Prisons & Probation
Ombudsman
Independent Investigations

Independent investigation into the death of Mr John Clayson a prisoner at HMP Swaleside on 8 June 2018

A report by the Prisons and Probation Ombudsman

Third Floor, 10 South Colonnade
Canary Wharf, London E14 4PU
Email: mail@ppo.gov.uk
Web: www.ppo.gov.uk
T I 020 7633 4100
F I 020 7633 4141

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*

© Crown copyright 2017

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned

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 John Clayson died of carcinomatosis (a condition in which cancer is spread widely throughout the body), caused by colon cancer, on 8 June 2018 while a prisoner at HMP Swaleside. He was 61 years old. I offer my condolences to his family and friends.

Mr Clayson was at HMP Elmley until he was transferred to Swaleside in April 2018.

He had been diagnosed with cancer some years before he entered prison in January 2016, and had continued to have treatment. In July 2017, he was told that the cancer was terminal.

Healthcare staff at Elmley responded well to Mr Clayson's healthcare needs until October 2017. However, the clinical care that he subsequently received at Elmley and Swaleside was not equivalent to that which he could have expected to receive in the community.

At Elmley, Mr Clayson's palliative care was not reviewed for four months and actions from his palliative care plan were not always completed. When he transferred to Swaleside, Elmley did not complete a handover or provide Swaleside with a palliative care plan.

Staff at HMP Swaleside applied for early compassionate release for Mr Clayson but failed to respond to a request for more information which meant that his application was not considered before he died.

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
Deputy Prisons and Probation Ombudsman **December 2018**

Contents

Summary 1
The Investigation Process 3
Background Information 4
Findings 6

Summary

Events

1. On 7 January 2016, Mr John Clayson was remanded to HMP Elmley, charged with sexual offences.

2. In 2008, before entering prison, Mr Clayson had been diagnosed with colon cancer and he continued to receive treatment from hospital specialists. In 2015, the cancer spread to his lungs and he had radiotherapy.

3. On 10 February 2017, Mr Clayson was sentenced to 21 years in prison.

4. From 30 April, Mr Clayson received palliative care as he was not responding to treatment. On 6 July 2017, a hospital consultant told Mr Clayson that the cancer was terminal.

5. He had regular palliative care reviews but they stopped between 5 October 2017 and 26 January 2018.

6. Mr Clayson was told on 12 December that the cancer had spread to his finger and it was amputated on 21 December.

7. On 18 April 2018, Mr Clayson was transferred to HMP Swaleside. A prison GP saw him on 24 April and immediately sent him to hospital as he had difficulty breathing and was struggling to walk. On 2 May, an x-ray confirmed that the cancer had spread further and two days later, he was moved to a hospice.

8. On 12 May, Swaleside applied for Mr Clayson to be considered for compassionate release. The prison was asked for further information about the application on 14 May but did not respond before Mr Clayson died.

9. On 18 May, Mr Clayson returned to Swaleside as his health had improved but five days later, he collapsed and returned to hospital. On 4 June, Swaleside noted that Mr Clayson's application for compassionate release had been refused. (This was not the case and there is no evidence to indicate why Swaleside might have thought this.)

10. On 6 June, he was moved back to the hospice, where he died on 8 June, with his wife present.

11. The Coroner confirmed that Mr Clayson had died of carcinomatosis caused by metastatic sigmoid colon cancer.

Findings

Clinical care

12. The clinical reviewer concluded that while healthcare staff at Elmley responded well to Mr Clayson's needs until October 2017, the care that he subsequently received at Elmley and Swaleside was not equivalent to that which he could have expected to receive in the community.

13. Mr Clayson did not have a palliative care review for four months at HMP Elmley and actions were not always carried out.

14. When Mr Clayson was transferred from Elmley to Swaleside, there was no handover or action plan for his care. Mr Clayson should have received better continuity of care, particularly as he had palliative care needs.

Compassionate release

15. The prison did not respond to the request for more information about Mr Clayson's application for compassionate release. Mr Clayson died nearly four weeks later without Swaleside responding. This prevented the application being assessed.

Recommendations

- The Head of Healthcare at HMP Elmley should ensure that all patients with long-term health conditions have clear personalised care plans, with stated aims, planned interventions and monitoring, and regular reviews of medication in line with the National Institute for Health and Care Excellence (NICE) guidelines.
- The Head of Healthcare at HMP Elmley should ensure that prisoners with palliative care needs receive continuity of care when they are transferred and that staff complete the relevant procedures for managing end of life care in line with PSI 3050.
- The Governor and Head of Healthcare at HMP Swaleside should ensure that staff respond promptly to requests for information about early compassionate release from PPCS so that applications can be considered as soon as possible.

