

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Martin Brown a prisoner at HMP Swaleside on 14 February 2021

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 Martin Brown died on 14 February 2021, of lung cancer at HMP Swaleside. He was 55 years old. I offer my condolences to Mr Brown's family and friends.
4. The clinical reviewer concluded that the clinical care Mr Brown received at Swaleside was equivalent to that he could have expected to receive in the community. However, she found that the care Mr Brown received at his previous prison, HMP Exeter, was not equivalent. She made five recommendations but as none of them were related to Mr Brown's death, we have not included them in this report.
5. We found no non-clinical issues of concern. We make no recommendations.

The Investigation Process

6. NHS England commissioned an independent clinical reviewer to review Mr Brown's clinical care in prison.
7. The PPO investigator has investigated non-clinical issues, including Mr Brown's location, the security arrangements for his hospital escorts, liaison with his family and whether compassionate release was considered.
8. The PPO family liaison officer wrote to Mr Brown's next of kin, his sister, to explain the investigation. She did not respond to our letter.
9. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies.

Previous deaths at HMP Swaleside

10. Mr Brown was the tenth prisoner to die at Swaleside since February 2019. Of the previous deaths, six were from natural causes, two were drug-related and one resulted from a cell fire.

Key Events

11. On 15 June 2019, Mr Martin Brown was remanded in prison custody, charged with drugs and firearms offences, and sent to HMP Exeter. (He was subsequently sentenced to ten years and three months in prison.)
12. On 22 June, Mr Brown told staff that before he arrived at Exeter, he had had a chest X-ray for suspected chronic obstructive pulmonary disease (COPD - a group of lung conditions that cause breathing difficulties). There is no record of the results from the X-ray or of the GP medical history summary being requested.
13. Throughout his time at Exeter, Mr Brown presented with tiredness and fatigue, a cough that produced discoloured sputum and/or blood, shortness of breath, chest pain, kidney pain and loss of appetite. In July, he also displayed a raised pulse rate and low blood pressure. In August, Mr Brown told a nurse that a prison GP had told him that he might have cancer but there is no record of this or of any further investigations in the medical record.
14. In June 2020, Mr Brown had a blood test that showed abnormal immunoglobulin (antibodies) and his oxygen saturation levels in his blood began to drop. A prison GP recorded a diagnosis of COPD and suggested a full respiratory review. There is no record that this took place.
15. In September, Mr Brown was referred to hospital for a chest X-ray after a deterioration in his breathing and chest pain.

HMP Swaleside

16. On 22 September, Mr Brown was moved to HMP Swaleside. On 24 September, after reviewing the results of Mr Brown's chest X-ray, a prison GP made an urgent hospital referral.
17. On 19 October, Mr Brown's condition worsened and he was taken to hospital. On 20 October, he was diagnosed with advanced lung cancer. He repeatedly refused to attend hospital for treatment or further tests.
18. On 28 October, Swaleside applied to transfer Mr Brown on compassionate grounds to HMP Frankland to be nearer his family in Scotland. Unfortunately, due to the COVID-19 pandemic and Mr Brown's ongoing medical needs, the application was delayed.
19. On 1 January 2021, Mr Brown agreed to move to the prison healthcare inpatient unit but continued to refuse hospital treatment. On 6 January, after a meeting which included his sister and the prison family liaison officer, he agreed to attend future hospital appointments.
20. On 4 January, Mr Brown said he did not want anyone to resuscitate him if his heart or breathing stopped and an order was completed to that effect.
21. On 12 January, a hospital doctor reviewed Mr Brown and assessed that he was not strong enough for active cancer treatment and was for palliative treatment only. His prognosis was less than three months. On 18 January, Mr Brown was moved to an end of life care cell where he continued to receive palliative care.

22. In January 2021, staff submitted an application for Mr Brown's early release on compassionate grounds to the Public Protection Casework Section (PPCS) of Her Majesty's Prison and Probation Service (HMPPS). On 2 February, the application was refused on the grounds that there was no clinical evidence to indicate that Mr Brown's life expectancy was three months or less, that he was not physically incapacitated and that he continued to pose a risk. The prison started a further application for compassionate release on 8 February, but Mr Brown died before it was submitted.
23. Mr Brown died at Swaleside on 14 February 2021. The post-mortem examination found that Mr Brown died of carcinoma of the lung (lung cancer).

Louise Richards
Assistant Ombudsman

July 2021

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