

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Michael McCann a prisoner at HMP Sudbury on 22 April 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 Michael McCann died at home on 22 April 2019 of lung cancer, while a prisoner at HMP Sudbury. He was 44 years old. I offer my condolences to Mr McCann's family and friends.

The investigation found that Mr McCann received a standard of care at Sudbury equivalent to that he could have expected to receive in the community. Shortly before his death, the prison arranged his release on a temporary licence so that he could spend the last few weeks of his life at home with his family.

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

Elizabeth Moody
Deputy Prisons and Probation Ombudsman

November 2019

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Summary

Events

1. On 9 March 2018, Mr McCann was sentenced to three years and one month in prison for drug offences and breach of a community order. On 10 December, he was moved to HMP Sudbury.
2. On 25 December, Mr McCann told a nurse he had developed a painful lump on his neck, which hurt when he coughed. She made an appointment for 11 January 2019 for a nurse to review it. At that appointment, the nurse examined the lump and suspected it could be cancerous. She made an urgent referral for a hospital appointment within two weeks under the suspected cancer pathway.
3. On 17 January, Mr McCann had a scan at the hospital. On 22 February, a hospital specialist told him he had multiple tumours, thought to have originated in his lung, and that the prognosis was poor. Hospital doctors were unable to give a specific prognosis in terms of life expectancy but said Mr McCann had an aggressive form of cancer which was untreatable.
4. On 2 March, Mr McCann was admitted to hospital after reporting pins and needles in his face and pain in his arm. On 29 March, while Mr McCann was still in hospital, the prison released him on a temporary licence to enable him to spend time at home with his family before he died.
5. On 2 April, Mr McCann was discharged from hospital to a family member's address. He died there on 22 April.

Findings

6. The clinical reviewer was satisfied that the care Mr McCann received at Sudbury was equivalent to that he could have expected to receive in the community.
7. Prison staff considered applying for Mr McCann's early release on compassionate grounds but could not proceed without a clear prognosis on life expectancy. Instead, they released Mr McCann on temporary licence. We consider they took appropriate steps to enable Mr McCann to spend his last few weeks at home with his family.
8. We make no recommendations.

The Investigation Process

9. The investigator issued notices to staff and prisoners at HMP Sudbury informing them of the investigation and asking anyone with relevant information to contact her. No one responded.
10. The investigator obtained copies of relevant extracts from Mr McCann's prison and medical records.
11. NHS England commissioned a clinical reviewer to review Mr McCann's clinical care at the prison.
12. We informed HM Coroner for Derby and South Derbyshire of the investigation. The coroner gave us the cause of death. We have sent the coroner a copy of this report.
13. One of the Ombudsman's family liaison officers contacted Mr McCann's partner, to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She did not respond to the letter.
14. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS pointed out one factual inaccuracy within the clinical review. The clinical reviewer has amended her report.

Background Information

HMP Sudbury

15. HMP Sudbury is an open prison that houses over 580 adult men. In April 2016, Care UK won the contract for the provision of primary and mental health services. South Staffordshire and Shropshire Healthcare NHS Foundation Trust provides drug and substance misuse services.
16. Sudbury caters for prisoners in the latter stages of their sentence and specialises in rehabilitation and resettlement in preparation for release into the community. A number of prisoners are released each day on licence to help with their resettlement.

HM Inspectorate of Prisons

17. The last inspection of HMP Sudbury was in April 2017. Inspectors reported that regular governance and quality assurance meetings were well attended, which supported effective collaborative working between the prison, health providers and commissioners. Overall, health services were reasonably good. There was evidence of excellent visible clinical leadership and teamwork. Healthcare staff were easily identifiable and interactions with patients were very good. Healthcare staff had good access to relevant current protocols and training. The prison had no dedicated end of life facilities but obtained equipment when required. Effective care planning (involving community services, the prison, health care department and the patient) supported compassionate care.

Independent Monitoring Board

18. 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 the healthcare team met weekly to discuss the case management of prisoners presenting with complex health needs. Referral to social care for assessment of needs, including the provision of specialist equipment, was made where indicated. The Board had witnessed some excellent collaborative work between the healthcare team and head of residential services to enable very ill prisoners to remain at Sudbury by providing them with suitable accommodation and equipment as well as supporting them emotionally.

Previous deaths at HMP Sudbury

19. Mr McCann was the second prisoner to die at Sudbury since April 2017. The previous death was from natural causes. There were no similarities with Mr McCann's death.

