Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Michael West a prisoner at HMP Frankland on 15 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*

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.

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

Mr Michael West died on 15 November 2017 of renal failure following a diagnosis of bladder cancer while a prisoner at HMP Frankland. He was 72 years old. I offer my condolences to those who knew him.

I consider that the care provided to Mr West was of a good standard and was at least equivalent to that which he could have expected to receive in the community.

I am disappointed, however, that excessive restraints were used on Mr West when transferring him to hospital for the final time and that he was restrained for a period of 24 hours in intensive care while having renal dialysis. Mr West was an elderly, seriously ill man at the time and the use of restraints was disproportionate to the risk he posed.

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

Elizabeth Moody
Acting Prisons and Probation Ombudsman **May 2018**

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Summary

Events

1. Mr Michael West was serving an indeterminate sentence for sexual offences and had been at HMP Frankland since 2 October 2013.

2. On 23 April 2014, Mr West complained of pain when he urinated. On 21 July, Mr West saw a urologist at Sunderland Royal Infirmary who found a thickened bladder wall and a diverticulum, a pouch inside his bladder causing it to empty only partially. Mr West refused to undergo further tests and was discharged in March 2015.

3. On 3 September 2017, Mr West complained of stomach pain and an inability to pass urine. He refused a catheter. After an abnormal blood test and continued symptoms, Mr West was taken to Sunderland Royal Infirmary. On 14 September, Mr West was diagnosed with bilateral hydronephrosis, a condition where urine is unable to drain from the kidneys into the bladder. On 21 September, after further tests, Mr West was diagnosed with invasive bladder cancer.

4. Mr West was taken to University Hospital North Durham on 14 October after developing hyperkalaemia (increased potassium in the blood) and urosepsis (a secondary infection that occurs when a urinary tract infection spreads to the bloodstream). He was in a wheelchair during the transfer to hospital and was restrained with double handcuffs. He spent three days in the intensive care unit where he underwent renal dialysis. Restraints were removed initially but reapplied for 24 hours when Mr West's condition improved. On 17 October, he was transferred to Sunderland Royal Hospital.

5. On 2 November, Mr West was discharged back to Frankland's inpatient unit for end of life care after he refused all treatment. Mr West died on 15 November. A prison GP recorded that he had died from renal failure, which had been caused by invasive bladder cancer.

Findings

6. We are satisfied that Mr West received a good standard of clinical care at Frankland, at least equivalent to that which he could have expected to receive in the community.

7. We consider that the use of double handcuffs on Mr West during his final transfer to hospital on 14 October was excessive and disproportionate to the risk he posed. It was also unacceptable that Mr West was restrained while receiving renal dialysis in the intensive care unit.

Recommendations

- The Governor and Head of Healthcare at HMP Frankland should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of the prisoner and are based on the actual risk the prisoner presents at the time.

The Investigation Process

8. The investigator issued notices to staff and prisoners at HMP Frankland informing them of the investigation and asking anyone with relevant information to contact her. No one responded.

9. The invesitgator obtained copies of relevant extracts from Mr West's prison and medical records.

10. NHS England commissioned a clinical reviewer to review Mr West's clinical care at the prison.

11. We informed HM Coroner for Durham and Darlington of the investigation. The Coroner was satisfied that the cause of death had been recorded accurately by the prison GP so no post-mortem examination was carried out. We have sent the coroner a copy of this report.

12. The investigation has assessed the main issues involved in Mr West'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.

13. 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

HM Prison Frankland

14. HMP Frankland is one of eight high security prisons in England and Wales. It holds up to 844 men. There is 24-hour inpatient care. G4S Forensic & Medical Services provide general nursing services and substance misuse services. Spectrum Healthcare provides GP and pharmacy services.

HM Inspectorate of Prisons

15. The most recent inspection of HMP Frankland was in March 2016. Inspectors found that prisoners had access to an appropriate range of primary care services and visiting specialists. The environment and standard of care in the healthcare inpatient unit were good. There were high-standard arrangements for palliative and end of life care for the terminally ill.

