Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Edwin Gallienne a prisoner at HMP Swaleside on 14 January 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 Edwin Gallienne died of heart disease on 14 January 2018, while a prisoner at HMP Swaleside. He was 76 years old. I offer my condolences to his family and friends.

While many areas of Mr Gallienne's care at Swaleside were satisfactory, overall it was not equivalent to that which he could have expected to receive in the community. The results of a chest x-ray were not available for four weeks, and there was an eight-day delay in arranging an urgent GP review. When a nurse noted that Mr Gallienne had low blood pressure and a high pulse rate on 26 December, his vital signs were not taken again.

Mr Gallienne was inappropriately restrained in hospital until the day before he died, even though the prison manager who reviewed him considered that he posed a low risk of escape and that his behaviour was not a concern.

We have previously drawn our concerns about the use of restraints at Swaleside to the attention of the Executive Director for the Long-Term and High Security Estate and been assured that the issue was being addressed. I am, therefore, extremely concerned to find that the prison is still inappropriately restraining very ill prisoners who present minimal risk. The Executive Director for Long-Term and High Security Estate should provide me, within four weeks of receipt of this report, with an update on specific actions taken by HMP Swaleside to address this highly unsatisfactory state of affairs.

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

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

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Summary

Events

1. On 11 August 2016, Mr Edwin Gallienne was sentenced to 12 years in prison for sex offences and was sent to HMP Lewes. On 1 December, he was transferred to HMP Swaleside.

2. Mr Gallienne had Type 2 diabetes and ischaemic heart disease (a narrowing of the arteries to the heart), and had had a triple heart by-pass operation and a replaced heart valve. A prison GP prescribed medication for diabetes and heart disease.

3. On 22 November, a prison GP saw Mr Gallienne, and noted that he had anaemia, shortness of breath, and mild ankle oedema (swelling). The GP and asked for blood tests and a chest x-ray which was taken on 29 November. The blood tests showed Mr Gallienne was low in iron and vitamin B12.

4. On 6 December, a prison GP saw Mr Gallienne. He gave him antibiotics for a chest infection, iron and vitamin B12 tablets and referred him to the colorectal clinic under the NHS suspected cancer pathway, which requires patients with suspected cancer to be seen by a specialist within two weeks. He was not seen by the clinic.

5. On 14 and 19 December, Mr Gallienne saw a physiotherapist, who noted that Mr Gallienne did not feel well and was breathless. On 19 December, the physiotherapist said that Mr Gallienne should see the doctor urgently.

6. On 20 December, a prison GP reviewed the results of the chest x-ray and noted that there was a small amount of fluid on the lungs. He made an appointment to see Mr Gallienne.

7. On 26 December, Mr Gallienne said that he was breathless, had no energy and a dry cough. A nurse noted that he had low blood pressure (94/59) and a high pulse rate (114 beats per minute). The nurse asked for a GP to see Mr Gallienne the next day.

8. On 27 December, a prison GP saw Mr Gallienne and arranged for him to be admitted to hospital for tests. When Mr Gallienne went to hospital that day, he was restrained double cuffed. On 3 January, the level of restraint was reduced to an escort chain, which was not removed until 13 January, the day before he died.

9. Mr Gallienne stayed in hospital and healthcare staff obtained updates from hospital staff who said that Mr Gallienne was making a recovery and expected him to be discharged. However, he died of heart disease on 14 January 2018.

Findings

Clinical care

10. Aspects of the care that Mr Gallienne received at HMP Swaleside were not equivalent to that which he could have expected to receive in the community.

11. The results of the chest x-ray requested on 20 November were not available until 20 December. When Mr Gallienne had severe breathlessness on 19 December, a physiotherapist requested that he see a GP urgently, but this did not happen until 27 December.

12. Mr Gallienne went to see a nurse on 26 December because he felt unwell. The nurse noted that he had low blood pressure and a high pulse rate. There was no GP available to review him and there is no record that the nurse repeated the observations later in the day as she should have done.