Findings

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

20. On 9 March 2018, Mr McCann was sentenced to three years and one month in prison for drug offences and breach of a community order. He was sent to HMP Nottingham where he had previously been remanded. On 10 December, he was moved to HMP Sudbury.
21. On 10 December, a nurse carried out Mr McCann's reception screen at Sudbury. He recorded no concerns. On 13 December, a nurse did Mr McCann's secondary screen. Mr McCann declined the nurse's offer of a referral to the smoking cessation service and the healthy lifestyle programme.
22. On 25 December, Mr McCann saw a nurse. He reported a lump on the base of his neck and said it gave him pain when coughing. She recorded that it was apparently painful when touched and made Mr McCann an appointment for 11 January 2019 for a nurse to review it.
23. On 11 January, a nurse reviewed Mr McCann. He told her the lump had appeared a month ago and had increased in size. She took measurements (it was approximately 9cm x 6cm) and examined the lump. She told Mr McCann that she suspected it could be cancerous and made a fast track referral under the two-week rule (under the suspected cancer pathway a specialist must see a patient within two weeks of the referral).
24. On 17 January, Mr McCann attended a hospital for a Positron Emission Tomography (PET) scan (used to produce detailed three-dimensional images of the inside of the body). On 22 February, a specialist at the hospital told Mr McCann that he had multiple tumours which were thought to have originated from a primary site in the lungs. He was told his prognosis was poor but that this would be confirmed by the Lung Multi-Disciplinary Team.

Mr McCann's clinical care

25. On 22 February, the Administrative Office Manager, discussed Mr McCann's diagnosis with him and advised him that a prison GP had prescribed zopiclone (a sleeping tablet).
26. On 23 February, a prison GP and a nurse spoke to Mr McCann about his diagnosis, location, pain relief and care plan. Mr McCann said he wished to remain sharing with his room-mate and the nurse also spoke with his room-mate to offer him support.
27. On 26 February, a multidisciplinary meeting was held at the prison. The attendees noted that Mr McCann should be resuscitated in the absence of any further information from the lung oncology team, that a care plan had been put in place and that Mr McCann's family were aware of his diagnosis although his teenage son did not yet know.
28. On the same day, the lung clinic confirmed that they had accepted Mr McCann onto their caseload but they still could not advise on his life expectancy.

29. On 27 February, Mr McCann saw a social worker. He was able to wash and dress himself independently and did not need to use mobility aids to get around. The prison planned to move him to a single room with a level access wet room and a walkie-talkie to communicate with staff.
30. The Administrative Office Manager contacted the kitchens to ask them to provide Mr McCann with flasks of soup for overnight. They were able to provide packet soups but not flasks.
31. On 1 March, a staff member from Occupation Health visited Mr McCann. She arranged for him to be provided with a special bed, pressure relieving mattress, chair raisers and a pressure cushion. They were due to arrive the next day.
32. On 2 March, outside of healthcare hours, Mr McCann reported pins and needles in his face and pain in his arm. He was admitted to hospital and remained there until 1 April when, following release on temporary licence, he was moved to a family member's address.
33. The prison maintained contact with his family and the palliative care team. Mr McCann died at home on 22 April.

Mr McCann's location

34. The period between Mr McCann's diagnosis and his transfer to hospital was short. He was diagnosed on 22 February and moved to hospital eight days later, on 2 March. Staff appropriately considered how to make him most comfortable and assessments and equipment were arranged.
35. On 29 March, Mr McCann was released on temporary licence to be cared for at a family member's address. Arrangements were made to provide Mr McCann with an appropriate bed and physical aids at the release address. He was moved there on 1 April. We are satisfied that Mr McCann's location was appropriate.

Liaison with Mr McCann's family

36. On 27 February, the prison appointed an officer as the family liaison officer (FLO). He visited Mr McCann's family that day to explain his role and offer support, in the light of Mr McCann's terminal diagnosis. He maintained frequent contact with family members.
37. Mr McCann's funeral was on 3 May and the FLO and an officer attended. The prison paid for the funeral, in line with national policy.

Compassionate release

38. 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.
39. On 6 March, two prison managers, a nurse and the FLO met with a consultant oncologist, to discuss Mr McCann's prognosis, with a view to applying for early release on compassionate grounds. The oncologist explained that she was

unable to provide any prognosis because the primary source of Mr McCann's cancer had not been established although she was certain it was an aggressive and incurable form.

40. The lack of a prognosis meant that the prison could not apply for compassionate release. On 29 March, the prison released Mr McCann on a temporary licence instead. Mr McCann left hospital on 1 April and went to a family member's address. We are satisfied that the prison considered compassionate release and took appropriate actions to enable Mr McCann to spend his last few weeks at home with his family.

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