Prisons & Probation
Ombudsman
Independent Investigations

Independent investigation into the death of Mr Colin Nelmes, a prisoner at HMP Oakwood, on 16 April 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*

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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 Colin Nelmes died from frailty caused by vascular dementia on 16 April 2020 at HMP Oakwood. He also had COVID-19 which did not cause but contributed to his death. He was 75 years old. I offer my condolences to Mr Nelmes' family and friends.

I am satisfied that the healthcare that Mr Nelmes received at Oakwood was equivalent to that which he could have expected to receive in the community. His significant health problems were appropriately treated and he was shielded from COVID-19 from 23 March.

I am, however, concerned that the prison had not kept the contact details for Mr Nelmes' next of kin up to date. This meant that no one was told about his death.

I am also concerned that Mr Nelmes did not receive a care home placement in the seven months before he died.

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

Sue McAllister CB
Prisons and Probation Ombudsman **January 2022**

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Summary

Events

1. On 19 July 2010, Mr Colin Nelmes was convicted of a number of sexual offences and was sentenced to 15 years in prison. He was transferred to HMP Oakwood in June 2013.

2. While in custody, Mr Nelmes was diagnosed with asthma, chronic obstructive pulmonary disease (COPD) and prostate cancer, and he had a stroke. Mr Nelmes' conditions were treated with prescribed medication, he had care plans in place, and he received daily help from the social care team.

3. In 2018, he refused any further treatment for his cancer and he signed a do not attempt resuscitation (DNACPR) form.

4. From May 2019, Mr Nelmes became increasingly confused and he was diagnosed with vascular dementia. A nurse created a dementia care plan which ensured that his social care needs were met and that his clinical observations were taken monthly.

5. From 11 September, the Parole Board began considering whether to release Mr Nelmes into the community. Following two oral hearings on 11 September and 14 January 2020, the Parole Board decided to release Mr Nelmes to a care home on 16 April, after two previously selected care homes were unable to accept him.

6. From 23 March, the prison shielded Mr Nelmes and other prisoners who were at high risk of developing complications if they caught COVID-19.

7. On 8 April, an advanced nurse practitioner saw Mr Nelmes and noted that he seemed unwell. The nurse practitioner completed a COVID-19 screen, as Mr Nelmes had a fever, and decided to move him to the Hazel Unit to isolate him. On 9 April, he was swabbed to test for COVID-19 and on 10 April, the result came back positive.

8. Between 7 and 11 April, he had three brief visits to hospital. On 12 April, healthcare staff agreed not to send Mr Nelmes to hospital again as he had tested positive for COVID-19, he was already on oral antibiotics, and he did not fit the criteria for ventilation due to his underlying health conditions.

9. On 14 April, the nurse practitioner decided that Mr Nelmes should not travel to the care home as planned because he was too unwell and he had tested positive for COVID-19. Mr Nelmes' condition continued to deteriorate and he died at 3.55pm on 16 April.

Findings

Clinical care

10. Mr Nelmes had significant healthcare needs but the clinical reviewer is satisfied that the healthcare provided to him was equivalent to that which he could have expected to receive in the community.

11. Healthcare staff knew him well, there was consistency among staff towards the end of his life, they worked hard to find appropriate accommodation for his release and they had appropriately shielded him from COVID-19.

Mr Nelmes’ release

12. We are disappointed at the length of time (seven months) that it took from the Parole Board first considering Mr Nelmes’ early release in September 2019 to find him suitable accommodation in the community. By the time his release had been agreed for 16 April, it could not go ahead because Mr Nelmes had become too frail and had contracted COVID-19. We are concerned that there was no effective pathway in place to ensure that Mr Nelmes, an elderly and frail prisoner with dementia, received a care home placement more promptly.

Liaison with Mr Nelmes’ next of kin

13. We are concerned that the contact details for Mr Nelmes’ next of kin were not updated since May 2010 which meant that no one has been told that he died.

Recommendations

- The Director and Head of Healthcare should liaise with the Medical Director for Care UK to ensure that a clear and effective pathway is developed to help prisoners with dementia access care home placements promptly when appropriate.
- The Director should ensure that prisoners’ next of kin details are kept up to date and are readily available if they become seriously ill.

The Investigation Process

14. The investigator issued notices to staff and prisoners at HMP Oakwood informing them of the investigation and asking anyone with relevant information to contact him. No one responded.

15. The investigator obtained copies of relevant extracts from Mr Nelmes' prison and medical records.

16. NHS England commissioned to review Mr Nelmes' clinical care at the prison. The investigator interviewed two members of staff: one at Luton Probation Office on 9 June and the other at HMP Oakwood on 10 June. The clinical reviewer joined the investigator for the interview on 10 June. Both interviews were conducted by telephone because of the restrictions imposed in response to COVID-19.

