

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Ronald Carmichael, a prisoner at HMP Hull, on 15 November 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. 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.
3. Mr Ronald Carmichael died in hospital of COVID-19 pneumonia on 15 November 2020, while a prisoner at HMP Hull. He was 84 years old. I offer my condolences to Mr Carmichael's family and friends.
4. Mr Carmichael's medical conditions put him at risk of becoming seriously ill if he contracted COVID-19. In March and April 2020, prison healthcare staff explained this to him and advised him to shield. Although he initially followed the advice, he subsequently declined to do so from late May onwards. In October, he contracted the virus and was transferred to hospital with breathing difficulties. He died two weeks later.
5. The clinical reviewer concluded that the clinical care Mr Carmichael received at Hull was equivalent to that which he could have expected to receive in the community, and that Mr Carmichael had the mental capacity to decide not to shield. However, she made two recommendations. We have included only one in this report as the other did not relate directly to Mr Carmichael's death, but the Head of Healthcare will need to address it.
6. We found no non-clinical issues of concern.
7. This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Recommendations

- The Head of Healthcare should ensure that staff make full and accurate entries in the prisoner's medical record, including full details of the clinical observations taken and emergency incidents.

The Investigation Process

8. NHS England commissioned an independent clinical reviewer to review Mr Carmichael's clinical care at the prison.
9. The PPO's investigator investigated non-clinical issues, including the prison response to COVID-19 and shielding prisoners, the security arrangements for Mr Carmichael's hospital escorts, liaison with his next of kin and whether compassionate release was considered.

10. The Ombudsman's family liaison officer contacted Mr Carmichael's daughter to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She did not raise any issues but asked for a copy of this report.
11. The initial report was shared with Mr Carmichael's daughter. She did not make any comments.
12. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS found no factual inaccuracies.

Background Information

HMP Hull

13. HMP Hull is a local prison that holds up to 1,056 men in ten wings. City Healthcare Partnership (CHCP) provides health services at the prison. GP surgeries are held four days a week, with an out of hours service at other times.

Previous deaths at HMP Hull

14. Mr Carmichael was the 11th prisoner at Hull to die since November 2018. Of the previous deaths, four were from natural causes, five were self-inflicted, and one was from an unknown cause. Mr Carmichael's death was the first from COVID-19 at Hull, although there have been two further deaths from COVID-19 since.
15. In previous investigations at Hull we have made recommendations about the correct maintenance of medical records. The Care Quality Commission also identified this as a concern following their inspection of healthcare services provided by CHCP at Hull in December 2020.

COVID-19 (coronavirus)

16. COVID-19 is an infectious disease that affects the lungs and airways. It is mainly spread through droplets when an infected person coughs, or sneezes. The first reported case of COVID-19 in the UK was in February 2020. On 11 March, the World Health Organisation (WHO) declared COVID-19 as a worldwide pandemic.
17. COVID-19 can make anyone seriously ill, but some people are at higher risk of severe illness and developing complications from the infection. People at high risk (clinically extremely vulnerable) include those who have had an organ transplant; have severe lung or kidney disease; or are having certain types of cancer or other treatment which significantly increases the risk of infection. Examples of those at moderate risk (clinically vulnerable) are people over 70; people under 70 with an underlying health condition, such as diabetes, or chronic respiratory, heart, liver or kidney disease; those with a weakened immune system; or who are very overweight. (These lists are not exhaustive.)
18. In response to the initial pandemic outbreak, HM Prison and Probation Service (HMPPS) introduced several measures to try to contain the outbreak - to be implemented at local level, depending on the needs of individual prisons. (An outbreak is defined as two or more prisoners, or staff, in a prison who are clinically suspected, or have tested positive for COVID-19 within 14 days.) A key

strategy is 'compartmentalisation' to cohort and protect prisoners at high and moderate risk; isolate those who are symptomatic; and separate newly-received prisoners from the main population. Other measures include social distancing and the use of personal protective equipment (PPE).

Key Events

19. On 12 August 2011, Mr Ronald Carmichael was convicted of sexual offences, and sent to HMP Hull. On 15 August, he was sentenced to nine years imprisonment. Over the next few years, he had several movements between Hull and HMP Moorland. He was sentenced to a further 11 years for additional sex offences in February 2016. He returned to Hull that month and he remained there until his death.
20. Mr Carmichael had several long-term health conditions, including chronic obstructive pulmonary disease (COPD – the name for a collection of lung diseases), high blood pressure, atrial fibrillation (which causes an irregular heartbeat), asthma and diabetes. He was obese, suffered from osteoarthritis and was a wheelchair user.
21. Despite his medical conditions, Mr Carmichael’s health was relatively stable and, in the year before his death, he did not have much contact with healthcare staff except for routine matters, such as blood tests.
22. Because of his medical history, Mr Carmichael was in the clinically vulnerable category and was at high risk of becoming seriously ill if he contracted COVID-19. He was advised of this in March and April 2020 and he agreed to follow the clinical guidance to shield. However, his prison notes show that on 5 May, he asked to be removed from voluntary shielding. On 22 May, he was told in person about the dangers of not shielding, but he decided that he no longer wanted to shield and signed a disclaimer to indicate he was aware of the risks.
23. Mr Carmichael’s prison notes record regular welfare checks over the following months and that Mr Carmichael was a bit ‘fed up’ with the restricted regime in place due to COVID-19 precautions.
24. On 29 October, Mr Carmichael showed symptoms of COVID-19 and was feeling unwell with a cough and a fever. He was tested and isolated from others.
25. On the afternoon of 30 October, Mr Carmichael was found on the floor of his cell with breathing difficulties. Staff called an ambulance and Mr Carmichael was taken to hospital. He was not restrained. In hospital it was confirmed that he had tested positive for COVID-19.
26. Mr Carmichael’s health progressively deteriorated in hospital and he died at 2.19pm on 15 November.
27. The coroner accepted the cause of death provided by a hospital doctor and no post-mortem examination was carried out. The doctor gave Mr Carmichael’s cause of death as COVID-19 pneumonia, and listed asthma, type 2 diabetes, heart failure, and ischaemic heart disease as contributory factors.

