Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Jan Polak a prisoner at HMP Swaleside on 3 November 2018

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 Jan Polak died of in hospital of bibasal bronchopneumonia (a lung infection) on 3 November 2018 while a prisoner at HMP Swaleside. He was 63 years old. I offer my condolences to his family and friends.

Although the clinical reviewer found that the general standard of healthcare that Mr Polak received during his time at Swaleside was satisfactory, she concluded that there were a number of deficiencies in Mr Polak's care, particularly that healthcare staff did not check on him when he was in hospital or when he returned from hospital and that their record keeping about their contact with Mr Polak was extremely poor.

I am particularly concerned that healthcare staff did not record or monitor the rapid and significant deterioration in Mr Polak's mental and physical health throughout September 2018. Prison staff, psychology staff and other prisoners all told my investigator that, although they repeatedly expressed concerns about Mr Polak's health, healthcare staff seemed to be unconcerned and were insufficiently proactive. This degree of concern is unusual in our experience.

I note that we have expressed concerns about aspects of healthcare at Swaleside in our investigations into four previous deaths from natural causes since June 2017 and I draw this worrying situation to the attention of the Director for the Long-Term and High Security Estate.

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
Prisons and Probation Ombudsman **June 2019**

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Summary

Events

1. In February 2017, Mr Jan Polak was sentenced to seventeen years in prison for drugs offences. He arrived at HMP Swaleside on 31 October 2017. He had a significant medical history of nasal problems, high blood pressure, high cholesterol, depression, prostate problems and kidney stones, and he had had a heart attack in 2009.

2. Mr Polak complained to prison GPs about prostate problems, gallstones and nasal problems. They referred him to hospital specialists, who investigated the issues.

3. On 20 July 2018, Mr Polak had surgery on his nose. He subsequently complained of pain and was worried about a possible infection. On 23 July, a prison GP reviewed him and prescribed him pain relief medication. On 27 July, the GP saw Mr Polak again, noted that he had pain and inflammation and prescribed antibiotics. On 20 August, Mr Polak told the GP that his sinus pain had significantly reduced and he felt better.

4. Throughout September, prison staff, psychology staff and other prisoners expressed concern about a significant deterioration in Mr Polak's mental and physical health and his ability to concentrate and communicate after his nose surgery.

5. On 12 September, a GP made an urgent referral for a hospital appointment after Mr Polak complained of blood in his bowel motions.

6. On 17 September, a prison GP examined Mr Polak as wing staff were concerned that he looked "unwell" and had been losing weight. The GP noted that he had already referred Mr Polak urgently to hospital for his rectal bleeding.

7. On 18 September, the GP examined Mr Polak again after wing staff called a code blue medical emergency. He noted that Mr Polak was unsteady on his feet, was short of breath, was less communicative and had stopped eating. He arranged for Mr Polak to go to hospital.

8. On 20 September, Mr Polak was discharged back to prison. There was no discharge letter from the hospital but wing staff were told that Mr Polak may have had a stroke. They continued to express concern that Mr Polak's health was still deteriorating.

9. On 26 September, the senior forensic psychologist at Swaleside saw Mr Polak. She was concerned that he showed signs of losing concentration and his memory, that he was shaking quite a lot and had difficulty communicating. She spoke to a GP to express her concerns. As a result, Mr Polak was examined and sent to hospital as it was suspected that he might have had a stroke.

10. Mr Polak remained in hospital where his condition deteriorated. He died in hospital of pneumonia on 3 November 2018.

Findings

11. The evidence suggests that Mr Polak was a fit, very active and sociable man, but that a few weeks after his nose surgery he started to become withdrawn and unsteady on his feet and had increasing difficulties in communicating even in Polish (his first language). We cannot say whether the deterioration in Mr Polak's health was connected to his nose surgery or had some other cause.

12. Our investigation found that a number of prison officers, psychology staff and prisoners were concerned about the healthcare Mr Polak received before his death. They said that he had difficulty accessing healthcare and his medication and that nurses did not recognise or respond to the rapid deterioration in his mental and physical health. The degree of concern expressed to the investigator and the consensus between different groups is unusual in our experience.

