Prisons & Probation Ombudsman
Independent Investigations

# Independent investigation into the death of Mr James Conlon, a prisoner at HMP Wakefield, on 25 October 2020

**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*

# 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 James Conlon, who was 66 years old, died of lung cancer on 25 October 2020, at HMP Wakefield. We offer our condolences to Mr Conlon's family and friends.

4. The clinical reviewer concluded that the clinical care Mr Conlon received at Wakefield was equivalent to that which he could have expected to receive in the community. She made three recommendations, but as they were not directly related to Mr Conlon's death, we have not included them in our report.

5. We are concerned that a compassionate release application was never submitted for Mr Conlon, despite a prison GP having started the application in May 2020. It was not progressed by prison staff until over four months later and was not completed before Mr Conlon died.

# Recommendations

- The Governor should ensure that applications for compassionate release are progressed in a timely manner and submitted as promptly as possible.

# The Investigation Process

6. NHS England commissioned an independent clinical reviewer to review Mr Conlon's clinical care at Wakefield.

7. The PPO investigator has investigated non-clinical issues, including Mr Conlon's location, the security arrangements for his hospital escorts, and whether compassionate release was considered.

8. One of the PPO's family liaison officers wrote to Mr Conlon's next of kin, his sister, to explain the investigation. She did not respond.

9. The initial report was shared with the Prison Service. The Prison Service found one factual inaccuracy which has now been amended.

## Previous deaths at HMP Wakefield

10. Mr Conlon was the 21st prisoner to die at Wakefield since October 2018. Of the previous deaths, 18 were from natural causes and two were self-inflicted. We have previously made recommendations about delays in making compassionate release applications.

# Key Events

11. On 21 December 2012, Mr James Conlon was sentenced to 18 years in prison for sexual offences. On 15 October 2013, he was moved to HMP Wakefield.

12. In August 2019, a nurse noticed that Mr Conlon looked unwell. He told her that he had had a change in bowel habit and had lost weight in the last three months. The nurse took blood tests (which later came back as abnormal) and made an urgent referral to the GP.

13. On 28 August, a prison GP saw Mr Conlon and referred him to hospital under the suspected cancer pathway (for an appointment within two weeks).

14. On 19 September, Mr Conlon was diagnosed with lung cancer. He was subsequently told that he was not suitable for surgery and could have palliative chemotherapy only. Mr Conlon was taken to hospital for chemotherapy treatment on 28 December and 28 February 2020.

15. On 24 February, a prison GP discussed a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) order with Mr Conlon who agreed that if he stopped breathing he did not want to be resuscitated.

16. On 12 March, Mr Conlon was told that the cancer had not responded to the chemotherapy and had spread to his shoulder bone. The consultant said that Mr Conlon would not be suitable for any further treatment and would be treated for symptoms only.

17. On 21 May, a prison GP completed the medical section of an application for Mr Conlon to be released from prison on compassionate grounds. He passed it to prison staff to progress.

18. Over the next three months, Mr Conlon had regular reviews with the prison GP to monitor his pain levels, and his pain was managed with strong painkillers.

19. On 25 September, Mr Conlon said that he did not want to go to any more oncology appointments as they made him feel anxious. Mr Conlon signed a disclaimer to say that he was refusing treatment.

20. On 20 October, Mr Conlon's pain was getting worse so he was moved to the palliative care suite in the healthcare unit so that he could be closely monitored.

21. On 25 October at 7.35am, a nurse found Mr Conlon unresponsive and slumped in his chair. Staff did not start CPR because Mr Conlon had a DNACPR in place. The nurse moved Mr Conlon to his bed and stayed with him. At 8.15am he stopped breathing, and at 8.45am, a paramedic confirmed his death.

### Cause of death

22. The Coroner accepted the cause of death provided by the prison GP and no post-mortem examination was carried out. The GP gave Mr Conlon's cause of death as lung cancer.

## Non-Clinical Findings

### Compassionate release

23. Release on compassionate grounds is a means by which prisoners who are seriously ill, usually with a life expectancy of less than three months, can permanently be released from custody before their sentence has expired. A clear medical opinion of life expectancy is required. The criteria for early release for determinate sentenced prisoners are set out in Prison Service Order (PSO) 6000. The criteria include that the risk of reoffending is expected to be minimal, further imprisonment would reduce life expectancy, there are adequate arrangements for the prisoner's care and treatment outside prison, and release would benefit the prisoner and his family. An application for early release on compassionate grounds must be submitted to the Public Protection Casework Section of Her Majesty's Prison and Probation Service.

24. On 21 May, a prison GP completed the medical section of an application for Mr Conlon to be released on compassionate grounds. The GP noted that Mr Conlon would live for only a few more months. It appears that prison staff did not review this application until the end of September, when the new Head of Offender Management Services took up post.

25. On 23 October, the new Head of Offender Management Services noted that the address Mr Conlon had provided was not suitable for him to be released to because of victim issues and because the property was a flat and Mr Conlon would not have been able to get up and down the stairs. She signed her part of the form to decline the compassionate release application on 27 October, which was two days after Mr Conlon's death.

26. It is unacceptable that staff did not review the compassionate release paperwork between May and September. This is the third time we have made a recommendation to Wakefield about the timeliness of compassionate release applications. In response to our last recommendation on this issue, the prison told us that they would resume Safety Intervention Meetings in September 2020. All prisoners receiving end of life care would be reviewed at the meetings and staff would ensure that any compassionate release applications were progressed. It is important that this is done, so we repeat our recommendation:

**The Governor and Head of Healthcare should ensure that applications for compassionate release are progressed in a timely manner and submitted as promptly as possible.**

**Louise Richards** **May 2021**
**Assistant Ombudsman**

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