Independent Monitoring Board

16. 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 ending 30 November 2016, the IMB reported that the prison's healthcare unit had improved since its previous report. There had been considerable capital expenditure with two treatment room floors having been replaced, four new hospital beds and new drugs cabinets. A well-man clinic had been set up with a particular focus on elderly prisoners, with six monthly checks, and an older adult prisoner consultative committee formed.

Previous deaths at HMP Frankland

17. Mr West was the fifth person to die at Frankland from natural causes since January 2016. There were no significant similarities with the circumstances of the previous deaths.

Findings

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

18. Mr Michael West was given an indeterminate sentence for sexual offences on 29 October 2008 with a minimum tariff of nine and a half years. He was transferred to HMP Frankland on 2 October 2013. During an initial health screening he expressed no health concerns. In 2012, Mr West was treated for urinary retention (inability to empty the bladder fully) and was fitted with a catheter for a short time.

19. On 23 April 2014, Mr West told a prison GP that he had been experiencing pain when urinating. His urine was cloudy and smelly, and he was urinating up to 20 times a night. The GP found Mr West's prostate gland to be quite prominent and hard. A sample of urine was tested, and protein and blood were detected. The GP referred Mr West to the urology clinic at Sunderland Royal Infirmary and requested blood tests.

20. Mr West was diagnosed with diabetes on 15 July. On 21 July, he saw a urologist at Sunderland Royal Infirmary. The urologist requested an ultrasound scan of his kidneys and a cystoscopy (a procedure to look inside the bladder).

21. An ultrasound report sent to the prison on 16 September confirmed that Mr West's bladder wall was thickened with a diverticulum, a pouch inside his bladder causing his bladder to empty only partially. His kidneys and prostate appeared normal. Mr West refused to have a cystoscopy.

22. Mr West attended the urology clinic again on 4 November. He initially agreed to have a bladder pressure test (urodynamics, to see how his bladder was emptying) but later signed a disclaimer on 11 March 2015 refusing the procedure. On 23 March, Mr West was discharged from the urology clinic as he refused further investigations.

23. There are no further entries in Mr West's medical record relating to his bladder until 2017. On 25 May and 9 June 2017, Mr West complained of back pain. He had no other symptoms and after examination the pain was thought to be muscular.

24. On 28 August, Mr West complained of constipation. He again had no other symptoms and a nurse told him to drink lots of water and to go to healthcare if this did not resolve the issue.

25. On 3 September, a nurse practitioner visited Mr West in his cell when he complained of stomach pain. He had not opened his bowels for five days and his abdomen was swollen and extremely tender. He was drinking plenty of fluids but unable to pass urine frequently. He was moved to the prison's inpatient unit for observations and an urgent blood test was requested.

26. A prison GP spoke to a urologist at Sunderland Royal Infirmary who suspected urinary retention and advised he would need to be catheterised. When Mr West refused a catheter, the urologist asked the GP to monitor him in the inpatient unit and to send him to hospital if his condition worsened.

27. Mr West's blood test taken on 3 September showed a high C-reactive protein level (inflammation in the body) and white cell count, impaired renal function and a high alk-phosphatise. He was given antibiotics for suspected pyelonephritis (an inflammation of the kidney tissue, calyces, and renal pelvis, commonly caused by a bacterial infection that has spread up the urinary tract and to the kidneys) and observed every hour. Mr West continued to refuse a catheter. A nurse explained the risks of not having a catheter, the risk of sepsis, renal failure and bladder damage. Mr West wanted to wait to see if the antibiotics would resolve the issue before considering a catheter.

28. On 5 September, a prison GP visited Mr West. He was now passing urine freely but his abdomen was still tender. When examined his bladder appeared to still be full. The GP referred Mr West to the Urology Department at Sunderland Royal Infirmary for an ultrasound scan of his bladder, kidneys and prostate.

