

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Royston Jackson a prisoner at HMP Whitemoor on 10 March 2019

A report by the Prisons and Probation Ombudsman

Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*

Respectful: *we are considerate and courteous*

Inclusive: *we value diversity*

Dedicated: *we are determined and focused*

Fair: *we are honest and act with integrity*



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The Prisons and Probation Ombudsman aims to make a significant contribution to safer, fairer custody and community supervision. One of the most important ways in which we work towards that aim is by carrying out **independent** investigations into deaths, due to any cause, of prisoners, young people in detention, residents of approved premises and detainees in immigration centres.

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 Royston Jackson died on 10 March 2019, of oesophageal (throat) cancer while a prisoner at HMP Whitemoor. He was 52 years old. I offer my condolences to Mr Jackson's family and friends.

I am satisfied that the care Mr Jackson received at HMP Whitemoor was equivalent to that which he could have expected to receive in the community.

However, I am concerned that Mr Jackson was able to stockpile controlled medication and take an overdose in March 2019. Although this did not impact on Mr Jackson's death, the administration of controlled medication should be strictly controlled and it should not have been possible for Mr Jackson to stockpile it. The Head of Healthcare must ensure that staff properly supervise the distribution and taking of controlled medication.

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

September 2019

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Summary

Events

1. Mr Royston Jackson was serving a whole life tariff for a second murder and had been at HMP Whitemoor since 16 January 2017.
2. On 7 February 2018, Mr Jackson was diagnosed with oesophageal (throat) cancer. Between April and June, Mr Jackson had three rounds of chemotherapy.
3. On 10 July, Mr Jackson had surgery to remove part of his oesophagus and had a feeding tube inserted. Although the surgery was successful, he did not respond to the chemotherapy, which meant that there was a high likelihood of the cancer returning.
4. Mr Jackson's condition remained stable until November, when he complained of abdominal pain. Tests showed that the throat cancer had returned and had spread to his liver and abdominal lining. Mr Jackson's condition was now life limiting.
5. On 2 January 2019, a referral was made for specialist palliative support for Mr Jackson. On 11 January, a consultant reviewed Mr Jackson and concluded that he was now at end of life care.
6. On 1 March, Mr Jackson told a prison officer that he had taken an overdose of his pain relief medication. An ambulance was called and he was taken to hospital. Mr Jackson was discharged from hospital the same day, after his medication was reviewed to keep his pain under control.
7. On 7 March, Mr Jackson was transferred to Thorpe Hall hospice.
8. At 5.05pm, on 10 March, it was confirmed that Mr Jackson had died.
9. The coroner gave Mr Jackson's cause of death as oesophageal cancer.

Findings

10. The clinical reviewer concluded that the care Mr Jackson received at Whitemoor was equivalent to that which he could have expected to receive in the community. We agree. However, the clinical reviewer found some areas where healthcare practice could be improved.
11. In March 2019, Mr Jackson took an overdose of his pain medication. He told staff he had been hiding some of his medication for 'a long time'. The medication, oxycodone, is a controlled drug and staff should have witnessed Mr Jackson taking it. It should not have been possible for Mr Jackson to be able to hide his medication and take an overdose of eight tablets.
12. Healthcare staff considered starting suicide and self-harm prevention procedures known as ACCT after Mr Jackson took an overdose of his medication, but they decided not to open an ACCT. There is no written record of the discussion about opening an ACCT and staff's subsequent decision not to.

Recommendations

- The Head of Healthcare should ensure that staff are aware of and adhere to the guidelines in NICE guidance Controlled Drugs: Safe Use and Management, to ensure that staff:
 - are present during the administration of controlled drugs; and
 - witness controlled medication being taken by the patient, in order to prevent a patient stockpiling controlled medication.
- The Head of Healthcare should ensure that all healthcare staff follow professional guidance for record keeping, including making clear, prompt and accurate entries in medical records, which reflect all major decisions and care plans.

The Investigation Process

13. The investigator issued notices to staff and prisoners at HMP Whitemoor informing them of the investigation and asking anyone with relevant information to contact her. No one responded.
14. The investigator obtained copies of relevant extracts from Mr Jackson's prison and medical records.
15. NHS England commissioned a clinical reviewer to review Mr Jackson's clinical care at the prison.
16. We informed HM Coroner for Cambridgeshire of the investigation. The coroner gave us the cause of death. There was no post-mortem examination. We have sent the coroner a copy of this report.
17. We contacted Mr Jackson's brother, to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He did not respond to our letter.
18. We shared our initial report with HM Prison and Probation Service (HMPPS). They identified two minor factual inaccuracies which have been amended in this report. They provided an action plan which is annexed to this report.

Background Information

HMP Whitemoor

19. HMP Whitemoor is a high security prison, which holds around 450 men serving long sentences. Northamptonshire Healthcare NHS Foundation Trust provide healthcare services.