The Investigation Process

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

17. The investigator obtained copies of relevant extracts from Mr Clayson's prison and medical records.

18. The investigator interviewed two members of staff on 13 September 2018 at HMP Standford Hill (which like Elmley and Swaleside, is one of the Isle of Sheppey prisons).

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

20. The clinical reviewer joined the investigator for interviews.

21. We informed HM Coroner for Kent and Medway of the investigation who gave us the results of the post-mortem examination. We have sent the Coroner a copy of this report.

22. The investigator wrote to Mr Clayson's wife to explain the investigation and to ask if she had any matters she wanted us to consider. She did not respond to our letter.

23. We assessed the main issues involved in Mr Clayson'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 early compassionate release was considered.

24. The initial report was shared with HM Prison and Probation Service (HMPPS). There were no factual inaccuracies. The action plan has been annexed to this report.

Background Information

HMP Swaleside

25. HMP Swaleside, which is on the Isle of Sheppey, is part of the Long-Term and High Security estate. It houses up to 1,112 men serving sentences of four years or more. Integrated Care 24 Ltd provides primary healthcare. There is 24-hour nursing cover and a 17-bed inpatient unit. Minster Medical Group provides GP cover from Monday to Friday, while Medway on Call Care (MedOCC) provides an out of hours GP service. Oxleas NHS Foundation Trust provides mental health services.

HM Inspectorate of Prisons

26. The most recent inspection of HMP Swaleside was in April 2016. Inspectors reported that only fifteen per cent of prisoners were satisfied with healthcare provision. While they noted that prisoners had access to an appropriate range of primary care services and visiting specialists, they concluded that not all clinics which dealt with long-term conditions ran regularly because staffing was inconsistent.

Independent Monitoring Board

27. 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.

28. In its latest annual report about HMP Swaleside, for the year to 2018, the IMB reported that they continued to receive complaints about the treatments offered and the waiting times for services. The Board tried to help prisoners understand that, in many cases, similar problems arise in the outside world. Nevertheless, it seemed to the Board, that IC24 had been unduly slow to implement many of the improvements that were part of the agreement in the contract started in 2018.

HMP Elmley

29. HMP Elmley is a local prison on the Isle of Sheppey which holds up to 1,252 men. Integrated Care 24 Ltd provides 24-hour primary healthcare services. There is 24-hour nursing cover and a 29-bed inpatient unit. Minster Medical Group provide GP cover seven days a week, while MedOCC provides an out of hours GP service. Oxleas NHS Foundation Trust provides mental health services.

HM Inspectorate of Prisons

30. The most recent inspection of HMP Elmley was in November 2015. Inspectors found some problems with the application system for healthcare services and the rates for prisoners attending healthcare appointments remained low, but care and treatment outcomes were generally good. They noted that primary care services were busy and usually met prisoner needs.

Independent Monitoring Board

31. In its latest annual report about HMP Elmley for the year to 31 October 2017, the IMB reported that the overall care for patients in the healthcare unit was of a high standard due to the commitment of staff. They noted that the outpatient department remained very busy and, despite efforts, complaints by prisoners to the IMB remained at a high level. However, they noted that not all complaints proved to be justified.

Previous deaths at HMP Swaleside

32. Mr Clayson was the thirteenth prisoner to die at HMP Swaleside since June 2015 and the seventh to die from natural causes. We did not identify any similarities between this case and the other deaths we investigated.

Findings

The diagnosis of Mr Clayson's terminal illness

33. In 2008 and before his conviction, Mr Clayson was diagnosed with colon cancer. Surgeons removed part of his bowel and he had chemotherapy. In 2015, the cancer spread to his lungs and he had radiotherapy.

34. On 7 January 2016, Mr Clayson was remanded to HMP Elmley, charged with sexual offences. He continued to attend the Hospital for treatment.

35. In addition to cancer, Mr Clayson had other complex health needs, including osteoporosis of the spine, Type 2 diabetes, high blood pressure, deep vein thrombosis and a pulmonary embolism (a blockage of an artery in the lungs). He used a colostomy bag and a walking stick.

36. On 10 February 2017, Mr Clayson was sentenced to 21 years in prison, and returned to Elmley.

37. On 6 July 2017, a hospital consultant told Mr Clayson that the cancer was terminal. (Although he never received a prognosis, the clinical reviewer considered this was acceptable and not unusual.) Two days later, Mr Clayson told a nurse that he was aware that he was dying, and they discussed his palliative care at length.