Restraints

13. Public protection is fundamental, but security measures must be proportionate to a prisoner's individual circumstances. Mr Gallienne was double cuffed on 27 December in the absence of a medical risk assessment, and he remained restrained by an escort chain until the day before he died even though he was assessed on 3 January as an elderly, unwell man who posed a low risk of escape and of no concern to the escorting officers.

Recommendations

- The Head of Healthcare should ensure that:
    - Prisoners with shortness of breath are urgently referred for chest x-rays and that the results are promptly investigated.
    - Arrangements are in place to respond to urgent requests to review prisoners.
    - Prisoners with abnormal physical observations are more closely monitored and urgent medical opinion is sought if the observations do not improve.

- 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 Executive Director, Long-Term and High Security prisons, should provide this office with an update, within four weeks of receipt of this report, on what has been done to address the prison's continuing failure to comply with case law on the use of restraints.

The Investigation Process

14. The investigator issued notices to staff and prisoners at HMP Swaleside informing them of the investigation and asking anyone with relevant information to contact him.

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

16. NHS England commissioned a GP to review Mr Gallienne's clinical care at the prison.

17. 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.

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

19. We shared the initial report with the Prison Service. There were no reported factual inaccuracies.

Background Information

HMP Swaleside

20. HMP Swaleside, 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. There is a 17-bed inpatient unit. 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. Oxleas NHS Foundation Trust provides mental health services.

HM Inspectorate of Prisons

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

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 30 April 2017, the IMB reported that there had been a major increase in prisoners being affected by drugs, often prescribed medication. They reported that the trading of prescribed medication was made worse by a single hatch on healthcare being the main point of distribution and that they supported the Governor's request for a hatch on each residential wing.

Previous deaths at HMP Swaleside

23. Mr Gallienne was the twelfth prisoner to die at Swaleside since January 2015 and the fifth to die from natural causes. We have previously made recommendations about the use of restraints at Swaleside. In June 2017, we raised the inappropriate use of restraints and we drew this serious and continuing failure to the attention of the Executive Director for Long-Term and High Security prisons.

Key Events

24. On 11 August 2016, Mr Edwin Gallienne was sentenced to 12 years in prison for sex offences and sent to HMP Lewes.

25. At his initial health screen at Lewes, a nurse noted Mr Gallienne had ischaemic heart disease, and had had a triple heart by-pass operation and a replaced aortic valve. The next day, a nurse noted that Mr Gallienne had Type 2 diabetes. A prison GP prescribed aspirin, metformin for diabetes and simvastatin for heart disease.

26. On 1 December, Mr Gallienne was transferred to HMP Swaleside.

27. On 24 January 2017, the practice manager created a diabetes care plan. Mr Gallienne remained well, and his blood tests and blood pressure were normal.

28. On 4 August, a prison paramedic saw Mr Gallienne in the older person's clinic. Mr Gallienne said that he had reduced mobility due to hip pain. She told Mr Gallienne to go to healthcare if it got worse.

29. On 24 October, Mr Gallienne told a nurse that the pain in his hips when walking was getting worse. The nurse told him to take regular paracetamol and booked a GP appointment. A prison GP saw Mr Gallienne on 8 November. He referred him for physiotherapy and asked for a hip x-ray and blood tests.

30. On 16 November, a prison GP reviewed Mr Gallienne's blood tests, which showed that he was anaemic. He booked an urgent GP appointment for 22 November.

31. A prison GP saw Mr Gallienne on 22 November. Mr Gallienne said he was short of breath when he climbed stairs. The GP also noted that he had mild ankle oedema (swelling). He gave him vitamin B12 and sleeping tablets, and asked for blood tests and a chest x-ray. The blood tests showed that Mr Gallienne was low in iron and vitamin B12.