13. The clinical reviewer concluded, however, that Mr Polak's care at Swaleside was of a satisfactory standard and that his general care was equivalent to that which he could have expected to receive in the community. She was satisfied that Mr Polak was seen very regularly by medical staff and assessed urgently when required and that healthcare staff appropriately referred him to hospital when necessary.

14. The clinical reviewer found, however, that Mr Polak's care fell short of expected standards in some respects in that prison nurses failed to communicate effectively with hospital staff after Mr Polak's admission to hospital from 18 to 20 September, and again when he was admitted to hospital for the last six weeks of his life.

15. We are also concerned that healthcare staff often failed to record their contacts with Mr Polak and did not record or monitor his rapidly deteriorating health.

16. It appears that Mr Polak only saw a GP six weeks before his death after the direct intervention of a senior psychologist. This very unusual intervention led directly to Mr Polak's admission to hospital as an emergency.

17. National instructions require prisons to provide us with unfettered access to documents during our investigation into a death in custody. Healthcare staff failed to provide us with a copy of their analysis of the root cause of Mr Polak's death.

18. This is the fifth investigation since June 2017 in which we have expressed concern about aspects of healthcare at Swaleside and we draw this to the attention of the Director for the Long-Term and High Security Estate.

Recommendations

- The Head of Healthcare should ensure that healthcare staff record any interventions in a prisoner's medical record in line with the Nursing and Midwifery Council's guidance on record keeping.
- The Head of Healthcare should ensure that when a prisoner has been admitted to hospital, healthcare staff:
    - check on their welfare with hospital staff; and

- record any interventions in a prisoner's medical record to enable continuity of care when they return to prison in line with the Nursing and Midwifery Council's guidance for record keeping.

- The Head of Healthcare should ensure that when a prisoner returns from hospital, healthcare staff:
  - check that the hospital has provided a discharge report with details of the care the prisoner needs;
  - request a discharge summary immediately if one is not provided;
  - implement any action recommended in the discharge report so that the prisoner receives appropriate care; and
  - assess and monitor the prisoner after his return where appropriate.
- The Head of Healthcare should ensure that when the PPO requests documents, healthcare staff provide them promptly in line with PSI 58/2010.
- The Governor and the Director of the Long-Term and High Security Estate should:
  - review the provision of healthcare at Swaleside, together with NHS England, and satisfy themselves that it is fit for purpose;
  - inform the Ombudsman of the outcome.

The Investigation Process

19. 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. Eighteen prisoners responded.

20. The investigator visited HMP Swaleside on 14 November 2018. She obtained copies of relevant extracts from Mr Polak's prison and medical records.

21. The investigator interviewed three members of staff by telephone on 10 December 2018, and 20 and 21 March 2019. On 11 December, she interviewed three members of staff and five prisoners (representing the eighteen prisoners who had contacted her) at Swaleside.

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

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

24. The investigator contacted Mr Polak's wife to explain the investigation and to ask if she had any matters she wanted us to consider. She did not respond.

25. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS raised a number of issues that do not impact on the factual accuracy of this report and have been addressed through separate correspondence.

Background Information

HMP Swaleside

26. 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. IC24 Integrated Care provides primary healthcare at Swaleside. There is 24-hour nursing cover, which includes a qualified nurse and a healthcare assistant at night. Minster Medical Group provides GP cover from 9.00am to 5.00pm from Monday to Friday, while Medoc provides an out of hours GP service.

HM Inspectorate of Prisons

27. The most recent inspection of HMP Swaleside was conducted in April 2016. Inspectors reported that only 15% of prisoners were satisfied with healthcare provision. They noted that prisoners had access to an appropriate range of primary care services and visiting specialists but not all clinics which dealt with long-term conditions ran regularly because staffing was inconsistent.

Independent Monitoring Board

28. 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 30 April 2018, the IMB reported that although the prison was fully staffed, many staff members were young and inexperienced which caused issues with the control and discipline of prisoners. The IMB continued to receive complaints about the quality of the healthcare treatment and waiting times for healthcare services.

Previous deaths at HMP Swaleside

29. Mr Polak was the fourteenth prisoner to die at Swaleside since November 2015, and the seventh to die from natural causes. There have been three deaths since, one was self-inflicted death and two are still under investigation.

