

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr John Maunder, a prisoner at HMP Winchester, on 28 April 2020

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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Summary

1. 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.
2. We carry out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.
3. Mr John Maunder, who was 79 years old, died in hospital from COVID-19 on 28 April 2020, while a prisoner at HMP Winchester. We offer our condolences to Mr Maunder's family and friends.
4. Mr Maunder was admitted to hospital on 29 March, with back and abdominal pain. He tested negative for COVID-19 the day after he was admitted. On 17 April, Mr Maunder developed a cough and was short of breath. He tested positive for COVID-19 and was diagnosed with pneumonia. It appears likely that Mr Maunder contracted COVID-19 in hospital.
5. The clinical reviewer concluded that the clinical care that Mr Maunder received at Winchester was good and equivalent to that which he could have expected to receive in the community. She made three recommendations, but we have not included them in this report as they do not relate to Mr Maunder's death.
6. We are concerned that Mr Maunder was restrained when he was taken to hospital. The use of restraints was not proportionate to the risk he posed.

Recommendations

- The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints, and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.
- The Head of Healthcare should ensure that staff complete the healthcare section of the escort risk assessment fully and accurately.

Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Mr Maunder's clinical care at the prison. The clinical reviewer's report is attached as Annex 1.
8. The PPO Investigator investigated the non-clinical issues in Mr Maunder's care, including the prison's response to COVID-19 and shielding prisoners, the security arrangements for his hospital escorts, liaison with his next of kin and whether compassionate release was considered.
9. One of the Ombudsman's family liaison officers wrote to Mr Maunder's next of kin to explain the investigation and to ask if she had any questions about Mr Maunder's care at Winchester. She did not respond to our letter.
10. The prison received a copy of the report and did not identify any factual inaccuracies. An action plan for the recommendation is attached to the report as Annex 2.
11. This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Previous deaths at Winchester

12. Mr Maunder was the tenth prisoner to die at Winchester since April 2018. Of the previous deaths, five were from natural causes and four were self-inflicted. There have been two deaths since, but neither were from COVID-19.
13. We have previously made a recommendation to Winchester about the unjustified use of restraints on an elderly, unwell prisoner.

COVID-19 (coronavirus)

14. COVID-19 is an infectious disease that affects the lungs and airways. On 11 March, the World Health Organisation (WHO) declared COVID-19 as a worldwide pandemic.
15. COVID-19 can make anyone seriously ill, but the risk is higher for some people. People at high risk include those who have a severe lung condition; are having certain types of treatment for cancer; or have a condition with a very high risk of getting infections. Those at moderate risk include people over 70; people with a lung condition or a chronic medical condition, such as diabetes, heart, liver, or chronic kidney disease; or those who are very obese (this list is not exhaustive).
16. To reduce the spread of the virus, the Government introduced voluntary and mandatory actions, such as 'social distancing' and 'lockdown' (on 16 and 23 March, respectively). Public Health England (PHE), HM Prison & Probation Service (HMPPS) and NHS England worked together to devise measures to contain the outbreak, achieve social distancing, reduce the risk to the most vulnerable in prisons in England and protect the NHS (by reducing the number of people requiring specialist care in community-based hospitals).

17. On 13 March, PHE's National Health and Justice team issued an interim notice providing advice on preventing and controlling outbreaks of COVID-19 in prisons. HMPPS issued further instructions over the following weeks with guidance on the appropriate use of personal protective equipment (PPE), hygiene, cleaning schedules and stock checks. The guidance set out the importance of effective preventative measures and that methodical cleaning would help prevent infection spread.
18. From 24 March, HMPPS took further measures to contain COVID-19.

Early release

19. 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.
20. In addition, End of Custody Temporary Release on licence (ECTR) was introduced in response to the COVID-19 pandemic, to enable risk-assessed prisoners, who are within two months of their release date to be temporarily released from custody, as part of the national approach to managing public services. In deciding which prisoners should be eligible for early release, a number of factors must be taken into account, including:
 - The need to minimise the risk to public protection, so those assessed as a high risk of serious harm or convicted of sexual or violent offences are excluded.
 - The need to maintain public confidence in the justice system, so only those who are already close to release and who have already served at least half of their time in prison are considered
 - The need to comply with Government directions on COVID-19, so only those who have suitable accommodation and whose healthcare needs (including Covid-related ones) can be safely managed on release are eligible.
 - Some groups of prisoners have separate processes governing their release, so those serving a recall to custody have been excluded.