HM Inspectorate of Prisons

20. The most recent inspection of HMP Whitemoor was in March 2017. Inspectors reported that there was good continuity of care provided by GP services, but found issues with the administration of prescription medications, including administration time not lasting long enough for all the medication to be administered.
21. Relationships between staff and prisoners were good and observations during the inspection indicated that many staff knew about the personal circumstances of the prisoners in their care.

Independent Monitoring Board

22. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. In its latest annual report, for the year to 31 May 2018, the IMB reported that Whitemoor is generally well managed and safer than many other prisons.
23. The IMB also reported that staff shortages were affecting the administration of prescription drugs. Prisoners had to choose between missing their medication, or risk being locked up when they should be at work or education because they were too late to join general movement.

Previous deaths at HMP Whitemoor

24. Mr Jackson was the third prisoner to die at HMP Whitemoor in the last two years. One of the other prisoners died from natural causes and one from a drug-related death. There are no similarities with those deaths.

Findings

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

25. Mr Jackson was serving a whole life tariff for a second murder and had been at HMP Whitemoor since 16 January 2017.
26. A nurse started Mr Jackson's reception screening but recorded that she could not complete it because she had to start the medication round. She told him that his prescription for pregabalin (used for anxiety, epilepsy and nerve pain) would be ready the next day, when his full transfer reception screening would be completed.
27. On 17 January, a nurse completed the full screening. Mr Jackson complained of back pain, anxiety and low mood. He said his anxiety had increased because of his transfer to Whitemoor. The nurse referred him to the mental health team for support and ensured his pregabalin prescription was ready.
28. On 20 January, a nurse completed a second stage health screening.
29. On 3 December, a nurse reviewed Mr Jackson because he said he had difficulty swallowing for the last four weeks. The nurse told Mr Jackson he should be reviewed by a GP but Mr Jackson refused because he was worried he might get bad news. Healthcare staff encouraged Mr Jackson to see a prison GP on 7 December. The GP made an urgent referral to the gastroenterology service under the NHS pathway that requires patients with suspected cancer to be seen by a specialist within two weeks.
30. On 17 January 2018, Mr Jackson had a gastroscopy (a procedure where a thin, flexible tube called an endoscope is used to look inside the throat, stomach and part of the bowel), followed by a biopsy and a CT scan.
31. On 7 February, a consultant gastroenterologist told Mr Jackson that he had a cancerous tumour in his throat. He said that further investigations were needed to establish the seriousness of the tumour and a treatment plan. Further tests suggested that a course of chemotherapy was the best treatment option.
32. We are satisfied that healthcare staff appropriately investigated Mr Jackson's symptoms, made timely referrals to secondary care providers and his diagnosis was properly explained to him by hospital staff.

Mr Jackson's clinical care

33. Between April and June 2018, Mr Jackson had three rounds of chemotherapy. On 10 July, Mr Jackson had surgery to remove part of his oesophagus and had a feeding tube inserted. Although the surgery was successful, there was no response to the chemotherapy. A hospital consultant told Mr Jackson that this meant there was a high likelihood of the cancer returning.
34. Mr Jackson's condition remained stable until November, when he reported right sided abdominal pain. A hospital consultant ordered a CT scan. The results of the scan showed that the throat cancer had returned and spread to his liver and abdominal lining, which meant his cancer was now life limiting.

35. On 2 January 2019, a referral was made for specialist palliative support for Mr Jackson.
36. On 4 January, Mr Jackson said he did not want anyone to resuscitate him if his heart or breathing stopped and signed an order to that effect.
37. On 11 January, a consultant medical oncologist reviewed Mr Jackson and concluded that he was now at end of life care. Mr Jackson told prison staff that he wanted support from the chaplaincy service, who maintained contact with Mr Jackson as his health declined.
38. On 7 February, Mr Jackson told healthcare staff that he would prefer to die in a hospice. At this point, Mr Jackson was not at the stage where hospice care was necessary but healthcare staff made a referral to the hospice, in preparation for the future.
39. On 1 March, at approximately 3.00am, Mr Jackson told an Operational Support Officer (OSO) that he had taken an overdose of his opioid pain medication, oxycodone. The OSO contacted the healthcare unit straightaway and told a nurse, who attended to see Mr Jackson, and a Custodial Manager (CM), who called an ambulance. The nurse administered a drug called naloxone which is used to counter the effects of an opioid overdose.
40. Mr Jackson was taken to hospital. Mr Jackson said he had taken the overdose because he was in pain. The hospital reviewed his pain management and inserted a syringe driver, which delivers a continuous dose of pain medication. Mr Jackson was discharged later that day when his pain was under control.
41. Over the next few days, Mr Jackson was given extra pain medication on top of what was being delivered by the syringe driver to help address any breakthrough pain.
42. On 7 March, Mr Jackson was transferred to a hospice.
43. On 10 March, at 5.05pm, it was confirmed that Mr Jackson had died.