Findings

Clinical Findings

28. The clinical reviewer considered that the standard of care Mr Carmichael received at Hull was equivalent to that which he could have expected to receive in the community.
29. However, we share the clinical reviewer's concerns about the quality of entries made in Mr Carmichael's medical record. After he showed symptoms of COVID-19 on 29 October, there are no further entries in his prison medical records until 31 October when he was in hospital. There are no records of clinical observations on the morning of 30 October, or of the incident on the afternoon of the same day when he was found on the floor of his cell and subsequently taken to hospital. This was very poor clinical practice. We recommend:

The Head of Healthcare should ensure that staff make full and accurate entries in the prisoner's medical record, including full details of the clinical observations taken and emergency incidents.

Management of Mr Carmichael's risk of catching COVID-19

30. Mr Carmichael had not left the prison in the weeks before he became ill and we, therefore, assume that he caught COVID-19 in prison. We have therefore looked at whether the prison took adequate steps to protect him.
31. In reply to a question from the investigator, the Head of Healthcare said that measures in place at the prison included shielding, reverse cohorting (a period of isolation for new prisoners), prison track and trace, and temperature checks on arriving prisoners and prior to moves. In addition, direct contact between prisoners and healthcare staff was limited to strict clinical need. The areas of the healthcare centre were risk assessed and the numbers of people present were limited to facilitate social distancing and prisoners only attended and left with escorting officers. Clinics were planned by wing to prevent cross wing mixing.
32. The Head of Residence and Safety at Hull told the investigator that following the national lockdown announced on 21 March, Hull introduced a restricted regime in line with national guidance, including advice to the extremely vulnerable to shield. He said:

“The regime was altered so that prisoners were employed in only essential work. Wing regimes introduced individual schedules so that no more than 45 prisoners were unlocked at any one time. In most cases this was achieved by landings or half landings dependant on the wing layout. This was done to facilitate social distancing, better hygiene, shielding, and safe isolation where needed. Wing cleaning schedules were amended to ensure greater levels of cleaning, specifically of hand contact points, serveries, showers, etc. Specific guidance was given in relation of the handling of laundry.”
33. Following an easing in the pandemic nationally over the summer, in October 2020 the number of cases began to rise locally. At the beginning of the month,

some members of prison staff contracted the virus and they remained at home isolating in line with national guidance. Through the month, the number of those with the virus rose slowly among staff and prisoners.

34. During the weekend of 24-25 October there was a sudden increase in positive COVID-19 results among prisoners, principally on H Wing where Mr Carmichael was living. This led to an immediate imposition of a very restricted regime with limited time out of cells, only for meals, medication and canteen. Staff were required to wear face coverings and prisoners had to wear face coverings outside their cells. Many prisoners were required to isolate either because they had contracted COVID-19 or had been in contact with someone who had.
35. Mr Carmichael had been identified as a prisoner at high risk of serious illness if he contracted COVID-19. He initially followed shielding advice but later changed his mind. He signed a disclaimer on 22 May to show he understood the consequences of his decision.
36. The clinical reviewer was satisfied that Mr Carmichael had the mental capacity to make this decision. She said that he had been provided with the necessary information about COVID-19 and the prison had respected his right to make his own choices about it. We are satisfied that the prison took appropriate steps to manage the risk of prisoners contracting COVID-19 and that Mr Carmichael would have been able to continue shielding if he had wanted to do so.

Management of the escorting staff's risk of catching Covid-19

37. On 7 November, Mr Carmichael was due to be transferred from one hospital to another. The transfer did not take place that day because the team contracted to carry out the move said the vehicle ordered was not suitable because of Mr Carmichael's COVID-19. They also told the prison bedwatch staff that their PPE was not adequate. We have, therefore, looked at whether the prison escort staff were sufficiently protected against contracting the virus or passing it on.
38. The Head of Drug Strategy was the Duty Governor on that day, and he followed up that incident. Fresh PPE was taken out to the bedwatch staff, but hospital staff told him that they had no concerns about the PPE that the prison staff were using, which was in line with the HMPPS operating procedures. As a precautionary measure enhanced PPE was used in the interim. The officers concerned were asked to enter protective isolation for 14 days.
39. We are satisfied that Hull operated within the HMPPS guidelines and acted promptly when a concern about PPE for escorting staff was raised.

Sue McAllister CB
Prisons and Probation Ombudsman

May 2021

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