30. In our investigations into four of the previous natural causes deaths since June 2017, we have found that aspects of healthcare were not equivalent to that expected in the community.

Key Events

31. On 3 February 2017, Mr Jan Polak was sentenced to seventeen years in prison for drug offences and sent to HMP Belmarsh. After spending time at other prisons, he was transferred to HMP Swaleside on 31 October 2017.

32. He was located in the Progression Unit which aims "to assist offenders to live successfully in the community, maintaining their own and others' safety and a reasonable level of psychological, social and physical well-being". Prisoners in the unit are offered psychological support to enable them "to progress safely to the community with a reduced risk of re-offending and improved psychological health and well-being".

33. Mr Polak had a history of nasal problems, high blood pressure, high cholesterol, depression, an enlarged prostate and kidney stones, and had had a heart attack in 2009. When he arrived at Swaleside, Mr Polak told a nurse that he had an outstanding hospital appointment to investigate prostate problems. A nurse made an appointment for a prison GP to review Mr Polak.

34. On 13 November, a prison GP completed the review. Mr Polak told him that as he had moved prisons, he needed to reschedule his hospital appointment for prostate problems and that he had had persistent nasal problems for several years. The prison GP arranged blood tests and for Mr Polak to see the hospital urology department (to investigate his prostate problems) and the ear, nose and throat department (to investigate his nasal problems).

35. The blood test results showed that Mr Polak had raised cholesterol levels. A prison GP discussed this with him on 8 December. He prescribed statins to lower his cholesterol levels and a steroid nasal spray. He noted that Mr Polak's hospital referrals were outstanding.

2018

36. On 5 February 2018, Mr Polak told a nurse that he had circulation problems in his ankle and lower legs. She referred him to a prison GP. A prison GP reviewed Mr Polak on 8 February and arranged for blood tests to check for any signs of heart or kidney failure to explain his symptoms.

37. A prison GP reviewed the blood test results and noted that Mr Polak had normal kidney and liver function and that his immune system was normal. Mr Polak requested an ultrasound scan for his legs, and the prison GP agreed to arrange this. The ultrasound scan was completed on 19 April and showed a single gallstone in his gallbladder and that he had an enlarged prostate.

38. On 24 April, Mr Polak attended a urology appointment at a hospital, where he had several tests. On 30 April, the hospital consultant reviewed all the test results and diagnosed benign prostatic hyperplasia (a non-cancerous enlarged prostate). The consultant also suggested that Mr Polak's leg swelling was caused by his blood pressure medication, which was changed. The hospital consultant referred Mr Polak for surgery to remove his gallstone. A prison GP subsequently completed a review and noted that Mr Polak was waiting for the hospital to review his gallstone issue.

39. On 26 May, Mr Polak told a nurse that he had a lump and pain in his abdomen. She made an appointment for a GP to review him. A prison GP completed the review and noted that Mr Polak should attend the accident and emergency department at hospital for further assessment as he suspected that he had a gallbladder infection. There is no record in Mr Polak's medical notes of whether he went to A&E or of what happened there.

40. The hospital urologist reviewed Mr Polak on 4 June and told him that his level of prostate-specific antigen (a protein produced by cells in the prostate) was in the normal range. Mr Polak was told that no further action would be taken and that surgeons would be in touch with him about his gallbladder.

41. Mr Polak complained to a prison GP on 3 July that he still had gallstone pain. He noted that Mr Polak was waiting for a hospital appointment to investigate his gallbladder issues.

The nose surgery in July 2018

42. Mr Polak had long-standing breathing difficulties caused by a misaligned septum. On 20 July, he had day surgery in hospital to correct it and was discharged back to prison later that day. On 22 July, a healthcare assistant noted that he had given Mr Polak paracetamol to ease his nose pain and headache after his operation.

43. On 23 July, a prison GP saw Mr Polak as he was complaining of pain after his nose surgery. He prescribed him pain relief medication. There is nothing in Mr Polak's medical records to suggest he had an infection.

