Prisons &
Probation
Ombudsman
Independent Investigations

Independent investigation into the death of Mr Harold Anthony a prisoner at HMP Wormwood Scrubs on 21 October 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 2019

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 I oversee can improve their work in the future.

Mr Harold Anthony died in a care home on 21 October 2018 of liver cirrhosis while a prisoner at HMP Wormwood Scrubs. He was 65 years old. I offer my condolences to Mr Anthony's family and friends.

Mr Anthony had a number of health concerns when he arrived at Wormwood Scrubs, including a history of diabetes and abnormal liver function. Overall, he received good care at the prison, which was equivalent to that which he could have expected in the community.

However, I am concerned that the prison continued to restrain Mr Anthony for a time after he was hospitalised. I am also concerned that an application to release Mr Anthony on compassionate grounds was not treated with sufficient urgency.

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

Sue McAllister CB
Prisons and Probation Ombudsman **June 2019**

Contents

Summary 1

The Investigation Process 3

Background Information 4

Findings 5

Summary

Events

1. On 22 December 2017, Mr Harold Anthony was sentenced to three and a half years' imprisonment for sexual offences. He was sent to HMP Wormwood Scrubs.

2. At his reception health screen, it was recorded that Mr Anthony had a history of stroke and diabetes. His community medical records also disclosed a history of alcohol dependency and abnormal liver function. He told a prison GP that he used to drink alcohol but was no longer dependent.

3. In January 2018, blood test results revealed that Mr Anthony had a mildly abnormal liver function. A GP review was recommended but never performed.

4. In July, Mr Anthony became unwell. A nurse reviewed him and noted he had not eaten for three days. She sent him to hospital where he remained for several days. Tests revealed that he had several complaints, including liver cirrhosis (the irreversible scarring of the liver).

5. On his return to Wormwood Scrubs, Mr Anthony was located in the healthcare unit. Healthcare staff regularly monitored him and provided him with personal care. On 23 August, a prison GP became concerned that Mr Anthony's liver cirrhosis had deteriorated and consulted a hospital specialist. The GP sent Mr Anthony to St Mary's Hospital, Paddington the following day. The next day a prison nurse recorded that he had liver cancer and had only a few weeks to live.

6. In early October, Mr Anthony was transferred to St James's Care Home where he remained. Mr Anthony died on 21 October,

Findings

Clinical care

7. We agree with the clinical reviewer that, overall, the care Mr Anthony received at Wormwood Scrubs was equivalent to that he would have expected to receive in the community. However, we agree that, on two occasions, Mr Anthony's care fell short of what he could have expected.

Liaison with Mr Anthony's family

8. We consider that the prison conducted its contact with Mr Anthony's family appropriately.

Compassionate release

9. We are concerned that the prison did not pursue Mr Anthony's compassionate release application with sufficient urgency.

Restraints, security and escorts

10. We are also concerned that the prison decided to restrain Mr Anthony when he went to hospital on two separate occasions during the summer.

Recommendations

- 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 and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

- The Governor should revise the prison's escort risk assessment form to ensure that it requires:

    - healthcare staff to say whether the prisoner's current state of health has an impact on his mobility; and

    - prison staff to show that they have taken this information into account in assessing the prisoner's current level of risk;

  and should send the Ombudsman a copy of the revised form.

- The Governor should ensure that appropriate priority is given to dealing with applications for compassionate release for terminally ill prisoners and that they are submitted without delay.

The Investigation Process

11. The investigator issued notices to staff and prisoners at HMP Wormwood Scrubs informing them of the investigation and asking anyone with relevant information to contact him. No one responded.

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

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

14. We informed HM Coroner for West London of the investigation. Mr Anthony did not have a post-mortem so the coroner provided his cause of death. We have sent the coroner a copy of this report.

15. The investigator wrote to Mr Anthony's sister-in-law to explain the investigation and to ask whether she had any matters she wanted the investigation to consider. She did not respond to our letter.

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 Wormwood Scrubs

17. HMP Wormwood Scrubs is a local prison in West London, holding nearly 1,300 men. The prison holds men on remand from West London courts and London prisoners serving short sentences or coming to the end of long sentences. Care UK is contracted to provide primary care and several other health services. Registered nurses are available 24 hours a day.

HM Inspectorate of Prisons

18. The most recent inspection of HMP Wormwood Scrubs was conducted in July and August 2017. Inspectors reported that staff shortages and the lack of experienced staff affected all aspects of the prison and made it difficult to provide even basic services.

19. Inspectors reported that healthcare provision was reasonably good and that staff were professional and caring. They also reported that recommendations from previous PPO reports were shared with staff to develop their service. Healthcare staff said that they felt supported and had access to professional development.

