made available until over two weeks later. This meant that Mr Rowley remained in hospital for longer than necessary and died there before the transfer took place. We make the following recommendation:

The Head of Healthcare at Norwich should ensure referrals to the Older Persons Unit are actioned as quickly as possible and referring prisons are kept up to date with the progress of the intended move.

Restraints, security and escorts

40. When prisoners have to travel outside the prison, a risk assessment determines the nature and level of security arrangements, including restraints. The Prison Service has a duty to protect the public but this has to be balanced with a responsibility to treat prisoners with humanity. Any restraints used should be necessary and decisions should be based on the security risk taking into account factors such as the prisoner's health and mobility.
41. Prison escort risk assessment paperwork showed Mr Rowley to be a medium risk to the public and of escape. There were no medical objections to restraints being used. During all escorts to hospital he was restrained by a single handcuff. This was changed to an escort chain once Mr Rowley arrived at hospital. (An escort chain is a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer).
42. A prison manager reviewed Mr Rowley's risk assessment on 1 November and restraints were removed. Mr Rowley was unrestrained when he died on 14 November. We consider that the level of restraints used was appropriate.

Liaison with Mr Rowley's family

43. In May 2014 and December 2016, Mr Rowley was asked to update his prison record with next of kin details. He declined to provide this information.
44. On 18 October 2017, Mr Rowley told a nurse that he had no friends or family in the community. Police and probation records had no record of any family and on 15 November 2017, the prison contacted Mr Rowley's solicitor who confirmed they were also unaware of any next of kin.
45. In the absence of a next of kin, a prison family liaison officer arranged Mr Rowley's funeral. The prison chaplain conducted the service on 3 January 2018 at Bury St Edmunds crematorium. The prison paid for the funeral.

Compassionate release

46. Prisoners can be released from custody before their sentence has expired on compassionate grounds for medical reasons. This is usually when they are suffering from a terminal illness and have a life expectancy of less than three months.
47. At the time of planned transfer to Norwich, Mr Rowley did not meet the criteria for hospice care. He did not have any friends or family in the community to provide support. A member of the prison's Safer Custody Team told the investigator that a prison manager discussed early release on compassionate grounds with Mr Rowley roughly three days before his death. Mr Rowley was unsure and did not make an application. The discussion was not documented. While we are satisfied that Mr Rowley had no support network in the community and probably had no wish to be released on compassionate grounds, this discussion should have been held much earlier than it was and the details of the discussion should have been recorded. We make the following recommendation:

The Governor should ensure that staff discuss early release on compassionate grounds with prisoners as soon as possible after diagnosis of a terminal illness and record the outcome.

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