Key Events

21. On 12 November 2014, Mr John Maunder was sentenced to 13 years in prison for sexual offences and taken to HMP Winchester. He remained at Winchester throughout his sentence.
22. When Mr Maunder arrived at Winchester he was seen by a nurse for his initial healthcare screening. It was noted that Mr Maunder had several long-term health conditions, including coronary and ischaemic heart disease, chronic obstructive pulmonary disease (COPD – a serious lung condition that causes breathing difficulties), asthma, type 2 diabetes and high blood pressure. Mr Maunder was also obese and had a prosthetic eye.
23. Throughout his time at Winchester, Mr Maunder's physical health conditions were well managed and he had appropriate care plans in place which were regularly reviewed. He lived in a single cell in the healthcare unit.
24. On 29 March 2020 at 7.40pm, Mr Maunder was admitted to a hospital, with abdominal pain and bleeding from his rectum. He went to hospital by ambulance, was restrained by 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), and escorted by two officers. He was assessed in the Emergency Department and then admitted onto a ward. The next day, Mr Maunder was tested for COVID-19 and the result was negative.
25. Scans showed that Mr Maunder had a spinal cord lesion (abnormal growth). Restraints were removed for the scans, but reapplied. He was placed on high dose steroids to reduce the swelling and the cord compression symptoms he was experiencing. On 4 April, the escort risk assessment was reviewed. At 12.15pm restraints were removed and never reapplied.
26. On 17 April, Mr Maunder developed a cough and was short of breath. He was tested again for COVID-19, which was positive, and a chest X-ray showed he had pneumonia. He was treated with intravenous antibiotics and high flow oxygen.
27. On 27 April, hospital staff informed the prison that Mr Maunder had rapidly deteriorated and was receiving end of life care.
28. Mr Maunder died on 28 April, at 6.00am. The coroner accepted the cause of death provided by a hospital doctor and no post-mortem examination was carried out. The doctor recorded that Mr Maunder died from a lower respiratory tract infection, caused by COVID-19. Malignant spinal cord compression, non-insulin dependent diabetes, ischaemic heart disease and atrial fibrillation were listed as contributory factors.

Non-clinical Findings

Restraints, security and escorts

29. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility.
30. A judgment in the High Court in 2007 made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. The judgment indicated that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change.
31. The investigator reviewed Mr Maunder's escort risk assessments from March 2020. Mr Maunder's security risk assessment (Section 3) noted that he posed no risk of escape, was a Category C/D prisoner (low risk), had reduced mobility, used a wheelchair and had a visual impairment (he only had one eye).
32. The medical section of the escort risk assessment (Section 4), completed by a nurse said there were no objections to the use of restraints, and that Mr Maunder was not registered disabled but that he had mobility issues. She added a comment, 'Wheelchair Taxi'. She incorrectly noted that Mr Maunder's sight was not impaired and he did not have any hearing loss. In the healthcare staff comments section, she said only, 'Requires a Wheelchair taxi.' The nurse also completed the medical section of the Person Escort Record (PER - a document that accompanies all prisoners when they move between police stations, courts and prisons which sets out the risks they pose), where under physical health she had noted Mr Maunder was diabetic, had reduced mobility and poor vision.
33. A Custodial Manager (CM) authorised Mr Maunder to be restrained using an escort chain when he was taken to hospital. Two officers accompanied him. The escort chain was removed to enable diagnostic tests to be completed, but was reapplied. The escort risk assessment was not reviewed until 4 April, when a prison manager authorised the removal of restraints.
34. Public protection is fundamental, but security measures must be proportionate to a prisoner's individual circumstances. Mr Maunder was 79 years old, a category C/D prisoner, who had poor mobility and was physically very weak. However, his health and mobility issues were not properly set out in the healthcare section of the escort risk assessment. Although a nurse noted that Mr Maunder had mobility issues, all she said in the comments section was, 'Requires Wheelchair Taxi'; she did not expand on his mobility issues or set out the current state of his physical health. She also noted incorrectly that Mr Maunder did not have impaired sight.

35. We consider that the use of restraints on Mr Maunder was not proportionate to the risks he posed. We make the following recommendations:

The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints, and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

The Head of Healthcare should ensure that staff complete the healthcare section of the escort risk assessment fully and accurately.

Early release

36. The prison was not informed until the day before Mr Maunder's death that he was receiving end of life care and there was then insufficient time to apply for compassionate release. He was not eligible for End of Custody Temporary Release on licence.

**Sue McAllister CB
Prisons and Probation Ombudsman**

October 2020