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 2017, the IMB reported that Wormwood Scrubs had made real progress during the past year but that there were still very serious problems. The Board reported that staff shortages meant that the prison was unable to perform at its benchmark level, and noted that medical appointments were frequently cancelled as a result. The IMB noted that healthcare provision was generally acceptable but that often prisoners on the healthcare unit received a limited regime due to staff shortages.

Previous deaths at HMP Wormwood Scrubs

21. Mr Anthony was the thirteenth prisoner to die at Wormwood Scrubs since the start of 2016. Two years prior to his death, we made a recommendation about the use of restraints.

Findings

22. On 22 December 2017, Mr Harold Anthony was sentenced to three and a half years' imprisonment for sexual offences. He was sent to HMP Wormwood Scrubs.

Clinical care

23. A nurse reviewed Mr Anthony at a health screen on his reception at Wormwood Scrubs. He noted that he had a history of stroke, diabetes and ulcers on both legs. Later that day, a prison GP reviewed Mr Anthony. Mr Anthony told him that he used to drink alcohol but was no longer dependent. The following day, a nurse reviewed Mr Anthony at a secondary health screen and arranged for routine blood tests.

24. Mr Anthony's community medical records recorded that in 2004 he was reported as being alcohol-dependent. They noted that in 2004 he was diagnosed with abnormal liver function. Subsequent tests done in 2005 and 2010 confirmed this but revealed nothing more serious.

25. On 5 January 2018, a prison GP recorded that Mr Anthony's blood tests revealed mildly abnormal liver function. She arranged for repeat blood tests and checked his gamma-glutamyl transferase (GGT) level. (GGT is an enzyme found in the liver – high concentrations are indicative of liver damage). On 10 January, a prison GP noted that Mr Anthony's blood test results showed a raised CGT level. She recommended a review with a GP but there is no record of this review being performed.

26. On 6 January, a nurse reviewed Mr Anthony's diabetes and created a care plan. On 13 January, a nurse saw him in the diabetes clinic and noted that his blood sugar levels and cholesterol were normal.

27. On 11 July, a nurse noted that Mr Anthony was unwell. She added him to the nurse triage list for the following day but there is no record of him being reviewed. On 15 July, a nurse saw Mr Anthony. He said that he had not eaten for three days and had vomited 'coffee grounds' vomit twice that morning. The nurse examined him and recorded that his abdomen was swollen, with pain on the left-hand side. She noted his history of liver trouble and kidney complaints, and sent him to St Mary's Hospital, Paddington.

28. While Mr Anthony was in hospital, investigations revealed that he had liver cirrhosis (the irreversible scarring of the liver), splenomegaly (an enlarged spleen) and ascites (fluid in his abdomen). The hospital also treated Mr Anthony for oesophageal varices (abnormal enlarged veins in the oesophagus – often found in people with liver cirrhosis). On 26 July, the hospital discharged Mr Anthony back to Wormwood Scrubs, with a catheter and anticoagulation treatment for a blood clot in a blood vessel leading to his liver.

29. Following his return from hospital, Mr Anthony was immediately located in the healthcare high dependency unit at Wormwood Scrubs. Over the following weeks, nurses monitored him and provided him with a range of personal care.

Prison GPs also kept Mr Anthony under regular review, and monitored his liver disease.

30. On 23 August, a prison GP reviewed Mr Anthony. She recorded that he had an "increased abdominal girth and worsening recent blood tests". She noted that "he may be at risk of decompensating soon". (Decompensated liver cirrhosis is a deterioration in liver function increasing the risk of mortality.) She expressed her concerns to another GP. He consulted the gastro registrar at St Mary's Hospital and arranged for Mr Anthony to be admitted the following day.

31. On 24 August, Mr Anthony was sent to St Mary's Hospital. The next day, a nurse recorded that he had been diagnosed with liver cancer and had only a few weeks to live. Prison healthcare staff maintained contact with St Mary's Hospital and it was agreed that Mr Anthony should not return to prison.

32. On 8 October, Mr Anthony was transferred to St James's Care Home, where, on 21 October at 5.45am, he died.

33. The clinical reviewer concluded that overall, the care Mr Anthony received at Wormwood Scrubs was equivalent to that which he could have expected in the community. He noted that Mr Anthony was appropriately managed for his ongoing health concerns, and that healthcare staff did not miss an opportunity to diagnose his liver cancer condition sooner.

34. However, we agree with the clinical reviewer that Mr Anthony should have been reviewed in January following an abnormal blood test. We also agree that healthcare staff should have reviewed Mr Anthony sooner when he reported as being ill in July. We note that the clinical reviewer has made a recommendation covering these matters and do not repeat that here.