38. On 5 October, Mr Clayson decided that he did not want to be resuscitated if his heart or breathing stopped, and signed an order to that effect.

39. We are satisfied that healthcare staff at Elmley appropriately facilitated Mr Clayson's ongoing treatment and that he was fully informed of his condition.

Mr Clayson's clinical care

<u>HMP Elmley</u>

40. From 29 September 2016, a nurse manager led Mr Clayson's care plan reviews. On 30 April 2017, Mr Clayson's care became palliative as he was not responding to treatment and a lead palliative care nurse took over monthly palliative care reviews.

41. There is no record of a palliative care review between 5 October 2017 and 26 January 2018. The nurse manager and the lead palliative care nurse were no longer involved in Mr Clayson's care.

42. The Primary Care Services Quality Lead at HMP Elmley who was the Head of Healthcare at Elmley during Mr Clayson's time there, told us that in 2017, Elmley and neighbouring prison sites had healthcare staffing issues. She said that the nurse manager changed roles and the lead palliative care nurse moved to another prison to ease the problem.

43. Mr Clayson continued to see healthcare staff regularly as the cancer had spread to his finger, and it was amputated on 21 December 2017.

44. On 26 January 2018, the nurse manager returned to her role and Mr Clayson's palliative care reviews started again.

45. At a palliative care review on 9 March, it was noted that Mr Clayson had an infection for which a prison GP would need to see him every two weeks. On 15 March, a prison GP saw him but did not see him again until 24 April (six weeks later) after he was transferred to HMP Swaleside.

HMP Swaleside

46. On 18 April 2018, Mr Clayson was transferred to HMP Swaleside. The Primary Care Services' Regional Lead for Sheppey Prisons (which include Elmley and Swaleside), told us that it was a natural progression for Mr Clayson to transfer to a prison for sentenced offenders, and that Mr Clayson was happy to move. She also said that Swaleside had a healthcare unit which was better suited to Mr Clayson's needs.

47. The same day, a nurse saw Mr Clayson for an initial health screen and made an appointment for him to see a prison GP on 24 April due to his medical conditions. Mr Clayson's needs were first discussed at Swaleside at an End of Life Care meeting on 23 April 2018.

48. The clinical reviewer concluded that overall, the care that Mr Clayson received at Elmley and Swaleside was not equivalent to that which he could have expected to receive in the community. She found that the standard of his care declined after October 2017 when the nurse manager and the lead palliative care nurse at Elmley were no longer involved. She was concerned that care plan reviews did not take place consistently, and that there was no continuity of care when he was transferred to Swaleside.

49. The clinical reviewer made a number of recommendations in her report which the Head of Healthcare at Elmley will need to address.

Care plan reviews

50. Care plans and palliative care plans should involve the prisoner and allow for the co-ordinated care of the individual. The National Institute for Health and Care Excellence (NICE) guidance on end of life care for adults says that care plans should be revised in response to their changing needs and preferences.

51. The clinical reviewer identified that the nurse manager and the lead palliative care nurse had a particularly significant role in Mr Clayson's care, and that there were some examples of good practice with care plans and palliative care plan reviews which enabled Mr Clayson to talk openly about his concerns and needs.

52. The clinical reviewer found that when the nurse manager and the lead palliative care nurse changed roles, reviews did not take place for four months and decisions were not always acted on. We are concerned that the frequency of reviews depended on two members of staff being in post and that, at times, action plans were not followed. We make the following recommendation:

The Head of Healthcare at HMP Elmley should ensure that all patients with long-term health conditions have clear personalised care plans, with stated aims, planned interventions and monitoring, and regular reviews of medication in line with the National Institute for Health and Care Excellence (NICE) guidelines.

Continuity of care

53. Prison Service Order (PSO) 3050 on the continuity of healthcare for prisoners says that when a prisoner with significant health issues is transferred, the sending prison is responsible for gathering relevant information about the prisoner for the receiving prison and ensuring continuity of care. The information the sending prison provides should include an assessment of the prisoner's future health needs, the prisoner's views, a concise summary of health needs focusing on practical needs and a care plan.

54. The Primary Care Services Quality Lead told us that Elmley and Swaleside use the same healthcare provider and staff, including the lead palliative care nurse, work across both sites. She said that the two prisons share medical information and all hospital appointments transfer across teams. However, despite the shared care systems in place, the clinical reviewer identified a gap in the continuity of care for Mr Clayson which, in her view, led to an unplanned approach to the terminal stage of his life.

55. The clinical reviewer found no record of a handover between Elmley and Swaleside. The Primary Care Services Regional Lead told us that healthcare staff at Swaleside were aware that Mr Clayson was arriving but she acknowledged that his transfer should have been documented by healthcare staff at Elmley.