29. On 8 September, Mr West was in increased pain and his abdomen was slightly swollen. A prison GP spoke to medical admissions at University Hospital of North Durham who agreed to review Mr West. He was taken to hospital at 6.20pm that evening and transferred to Sunderland Royal Infirmary's renal unit the next day, when his kidney function declined.

30. On admission to Sunderland Royal Infirmary Mr West had a percutaneous nephrostomy (a catheter that is inserted through the skin into the kidney) a cystoscopy of the bladder and a stent inserted into his urethra. Tissue samples were taken for histology examination.

31. On 14 September, Mr West was diagnosed with bilateral hydronephrosis, a condition where urine is unable to drain from the kidneys into the bladder. He was discharged back to Frankland while he awaited his histology results.

32. A urologist from Sunderland Royal Infirmary telephoned the healthcare department on 21 September. Mr West's histology results showed muscle invasive bladder cancer. The urologist explained that Mr West would need his bladder removed and made an urgent referral under the NHS pathway that requires patients with suspected cancer to be seen by a specialist within two weeks.

33. Mr West refused to attend a urology appointment on 5 October. He was unaware of his diagnosis and wanted to know what the appointment was about before attending. The consultant urologist was unwilling to discuss the diagnosis on the phone and said a new appointment would be made.

34. On 6 October Mr West did not attend an appointment with a prison GP. The GP visited him in his cell three days later, on 9 October to inform him of his diagnosis. Mr West was not in pain but had little appetite and felt generally unwell. They discussed his bladder cancer and Mr West declined a move to the prison's inpatient unit. A soft diet and extra milk was requested as his food intake had reduced. Mr West was now being monitored on the wing daily. On 13 October, it was noted that his health had declined and he appeared frail. High calorie drinks were prescribed to help prevent weight loss.

Mr West's clinical care

35. Mr West was taken to University Hospital North Durham on 14 October after he complained of pain throughout his body. On admission he was diagnosed with hyperkalaemia (increased potassium in the blood) and urosepsis (a secondary infection that occurs when a urinary tract infection spreads to the bloodstream). He was transferred to the intensive care unit and underwent renal dialysis.

36. Two days later, on 16 October, Mr West was diagnosed with acute renal failure. He agreed to have antibiotics and fluids but refused all other treatment. He had the capacity to refuse treatment and agreed to a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) order confirming that he did not want anyone to resuscitate him if his heart or breathing stopped.

37. Mr West's condition improved and on the evening of 17 October, he was transferred from the intensive care unit to Sunderland Royal Hospital. On 19 October, he had a temporary drain inserted into his right kidney to drain excess fluid.

38. A urologist visited Mr West on 1 November when he started to refuse fluids, and a scan to review his kidney function and insertion of a catheter. Mr West told the consultant that he saw dialysis as a life prolonging measure that he did not want and use of a catheter was not the quality of life he wanted.

39. Mr West continued to refuse all treatment. He was also refusing fluid and food. On 2 November, he was discharged back to Frankland's inpatient unit for end of life care after the hospital's mental health team confirmed he had the capacity to refuse treatment.

40. On arrival back at Frankland a care plan was created. Mr West was very dependent on staff and needed assistance with all his personal care. He was doubly incontinent. Suicide and self-harm prevention monitoring was started when Mr West refused treatment and all fluids.

41. On 3 November, Mr West refused to discuss any aspect of his end of life care saying he just wanted to die. An open-door policy was introduced so Mr West could be monitored regularly by healthcare staff throughout the day. Mr West signed a new DNACPR confirming his wishes not to be resuscitated.

42. On 5 November, Mr West vomited green fluid. He refused oxygen but accepted pain relief and antibiotics. A Macmillan palliative care nurse visited Mr West on 7 November. He was bedbound and healthcare staff checked him every 30 minutes to ensure he was comfortable.

43. Mr West's condition continued to deteriorate and he died at 1.45pm on 15 November with a health care assistant sitting at his side.