32. On 23 November, an associate specialist saw Mr Gallienne. He looked at his hips. He noted that Mr Gallienne should drink more fluid and see a physiotherapist.

33. On 6 December, a prison GP saw Mr Gallienne, who said he had had a cold, sore throat, runny nose, aches and a shortness of breath for a week. The GP could not explain Mr Gallienne's iron and vitamin B12 deficiency anaemia, so he referred him to the colorectal clinic under the two-week wait rule. The GP gave Mr Gallienne antibiotics for a chest infection, iron and vitamin B12 tablets.

34. Mr Gallienne went to two physiotherapy appointments on 14 and 19 December, where the associate specialist noted that Mr Gallienne did not feel well and noted how he used his muscles around his lungs to breathe and cough. The associate specialist said that he should see a GP urgently, but this did not happen.

35. On 20 December, a prison GP reviewed the results of the 29 November chest x-ray. He noted said that there was a small amount of fluid on the lungs. He made an appointment to review Mr Gallienne.

36. On 26 December, Mr Gallienne went to the treatment room and told a nurse that he was breathless, had a dry cough and no energy. She listened to his chest and noted his oxygen saturation level was normal (98%), but that his blood pressure was low (94/59) and his pulse rate high (114 beats per minute). She asked for a GP to see Mr Gallienne the next day. The clinical reviewer said that he would expect nurses to repeat the observations in these circumstances and to discuss the findings with a GP.

37. On 27 December, a prison GP saw Mr Gallienne, and noted a yellowing of his skin. Mr Gallienne said that he was lethargic, tired and short of breath. The GP sent him to hospital.

38. Prison staff completed a risk assessment for Mr Gallienne's escort to hospital. The medical section was not completed but was signed by a nurse. The Head of Operations said that because Mr Gallienne had a history of violence, two officers must escort him and use 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). However, although the prison paperwork does not show this, Mr Gallienne was in fact restrained "double cuffed" (where the prisoner has his hands cuffed in front of him, with one wrist attached to a prison officer by an additional set of handcuffs).

39. Mr Gallienne stayed in hospital and was moved to a ward. On 3 January 2018, Mr Gallienne had sores on his wrists where the handcuffs had rubbed, so a prison manager reviewed his risk. He noted that Mr Gallienne was elderly, posed a low risk of escape and that his behaviour was not a concern. The Head of Security authorised the double cuff to be removed but for an escort chain to remain. There is no evidence in the prison records that the use of restraints was further reviewed.

40. On 13 January, a senior manager spoke to a hospital consultant, who said that unless Mr Gallienne's kidneys started working within 12-24 hours, he would quickly deteriorate and probably not last 24 hours. The manager telephoned the Head of the Residence Pathways Service, who agreed for the restraints to be removed for decency reasons. The restraints were removed.

41. Healthcare staff obtained updates from the hospital who said that Mr Gallienne was making a recovery and that they expected him to be discharged. However, he died on 14 January 2018.

Contact with Mr Gallienne's family

42. On 13 January, a senior manager told Mr Gallienne's family that he was in hospital and that they could visit him. He appointed an officer as the family liaison officer and a Senior Officer (SO) as the deputy family liaison officer. The SO later spoke to Mr Gallienne's daughter, who said that she had visited her father in hospital with her sister and mother.

43. On 14 January, hospital staff told Mr Gallienne's next of kin that he had died. The SO spoke to Mr Gallienne's daughter and offered her condolences. The next day, the SO and the Acting Head of Residence visited Mr Gallienne's wife. They offered their condolences and support.

44. On 22 January, Mr Gallienne's family went to a memorial service at Swaleside. Mr Gallienne's funeral took place on 7 February. The prison contributed to the cost in line with national instructions.

Support for prisoners and staff

45. After Mr Gallienne's death, a senior manager debriefed the staff involved at the hospital to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support.

46. The prison posted notices informing other prisoners of Mr Gallienne'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 Gallienne's death.