44. On 27 July, Mr Polak told a prison GP that he had pain, redness, inflammation and a thick nasal discharge. He was concerned that Mr Polak had an infection. He checked his observations and noted that they were all in the normal range. He prescribed Mr Polak antibiotics for seven days.

45. A Polish-speaking prison officer who was Mr Polak's key worker, told the investigator that Mr Polak was a very pleasant, helpful and polite prisoner with a positive attitude. He said that a few days after he returned from hospital, Mr Polak became concerned that his nose was not improving and said that, although the hospital said he would have antibiotics after he was discharged, he had not received any. The officer said that Mr Polak had put in applications for a healthcare appointment as he thought he had an infection. When he did not receive a response, the officer said he understood that a Supervising Officer (SO) booked Mr Polak a 'special sick' appointment, meaning he would bypass the applications process and be seen that day. There is no record of this and it is not clear whether this led to the doctor's appointment on 23 or 27 July.

46. An officer who worked on Mr Polak's wing, told the investigator that he often spoke in Polish to Mr Polak. He said that Mr Polak was talkative and active around the wing as he was a wing cleaner. He said that after his nose surgery in July, Mr Polak was prescribed antibiotics and painkillers when he left hospital but before he was allowed to take them, he had to see a prison GP to check that the medication was appropriate and that he could keep them in his cell and

administer them himself. The Officer said that Mr Polak was issued with the antibiotics a week or two later.

47. A Polish-speaking assistant psychologist, told the investigator that she knew Mr Polak quite well as she saw him regularly as part of her work in the Progression Unit and he also worked as the Psychology Department orderly. She said he was a very friendly man who worked hard and tried to support other prisoners.

48. The assistant psychologist told the investigator that for the first few days after his nose surgery, Mr Polak seemed fine, but then he began to complain about headaches and feeling very weak and dizzy. She said that he tried unsuccessfully to get a healthcare appointment through the application process and then one of the officers helped him and he saw a triage nurse who arranged for him to see a doctor. He told her that the doctor said they did not have the antibiotics he needed. She said that because Mr Polak's English was not good she helped him to submit a formal complaint about his treatment by healthcare.

49. She said that she understood that while she was away on annual leave, an officer arranged for him to see the doctor again and this time he was prescribed antibiotics.

50. An acting SO told the investigator that Mr Polak liked to keep busy and was very particular about his work as a wing orderly. Mr Polak seemed to have an infection after his nose surgery which went on for some time and said he was not given the right antibiotics afterwards.

51. On 6 August, Mr Polak told a prison GP that he had pain from the gallstones and he wanted more antibiotics as his nose was still painful. He referred him to surgeons at the hospital and prescribed a further course of antibiotics. On 20 August, Mr Polak told a prison GP that his sinus pain had significantly reduced and he felt better. The prison GP noted that they were still waiting for the hospital appointment to investigate his gallbladder issues.

52. On 22 August, Mr Polak was seen by a nurse after complaining of blood in his bowel motions. An appointment was made for him to see the GP.

Events from September 2018

53. On 12 September, a prison GP examined Mr Polak about the blood in his bowel motions. He referred him to hospital under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks.

54. On 13 September, the assistant psychologist recorded in Mr Polak's prison record that he was complaining of problems with his physical health and was struggling to get an appointment with healthcare. She noted that he said he had problems with memory and concentration and his hands were shaking. He told her he thought that the infection he had after his nose surgery had not been treated properly and that this had led to his current problems. He said he felt he had been let down by the doctors.

55. The assistant psychologist said that when she returned from leave, Mr Polak was very poorly: he struggled with talking and communication, he stopped recognising people's faces and he had become a different man.

56. The acting SO told the investigator that although Mr Polak's nose infection seemed to clear up after a few weeks, Mr Polak's health deteriorated. He was no longer active, he needed to rest and he was slurring his words. The acting SO said that nurses visited Mr Polak on the wing but said they had no concerns. The officers, however, were concerned and insisted Mr Polak was not 'right'. By September Mr Polak had become confused with his words as though he had forgotten how to speak. He said that about six weeks after the nose operation – he could not remember the date - he went to the healthcare department and told a nurse about his concerns and that Mr Polak needed a healthcare appointment. He said that they checked the appointment list and found that Mr Polak was scheduled to see a GP the next day.