Mr Jackson's location

44. Up until May 2018, Mr Jackson was well enough to live independently on a standard wing. After this, he was moved to the healthcare well-being unit so staff could manage his care. Later, an open door agreement was put in place so that staff could deliver care more quickly.
45. In February 2019, Mr Jackson said he would like to be moved to a hospice before he died. Preparations were made, and Mr Jackson was transferred to a hospice on 7 March, three days before he died.
46. We are satisfied that Mr Jackson was appropriately located throughout his illness.

Restraints, security and escorts

47. When prisoners must travel outside the prison, a risk assessment determines the nature and level of security arrangements, including restraints. The Prison Service has a duty to protect the public but this 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 considering factors such as the prisoner's health and mobility.

48. A High Court judgment in 2007 ('the Graham judgment'), highlighted a number of factors that prisons should consider when deciding on the use of restraints. These included addressing the risk of escape (and the risk to the public in the event of an escape) posed by a prisoner when fit, and those risks posed by the same prisoner when suffering from a serious medical condition.
49. When Mr Jackson was taken to the hospice on 7 March, he was restrained during the journey using 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. Once he arrived at the hospice, all restraints were removed and he remained unrestrained until he died.
50. An escort risk assessment was completed by the prison prior to Mr Jackson being transferred to the hospice to evaluate whether Mr Jackson should be restrained. Mr Jackson was a category B prisoner (recently downgraded from category A), assessed as posing a very high risk of harm to the public, due to his offending behaviour. His risk escape was assessed as medium, given that he was subject to a whole life tariff and he had previously said he had 'nothing to lose' if his health deteriorated. There was no objection to the use of restraints in the medical section.
51. A prison manager authorised the escort risk assessment. She concluded that once the officer in charge of the escort was satisfied with the security of the room at the hospice, restraints could be completely removed under the terms of the Graham judgment
52. It is clear from the escort risk assessment that the prison balanced risk against Mr Jackson's dignity, and because of this, Mr Jackson was not restrained at any time while he was in the hospice. We are satisfied that the prison weighed up all the issues relating to the escort and recorded their decisions and reasons clearly on the escort risk assessment form.

Assessment, Care in Custody and Teamwork (ACCT)

53. On 1 March, Mr Jackson took an overdose of his pain medication, oxycodone. He told a member of prison staff what he had done. An ambulance was called immediately and Mr Jackson was taken to hospital.
54. The mental health team lead told the clinical reviewer that, after this, the healthcare team did consider supporting and monitoring Mr Jackson by opening suicide and self-harm procedures (known as ACCT). However, Mr Jackson told staff that he did not want to end his life, but that he had just wanted to dull the pain he was in. Mr Jackson's pain medication was changed by the hospital, and a syringe driver inserted to allow for a continuous supply of pain management drugs. Mr Jackson reported that his pain was under control and he was then discharged from hospital.
55. We consider that it was a reasonable decision not to open an ACCT as Mr Jackson was already receiving a high level of support and his key concern – pain

management – had been recognised and dealt with. However, there is no written record of the decision, which is not in line with national guidance. It is important that all decisions about the care of a prisoner are recorded accurately. We make the following recommendation:

The Head of Healthcare should ensure that all healthcare staff follow professional guidance for record keeping, including making clear, prompt and accurate entries in medical records, which reflect all major decisions and care plans.

Controlled drugs

56. Oxycodone is a controlled drug, subject to strict regulation, and healthcare staff should have observed Mr Jackson taking it. Mr Jackson should not have had the opportunity to stockpile this drug. We make the following recommendation;

The Head of Healthcare at HMP Whitemoor should ensure that staff are aware of and adhere to the guidelines in NICE guidance *Controlled Drugs: Safe Use and Management*, to ensure that staff:

- are present during the administration of controlled drugs; and
- witness controlled medication being taken by the patient, in order to prevent a patient stockpiling controlled medication.

Liaison with Mr Jackson's family

57. On 4 May 2018, the prison appointed a family liaison officer (FLO) and a deputy FLO. Mr Jackson named his brother as his next of kin.

58. Throughout Mr Jackson's illness, the FLOs maintained regular contact with Mr Jackson's brother, providing regular updates on Mr Jackson's health. When Mr Jackson died, the FLO informed Mr Jackson's brother of his death over the phone as previously agreed. She offered to arrange a face to face visit but Mr Jackson's brother declined.

59. Following Mr Jackson's death, the FLOs stayed in contact with Mr Jackson's brother, arranged the funeral on his behalf, and the return of Mr Jackson's property.

60. Mr Jackson's funeral was held on 29 March. Three representatives from the prison attended. The prison contributed to the funeral costs in line with national policy.

Compassionate release

61. 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.

62. When he was asked about compassionate release, Mr Jackson said he did not want it. He said he wanted to be with people he knew and did not want to be a burden to his family, and that if he was offered it he would not take it. Mr

Jackson maintained this position, and an application for compassionate release was not made.

63. We are satisfied that the prison appropriately considered compassionate release and respected Mr Jackson's wishes.

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