Post-mortem report

35. Mr Anthony did not have a post-mortem but his cause of death was recorded by the hospital as being from liver cirrhosis caused by alcohol dependency. Liver cancer and diabetes were recorded as being secondary causal factors in his death.

Restraints, security and escorts

36. 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.

37. On 15 July 2018, when Mr Anthony was taken to hospital, he was escorted by two officers and restrained with an escort chain. (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.) His escort risk assessment recorded that Mr Anthony posed an identifiable risk to children and the public due to his offending behaviour, and recorded this risk as low to medium. A prison manager noted on Mr Anthony's escort risk assessment that restraints could be removed while he was sedated, but that the escort chain must be applied as soon as he was awake.

38. On 24 August, when Mr Anthony was taken to hospital, he was escorted by two officers and restrained with an escort chain. On 28 August, a prison manager reviewed this risk assessment and noted that: "Mr Anthony has terminal cancer – risk assessed for all restraints to be removed". Mr Anthony was not restrained again.

39. We are concerned that the prison decided to restrain Mr Anthony with an escort chain when he first went to hospital. While we recognise that provisions were made to remove the restraints for treatment, we would have expected the two officers on his escort to have been able to manage any risk he posed. We note the prison's decision to review this and remove restraints, but note that the reasons given relate to his terminal diagnosis rather than mobility concerns.

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 and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

The Governor should revise the prison's escort risk assessment form to ensure that it requires:

- **healthcare staff to say whether the prisoner's current state of health has an impact on his mobility; and**
- **prison staff to show that they have taken this information into account in assessing the prisoner's current level of risk;**

and should send the Ombudsman a copy of the revised form.

Liaison with Mr Anthony's family

40. Mr Anthony's next of kin was his sister-in-law.

41. On 16 July, the Head of Safer Custody noted that Mr Anthony would like his next of kin informed that he was in hospital. A hospital doctor informed Mr Anthony's sister-in-law about his condition, and several members of his family visited the hospital. The Head of Safer Custody recorded that as the duty governor, she approved that particular visit but that the family would need to acquire further permission from the duty governor at the time for future visits.

42. On 24 July, a member of the Offender Management Unit (OMU) recorded that concerns had been raised about Mr Anthony receiving visits from family members due to his offences being against family members. She informed the Head of Safer Custody about these concerns.

43. On 27 August, the Head of Safer Custody informed Mr Anthony's sister-in-law that he had been admitted to St Mary's Hospital. She approved a visit for three adult family members for later that day. The following day, she recorded that Mr Anthony's family had been informed that he had liver cancer.

44. On 30 August, the prison appointed a family liaison officer. The same day, she introduced herself to Mr Anthony's sister-in-law in person. She remained in regular contact with Mr Anthony's sister-in-law.

45. Mr Anthony's funeral was held on 19 November. The prison contributed to the cost in line with national guidance.

46. We consider that the prison acted appropriately in its contact with Mr Anthony's family.

Compassionate release

47. 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 the Her Majesty's Prison and Probation Service (HMPPS).

48. On 27 August, a nurse recorded that Mr Anthony had only a few weeks to live. Two days later, the Head of Safer Custody asked an OMU staff member to start Mr Anthony's compassionate release process. She stated that he had liver cancer and only a limited time to live. The next day, the Head of Safer Custody asked medical staff to obtain details of Mr Anthony's condition and prognosis. On 31 August, a nurse recorded that the consultant at the hospital told her that Mr Anthony had one month to live. On 7 September, an administrator recorded that discussions had taken place with the prison to consider compassionate release.

49. On 24 September, the Head of Safer Custody emailed the OMU staff member to enquire whether she needed any further information for Mr Anthony's compassionate release application. Three days later, she emailed the OMU staff member to confirm that the medical information had been completed and that this application needed to be dealt with as a matter of urgency. On 1 October, she again emailed the OMU staff member and stated that Mr Anthony's medical condition was critical and his life expectancy was very short. She requested that this application was processed that day.

50. On 3 October, a probation officer completed the relevant section of Mr Anthony's compassionate release application form. He stated that he could not support this application because he did not feel that Mr Anthony's risk could be adequately

managed in the community or at a hospice. Two days later, OMU submitted Mr Anthony's application but he died before this could be completed.

51. We are concerned about the delay in submitting Mr Anthony's compassionate release application. Despite the Head of Safer Custody starting the process on 27 August, she was still chasing this up into October. While we accept that on 3 October, Mr Anthony's probation officer indicated that he would not support this application, we find that the application process was not conducted with sufficient urgency.

The Governor should ensure that appropriate priority is given to dealing with applications for compassionate release for terminally ill prisoners and that they are submitted without delay

Prisons & Probation
Ombudsman
Independent Investigations

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