57. An officer told the investigator that in September, he noticed that Mr Polak's speech was deteriorating. He described him as confused and noted that he had difficulty speaking his first language (Polish) and was unsteady on his feet. He said that Mr Polak had difficulties in getting a healthcare appointment and that staff tried to obtain help from the healthcare team. He said that when the GP saw Mr Polak, he said there was nothing wrong. The following day he radioed a medical emergency code blue (to indicate a prisoner with breathing difficulties) and Mr Polak was then taken to hospital.

58. On 17 September, a prison GP noted that he had examined Mr Polak as wing staff were concerned about his appearance as he looked "unwell" and had been losing weight. He confirmed that an urgent hospital referral for suspected cancer had been completed and planned to wait for that.

59. Mr Polak's medical records say that on 18 September, Mr Polak complained of shortness of breath and wing staff called a code blue emergency. A prison GP examined Mr Polak again and noted that Mr Polak appeared acutely unwell: he had chest pains, was unsteady on his feet, was short of breath, was less communicative and had stopped eating. He arranged for Mr Polak to go to hospital that day by ambulance, where he had a CT scan (which was normal), he was diagnosed as having a gallstone and it was established that his prostate was still enlarged.

60. The Polish-speaking assistant psychologist gave the investigator her account of events on 18 September. She said that Mr Polak had continued to deteriorate day by day and the other prisoners kept telling wing staff that they needed to do something. She said that on 18 September, wing staff called a code blue to ensure healthcare staff saw him. She said a nurse and another nurse came. The nurse said that Mr Polak was pretending to be ill or had taken Spice (a psychoactive substance).

61. The assistant psychologist said she was upset by the nurse's attitude and she insisted that Mr Polak be taken to healthcare. He was taken by wheelchair and she went as a translator. She said that a nurse took his temperature and blood pressure and did an ECG and then he was seen by a doctor. The doctor initially suggested Mr Polak had taken Spice but she insisted that was not the case. The doctor agreed to send Mr Polak to hospital.

62. An officer said that he saw Mr Polak in Reception as he was going to hospital on 18 September. He said that Mr Polak's condition had been deteriorating before this: his understanding was limited and he had difficulty expressing himself in Polish as well as English. He said he had asked Mr Polak if he was using drugs and he had denied it.

63. The acting SO said he and an officer went to the hospital with Mr Polak as the escort officers. Mr Polak was very confused. When a hospital nurse asked Mr Polak where he was, he did not seem to know and could only say he was in a room.

64. Hospital staff discharged Mr Polak back to prison on 20 September. Although the hospital discharge letter is dated 20 September, it was apparently not received at the prison. Healthcare staff did not chase this up until 26 September when the hospital emailed them the discharge summary (which said that prison GPs should monitor his prostate). (The discharge summary is date stamped as having been received by the prison on 10 October.)

65. Entries in the wing observation book on 21 September noted that Mr Polak had returned from hospital after inconclusive investigations into a suspected stroke and that prisoners on the wing had expressed concerns about his deterioration and the fact that it seemed he could no longer speak English. There are no medical records about concerns about a stroke at this time or about the outcome of Mr Polak's hospital admission.

66. There is also an entry in the wing observation book on 22 September saying that prison staff had asked for a member of healthcare staff to visit Mr Polak as they were concerned about him. A nurse attended and told staff that Mr Polak's symptoms might be psychological rather than physical and that he would check the hospital discharge summary for information. There is no record of this visit in Mr Polak's medical records. There is no evidence that the nurse looked for the hospital discharge summary.

67. The acting SO told the investigator that healthcare staff had visited Mr Polak on the wing but after checking him, they had always said that they were not concerned. However, officers had insisted that he was unwell and was deteriorating and they persisted in trying to get healthcare to see him.

68. An officer said that Mr Polak continued to deteriorate and staff collected his meals for him.

69. Prisoners who lived in Mr Polak's unit told the investigator that his health deteriorated after his nose surgery and that he had stopped communicating and eating and became quiet and withdrawn. They said that there were delays in him receiving pain relief and antibiotics. They said that nurses had visited Mr Polak in his cell but they were unable to recall the nurses' names. They also said that the nurses visiting Mr Polak were insensitive and showed a lack of duty of care.