56. The clinical reviewer also found no record of a care plan or action points to say how Mr Clayson's needs should be addressed at Swaleside. No observations were taken at the initial health screen and the clinical reviewer concluded that a second assessment would have been beneficial for Mr Clayson as he had palliative care needs.

57. We are concerned that there was no handover or action plan for Mr Clayson's care when he was transferred. Mr Clayson was nearing the end of his life, and more attention should have been given to assess and communicate his care needs. We make the following recommendation:

The Head of Healthcare at HMP Elmley should ensure that prisoners with palliative care needs receive continuity of care when they are transferred and that staff complete the relevant procedures for managing end of life care in line with PSI 3050.

Mr Clayson's location

58. Mr Clayson was located on a wing for vulnerable prisoners at Elmley and at Swaleside.

59. On 24 April, a prison GP at Swaleside saw Mr Clayson and sent him to hospital immediately as he had difficulty breathing and was struggling to walk. On 2 May,

an x-ray confirmed that the cancer had spread to Mr Clayson's lungs and two days later he was transferred to a hospice for palliative care.

60. On 18 May, Mr Clayson returned to Swaleside from the hospice as his health had unexpectedly improved. Staff planned to locate him in the healthcare unit but Mr Clayson wanted to stay on a standard wing with his friends. Staff agreed that he could stay on his usual wing during the day, and in the healthcare unit at night. On 19 May, staff agreed that he could stay permanently on his usual wing, as Mr Clayson said that he found it too noisy in the healthcare unit and he wanted to be with his friends. We are satisfied that staff took account of Mr Clayson's views about his location and arranged for him to be treated in the Vulnerable Prisoners' Unit, his usual wing.

Restraints, security and escorts

61. When prisoners have to travel outside of 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 must 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. Two officers escorted Mr Clayson the last time that he went to hospital, and prison managers considered the use of restraints unnecessary. Given Mr Clayson's very poor health, we consider that was appropriate.

Liaison with Mr Clayson's family

62. On 4 May 2018, Swaleside appointed a custodial manager in the Safer Custody Team as the family liaison officer when Mr Clayson was transferred to a hospice. She telephoned his wife to offer support and kept her informed about his location.

63. On 8 June 2018, the family liaison officer met Mrs Clayson at the hospice to offer support. Mr Clayson died on 8 June with his wife present, and she telephoned Mrs Clayson to offer her condolences and support.

64. On 11 June, the family liaison officer and a deputy family liaison officer, visited Mrs Clayson. Mr Clayson's funeral took place on 3 July 2018. The prison arranged it and contributed to its cost in line with national instructions.

65. We consider that staff supported Mr Clayson's wife well during his illness and after his death.

Compassionate release

66. 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 for determinate sentenced prisoners are set out in Prison Service Order (PSO) 6000. Among the criteria is that the risk of re-offending is expected to be minimal, further imprisonment would reduce life expectancy, there are adequate arrangements for the prisoner's care and treatment outside prison, and release would benefit the prisoner and his family. An application for early release on

compassionate grounds must be submitted to the Public Protection Casework Section (PPCS) of Her Majesty's Prisons and Probation Service (HMPPS).

67. Prison staff completed an application for Mr Clayson and sent it to PPCS on 12 May, ten days after he was taken to a hospice for palliative care. On 14 May, caseworkers in PPCS contacted the hub manager of the Offender Management Unit, asking for further information. Swaleside did not respond before Mr Clayson died, nearly four weeks after they received the request for information. Despite our repeated requests, Swaleside have not explained why they did not respond to PPCS.

68. The record of an end of life care meeting on 4 June noted that Mr Clayson's application for compassionate release had been refused. However, PPCS told us that they had not made a decision as they were waiting for information from Swaleside. There is no evidence to explain why Swaleside might have thought otherwise.

69. Although Mr Clayson did not have a prognosis, he was terminally ill and nearing the end of his life. We consider that prison staff at Swaleside should have acted more quickly in responding to the request for more information by the PPCS. While we cannot say whether Mr Clayson would have been granted compassionate release, he should have had the opportunity to have an application considered before he died. We make the following recommendation:

70. The Governor and Head of Healthcare at HMP Swaleside should ensure that staff respond promptly to requests for information about early compassionate release from PPCS so that applications can be considered as soon as possible.

Prisons & Probation
Ombudsman
Independent Investigations

PO Box 70769
London, SE1P 4XY

Email: mail@ppo.gsi.gov.uk
Web: www.ppo.gov.uk

T | 020 7633 4100
F | 020 7633 4141