Post-mortem report

47. A post-mortem examination established the cause of Mr Gallienne's death as ischaemic heart disease and aortic valve disease.

Findings

Clinical care

48. Much of the care that Mr Gallienne received at Swaleside was of an acceptable standard. However, the clinical reviewer concluded that, overall, the care that Mr Gallienne received was not equivalent to that which he could have expected to receive in the community.

49. On 20 November, a prison GP requested a chest x-ray, which was taken on 29 November, but the result of which was not available until 20 December. The clinical reviewer said that this was too long for a chest x-ray result, during which time Mr Gallienne's clinical conditions had changed. A chest x-ray result should normally be available within seven days.

50. An associate specialist saw Mr Gallienne for physiotherapy on 19 December, and asked for an urgent GP review of his symptoms of breathlessness. This did not take place until 27 December. There is no evidence that an urgent appointment was made. Although an earlier GP review may not have changed the outcome for Mr Gallienne, the delay in addressing the symptom and the delay in treatment could have been avoided.

51. When Mr Gallienne saw a nurse on 26 December, she took his observations and requested a GP review. There was no doctor on duty to review him that day. Because Mr Gallienne had low blood pressure and a fast pulse rate, the clinical reviewer said that Mr Gallienne's observations should have at least been repeated later in the day. We make the following recommendation:

- **The Head of Healthcare should ensure that:**
  - **Prisoners with shortness of breath are urgently referred for chest x-rays and that the results are promptly investigated.**
  - **Arrangements are in place to respond to urgent requests to review prisoners.**
  - **Prisoners with abnormal physical observations are more closely monitored and urgent medical opinion is sought if the observations do not improve.**

Restraints

52. 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 a prisoner's health and mobility.

53. 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, including the risk to the public in the event of an escape, and the prisoner's risk when he has 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. The judgement found that using handcuffs or other restraints on terminally ill or seriously ill prisoners was inhumane, unless justified by security considerations.

54. When Mr Gallienne went to hospital on 27 December, the medical section of the escort risk assessment was not completed by healthcare staff. We are concerned that the prison did not conduct a proper assessment of Mr Gallienne's risk of escape, taking his medical condition into account, as required by the High Court judgement.

55. The Head of Operations noted that because Mr Gallienne had a history of violence, he should be restrained by an escort chain and escorted by two officers. There is no evidence that staff took into account Mr Gallienne's health and mobility, as required by the High Court judgement.

56. We are also concerned that in the absence of a risk assessment and despite the Head of Operations' instructions, Mr Gallienne was double cuffed when he went to hospital. The Head of Security could not explain why Mr Gallienne left the prison double cuffed. He said that because the manager did not have any available medical information, he would have reverted to a "default position" for the use of restraints. We have seen no evidence to indicate that this level of restraints was necessary in the circumstances and we are concerned at the implication of there being a default expectation of prisoners being double cuffed.

57. Mr Gallienne remained double cuffed from 27 December to 3 January. On 3 January, a senior manager authorised the removal of the double cuff. We are concerned that Mr Gallienne continued to be restrained by an escort chain for 10 days until the day before he died, even though the senior manager noted on 3 January that Mr Gallienne was elderly, posed a low risk of escape and that his behaviour was not a concern. In these circumstances, we see no justification for any form of restraint. We make the following recommendation:

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.

58. We have previously expressed concerns about the inappropriate use of restraints on very sick and elderly prisoner at HMP Swaleside, and the prison has committed on each occasion to address these failings. In November 2017, we were given specific reassurances that the Executive Director, Long Term and High Security Prisons would assure himself that such steps would be taken. It is, therefore, a cause for real concern that restraints are still being used inappropriately at the prison, and we make the further recommendation:

The Executive Director, Long Term and High Security prisons, should provide this office with an update, within four weeks of receipt of this report, on what has been done to address the prison's continuing failure to comply with case law on the use of restraints.

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