70. On 26 September, a note in Mr Polak's prison records says that other prisoners were expressing concern about Mr Polak because he was not able to communicate and was making childlike gestures.

71. The senior forensic psychologist at Swaleside, told the investigator that she knew Mr Polak quite well and probably spoke to him in passing at least once a week. She and her staff were concerned about his health and wellbeing after his nose surgery. She said that he showed signs of his concentration and memory deteriorating, he was shaking quite a lot and had difficulty communicating. He was clearly frustrated, confused and scared about his situation.

72. After Mr Polak went to hospital on 18 September, one of the wing staff told her that it was thought he might have had a stroke, but she and her staff were concerned that there was no discharge information from the hospital when he returned to prison and that, if anything, he seemed to be getting worse.

73. The senior forensic psychologist said that on 26 September, she was so concerned after seeing Mr Polak that she and the unit psychiatrist went to the healthcare department and spoke to a GP. The GP said that there was no discharge information and was concerned by what they said. She asked for Mr Polak to be brought to healthcare and the senior forensic psychologist arranged this. Mr Polak was examined and he was sent to hospital as it was suspected that he might have had a stroke.

74. The escort risk assessment noted that although Mr Polak's risk to hospital staff and risk of escape were low, his risk to the public was medium. The medical assessment noted that there were no medical objections to the use of restraints. Having completed an escort risk assessment, two officers escorted him and restrained him using an escort chain (a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer).

75. Mr Polak remained in hospital. An officer said that he was a bed watch officer on two occasions. On the first occasion, Mr Polak was still walking and talking, but he could not make himself understood even though they were speaking Polish. The officer and the acting SO were also bedwatch officers when Mr Polak was in hospital. They said that when they saw Mr Polak, he could not speak coherently.

76. The bedwatch logs noted that a number of prison managers visited Mr Polak in hospital and regularly reviewed the use of restraints. Prison managers authorised the removal of restraints on 12 October as Mr Polak was now immobile.

77. There is no record of any healthcare staff checking on Mr Polak in hospital until 26 October, when a nurse rang the prison bedwatch staff for an update. They told her that there was no change in his condition.

78. On 2 November, there is a note in Mr Polak's medical record to say that the Family Liaison Officer at the hospital had reported that Mr Polak was on end of life care and a "Do Not Attempt Resuscitation" Form had been completed by the hospital.

79. Mr Polak died in hospital on 3 November 2018.

Contact with Mr Polak's family

80. An officer, told the investigator that when Mr Polak was first taken to hospital, the prison tried to contact his partner in England who he had named as his next of

kin. He rang her number unsuccessfully on a number of occasions. He then contacted her daughter and told her that Mr Polak was in hospital and left the prison contact details if they wanted to get in touch. (There is no record that they did so.)

81. The officer said that he knew Mr Polak had a wife in Poland and tried to find contact details for her. Eventually he obtained the contact details of a cousin in Poland who provided the number for Mr Polak's wife. By this time, Mr Polak was on a life support machine in hospital.

82. On 1 November, the officer telephoned Mr Polak's wife in Poland and told her that Mr Polak was seriously ill in hospital.

83. On 3 November, the prison appointed a prison manager, as their family liaison officer (FLO). With help from the officer acting as an interpreter, the FLO telephoned Mr Polak's wife to tell her that he had died and to offer condolences and support.

84. Mr Polak's funeral was held on 17 January 2019. The prison arranged the funeral, and contributed to its costs in line with national policy. The prison also arranged for Mr Polak's ashes to be sent to his family in Poland.

Support for prisoners and staff

85. After Mr Polak's death, the duty prison manager debriefed the bedwatch staff to ensure that they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support.

86. The prison posted notices informing other prisoners of Mr Polak's death, and offering support. Staff reviewed all prisoners assessed as being at risk of suicide or self-harm in case they had been adversely affected by Mr Polak's death.