44. Mr West was diagnosed with a diverticulum of the bladder in 2014. He declined further investigation and did not report any new symptoms until 2017. The clinical reviewer commented that it was unclear whether Mr West's ongoing urological conditions contributed to his bladder cancer.

45. We consider that Mr West received a good standard of clinical care that was at least equivalent to that which he could have expected to receive in the community.

Mr West's location

46. When Mr West reported back pain and constipation in early 2017 he was managed appropriately on the wing. He was moved to the prison's inpatient unit when he complained of urinary retention and increased pain on 3 September. He was later admitted to hospital on 8 September and discharged back to Frankland on 14 September.

47. After his cancer diagnosis, Mr West declined a move to the inpatient unit as he had a friend on the wing. Healthcare visited him on the wing daily to ensure he received the required care. This is good practice.

48. Mr West was admitted to University Hospital North Durham for the final time on 14 October. He was discharged back to the prison inpatient unit on 2 November, for end of life care. The prison put in place an open-door policy to allow healthcare staff access to his cell at all times.

49. We found that Mr West's location was appropriate for his needs.

Restraints, security and escorts

50. 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. 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.

51. On 8 September 2017, Mr West was taken to University North Durham Hospital for bladder investigations. A prison risk assessment found Mr West to be high risk to the public due to his offence and previous poor behaviour on escorts. Double handcuffs were used on escort to hospital. (Double cuffing is when the prisoner's hands are handcuffed in front of him and one wrist is attached to a prison officer by an additional set of handcuffs). There were no medical objections to the use of restraints. An escorting chain was used while receiving treatment. (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.)

52. Mr West was admitted to hospital for the final time on 14 October. He was restrained with double handcuffs during the escort. These were changed to an escort chain on arrival at hospital. Escorting paperwork showed that there were no medical objections to the use of restraints but it was noted that he had impaired mobility due to his "frail condition" and was using a wheelchair.

53. We consider that the risk assessment authorising the use of double handcuffs on Mr West for the escort to hospital failed to take into account his declining health and lack of mobility and the mitigation of risk provided by the escorting staff. We note that his risk of escape was recorded as low. We consider that the level of restraints used was disproportionate to the actual risk he posed.

54. At 8pm that night, Mr West was moved to the intensive care unit for renal dialysis. A prison manager authorised the removal of restraints but noted on the risk assessment that an escort chain should be reapplied if his condition improved.

55. On 15 October, hospital staff told the prison escorting officers that Mr West's condition was now stable. One of them reapplied the escort chain. The bedwatch paperwork showed that Mr West was still receiving dialysis and at that time was behaving appropriately. While in intensive care Mr West should not have been restrained.

56. Mr West's restraints were removed at 4.20pm on 16 October. He was transferred to Sunderland Royal Hospital on 17 October as he no longer required intensive care treatment. An escorting chain was used during the transfer. Mr West remained on the escorting chain until he was discharged back to prison on 2 November as he would not allow hospital staff to assess his level of mobility.

57. We make the following recommendation:

The Governor and Head of Healthcare at HMP Frankland should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of the prisoner and are based on the actual risk the prisoner presents at the time.

Liaison with Mr West's family

58. A prison family liaison officer visited Mr West in hospital on 18 October 2017. He said his father had died and he did not know where his children lived, and did not want them to be located or informed of his death.

59. Mr West's funeral was held on 28 November at Durham Crematorium and the prison paid for the funeral.

Compassionate release

60. 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.

61. On 17 October, the Head of Healthcare held a multidisciplinary meeting to discuss Mr West and his future care. Nurses, Chaplaincy, prison managers, Mr West's offender supervisor and personal officer attended. It was decided that compassionate release would not be applied for at that time because there was no firm prognosis. They agreed they would keep his condition under review.

62. On 3 November, a nurse tried to speak to Mr West about his end of life wishes. He refused to speak to her. Mr West told the Macmillan nurse on 10 November that he did not want to apply for release and was happy with the care provided in prison.

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