Post-mortem report

87. The pathologist noted that Mr. Polak had been admitted to hospital suffering non-specific neurological symptoms. Imaging of his brain revealed no abnormalities. He was treated for a chest infection but he continued to deteriorate and the medical team felt there was no immediately obvious cause of death.

88. The post-mortem examination found that the cause of death was bibasal bronchopneumonia.

Significant Untoward Incident report

89. The investigator was told that a Significant Untoward Incident investigation was conducted by the prison medical team 72 hours after Mr Polak's death. Her attempts to obtain a copy of the report have been unsuccessful.

Findings

Clinical care

90. The clinical reviewer concluded that much of the care that Mr Polak received at Swaleside was of a satisfactory standard and found that his general care was equivalent to that which he could have expected to receive in the community. She found that Mr Polak had good access to all medical primary care staff. He was assessed regularly and promptly by nurses and GPs.

91. The clinical reviewer said that, although some of Mr Polak's fellow prisoners and the assistant psychologist had concerns about his access to healthcare at the prison, a thorough review of the medical notes, specifically addressing times and dates as well as the clinical record, showed that Mr Polak was seen very regularly by medical staff and assessed urgently when required and that healthcare staff appropriately referred him to hospital when necessary.

92. However, the clinical reviewer found that the lack of communication between prison healthcare staff and the hospital after Mr Polak's hospital appointments, and when he was admitted to hospital for six weeks before his death, fell short of expected standards of care.

Record keeping

93. The Nursing and Midwifery Council's guidance (NMC 2002c) requires effective record keeping to ensure that medication is properly prescribed and treatment properly administered. The guidance requires that records are written up at the same time or as close to events as possible.

94. We are concerned that not all clinical interventions with Mr Polak were recorded promptly in his medical records and in some cases, there is no record at all.

95. For example, Mr Polak's prison records note occasions when nurses visited him in his cell but there is no reference to these visits in his medical records. Wing staff also said that they expressed concern to healthcare staff about the rapid deterioration in Mr Polak's mental and physical health in September, but there is no mention of this in his medical records or the symptoms wing staff were concerned about, other than a note that Mr Polak saw a doctor on 17 September because wing staff were concerned that he was 'unwell' and had lost weight.

96. Even on the day that Mr Polak died, there are no entries in his medical record. This was not updated until two days after his death.

97. When Mr Polak had hospital treatment, there were a number of times when healthcare staff failed to check with the hospital what care Mr Polak had received and what care he required. For example, it is unclear if Mr Polak attended a scheduled hospital appointment on 29 May 2018 as no one from the healthcare team checked what happened, either to chase a missed appointment or to obtain a discharge summary.

98. We also note that Mr Polak left the prison on 20 July for nose surgery but there is no record of this in his medical record until 22 July. There is also no record that healthcare staff reviewed him when he returned or monitored him subsequently.

Mr Polak told staff and prisoners that he should have been prescribed antibiotics when he returned from hospital but the prison did not have the right ones available. There is no record of this in his medical records and he was not prescribed antibiotics until a week after his operation.

99. Again, on 18 September, Mr Polak returned from hospital without a discharge summary. There is no evidence that healthcare staff reviewed him when he returned or checked what treatment he had received or what care he needed. Wing staff were told that he may have had a stroke, but there is no record of this in his medical records.

100. In addition, we found that after Mr Polak was admitted to hospital on 26 September, healthcare staff did not contact hospital staff for any updates on Mr Polak's condition until 26 October, four weeks after his admission, and then only checked with the prison staff who escorted him.

101. We make the following recommendations:

- **The Head of Healthcare should ensure that healthcare staff record any interventions in a prisoner's medical record in line with the Nursing and Midwifery Council's guidance on record keeping.**
- **The Head of Healthcare should ensure that when a prisoner has been admitted to hospital, healthcare staff:**
    - **check on their welfare with hospital staff; and**
    - **record any interventions in a prisoner's medical record to enable continuity of care when they return to prison in line with the Nursing and Midwifery Council's guidance for record keeping.**
- **The Head of Healthcare should ensure that when a prisoner returns from hospital, healthcare staff:**
    - **check that the hospital has provided a discharge report with details of the care the prisoner needs;**
    - **request a discharge summary immediately if one is not provided;**
    - **implement any action recommended in the discharge report so that the prisoner receives appropriate care; and**
    - **assess and monitor the prisoner after his return where appropriate.**

Concerns expressed by staff and prisoners

102. Although the clinical reviewer's expert opinion is that Mr Polak had good access to all medical primary care staff and was assessed regularly and promptly by nurses and GPs, we note that a number of prison staff, psychology staff and other prisoners expressed concerns about Mr Polak's healthcare to a degree that is unusual in our experience.

103. Prisoners who lived in Mr Polak's unit told the investigator that they were very upset about what they considered the lack of care he received from healthcare staff and felt that more should have been done sooner. Eighteen prisoners expressed concerns, and we interviewed five of them, representing the wider group. They considered that healthcare staff failed to monitor Mr Polak after his nose surgery, they said that there were delays in him receiving his medication (although there is no evidence to substantiate this) and that opportunities to send him to hospital earlier were missed.

104. The wing observation book records concerns prisoners raised at the time about nurses visiting Mr Polak on the wing, and allegations that they had made at the time about the nurses' insensitivity towards him and a lack of duty of care from the healthcare staff.

105. Both prison and psychology staff at Swaleside also told us that they were concerned that the rapid and worrying deterioration in Mr Polak's mental and physical condition from September onwards was not recognised or treated with sufficient seriousness by healthcare staff. We were also told that wing staff had to intervene to get Mr Polak a healthcare appointment in July, that he was only seen by a GP on 17 September at the request of wing staff, that they called a code blue medical emergency on 18 September to ensure that healthcare staff saw him, and that they asked healthcare staff to see him on the wing later in September because they were so concerned about him. We were told that when nurses did see Mr Polak, they did not take staff concerns seriously or suggested Mr Polak's problems were drug-related.

106. There is no evidence in Mr Polak's medical record to corroborate concerns about the difficulties of getting healthcare appointments or about the behaviour and attitude of nurses who saw Mr Polak, because there are no entries about any nurses visiting Mr Polak in his cell and no records of unsuccessful attempts to get healthcare appointments. There is no way of resolving the conflicting accounts as there are no records to show what happened. We note, however, that on 26 September, the lead psychologist and the unit psychiatrist took the very unusual step of approaching a GP directly to express their worries about the deterioration in Mr Polak's health, which suggests they did not consider that his health problems had been recognised sufficiently by healthcare staff.

107. All those who expressed concerns to us said that Mr Polak's health deteriorated after his nose surgery in July 2018, and some thought it was linked to the infection he suffered after his surgery. Although there were some suggestions that Mr Polak might have had a stroke in September, the reason for the significant deterioration in his health in September was never formally diagnosed. We cannot, therefore, say whether there was any connection with his nose surgery or whether the cause was something else altogether. Nor can we say whether a more proactive approach by healthcare staff might have prevented Mr Polak's death.

108. We note, however, that within little more than a month Mr Polak went from being a very active and sociable man to someone who struggled to communicate, remember things or walk properly. We are very concerned that this rapid and significant deterioration is not recorded in his medical records and that there is no

evidence that healthcare staff monitored the deterioration or took any proactive action themselves.

109. We note that this is the fifth investigation into a natural causes death at Swaleside since June 2017 in which we have expressed concern about aspects of healthcare at the prison. We also note that both HMIP and the IMB have expressed concerns about healthcare at Swaleside. We, therefore, recommend:

The Governor and the Director of the Long-Term and High Security Estate should;

- **review the provision of healthcare at Swaleside, together with NHS England, and satisfy themselves that it is fit for purpose; and**
- **inform the Ombudsman of the outcome.**

Access to information

110. PSI 58/2010 on the Prisons and Probation Ombudsman (paragraph 1.9) is clear that we should have unfettered access to documents during an investigation into a death in custody. Although the investigator asked for a copy of the healthcare quality lead's root cause analysis, which should have been completed within 72 hours of Mr Polak's death, healthcare staff have still not given us a copy despite an assurance that they would do so. We make the following recommendation:

The Head of Healthcare should ensure that when the PPO requests documents, healthcare staff provide them promptly in line with PSI 58/2010.

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