17. We informed HM Coroner for Staffordshire South of the investigation. He gave us the cause of death as determined by a prison GP from Oakwood. We have sent the Coroner a copy of this report.

18. One of the Ombudsman's family liaison officers contacted Mr Nelmes' next of kin, a friend, to explain the investigation and to ask if he had any matters he wanted us to consider. He did not respond to our letter.

19. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies and their action plan is annexed to this report.

20. The initial report was shared with NHS England – Midlands. NHS England – Midlands pointed out a factual inaccuracy and this report has been amended accordingly.

21. The initial report was shared with the clinical reviewer. She pointed out some factual inaccuracies and this report has been amended accordingly.

Background Information

HMP Oakwood

22. HMP Oakwood is managed by G4S and is one of the largest prisons in England and Wales, providing places for around 2,100 male prisoners. Care UK provides the healthcare services, which include a daily GP clinic, some specialist services and out-of-hours GPs. From 4 May 2020, NHS England commissioned Care UK to change the hours of healthcare services from 7.00am to 8.00pm to 24-hour care.

HM Inspectorate of Prisons

23. The last inspection of HMP Oakwood was in February and March 2018. Inspectors reported that health services had improved considerably since their last inspection and, overall, were reasonably good. The range of services was appropriate and the management of prisoners with lifelong or complex health needs was very good, although staff shortages had led to a backlog of nurse reviews. Inspectors found that the healthcare rooms were well equipped and staff created appropriate care plans.

Independent Monitoring Board

24. 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 March 2019, the IMB reported that healthcare vacancies had reduced significantly and that a new scheme had reduced the number of missed appointments. They also found that the healthcare department provided excellent end-of-life care.

Previous deaths at HMP Oakwood

25. Mr Nelmes was the thirteenth prisoner to die at Oakwood since April 2018. Of the previous deaths, ten were from natural causes and two were drug-related. There has been one subsequent natural cause death. There are no similarities between this investigation and previous deaths at Oakwood.

26. There has been one further COVID-related death at Oakwood since Mr Nelmes' death.

COVID-19

27. 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.

28. COVID-19 can make anyone seriously ill, but the risk is higher for some people. There are two levels of higher risk: high-risk (clinically extremely vulnerable); and moderate risk (clinically vulnerable). People at high risk include those who have had an organ transplant, 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).

29. 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).

30. 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.

31. On 24 March, HMPPS issued an instruction, in line with Government advice, to all prisons to introduce social distancing and to implement a restricted regime and supported enforcement of social distancing of two metres for staff and prisoners wherever possible. The most vulnerable prisoners were identified and put into protective isolation.

32. On 31 March, HMPPS, in consultation with PHE, issued an order to significantly reduce transfers between prisons. Other measures, known as ‘compartmentalisation’ were also announced. These measures were designed to be implemented at local level, depending on the needs of each individual establishment, and included:

- Protective Isolation Units (PIUs): to accommodate known or probable COVID-19 cases, ideally in single-cell accommodation.
- Shielding Units (SUs): to protect the most vulnerable identified through collaboration with NHS England, with enhanced levels of bio-security including dedicated staff.
- Reverse Cohorting Units (RCUs): to accommodate new receptions or transfers in for a period of 14 days to detect any emergent infectious cases before entering general population. These units could also accommodate anyone returning from hospital.

Key Events

33. On 19 July 2010, Mr Colin Nelmes was convicted of a number of sexual offences and was sentenced to 15 years in prison. He spent time at other prisons before he was transferred to HMP Oakwood on 3 June 2013.

34. Mr Nelmes had been diagnosed with asthma in 2010, COPD, (a serious lung condition) in 2014 and prostate cancer in 2017. He refused all cancer treatment on 23 January 2018 and in February he signed a DNACPR form. Mr Nelmes also had a right-sided ischaemic stroke in 2018.

35. Mr Nelmes' conditions were treated with prescribed medication, including aspirin and atorvastatin (both used to prevent strokes) and salbutamol inhalers (used to treat asthma and COPD). He also received daily help from the social care team.

36. During his time in custody, Mr Nelmes became increasingly confused. From May 2019, healthcare staff queried whether his confusion was caused by the cancer having spread to his brain or by vascular dementia. In July, a prison GP referred Mr Nelmes for a MRI scan of his brain.

37. In August, Mr Nelmes had the MRI scan which showed that he had vascular dementia, but that the cancer had not spread to his brain. Five days later, a nurse created a dementia care plan for Mr Nelmes, which ensured that his social care needs were met, that his clinical observations were taken on a monthly basis and that he was given appropriate stimulation and equipment to cope with his diagnosis.

38. On 11 September, the Parole Board held an oral hearing to determine whether Mr Nelmes could be released from prison. During the hearing, Mr Nelmes' offender manager (probation officer), said that Mr Nelmes needed to be accommodated in a residential care placement, with care support and 24-hour monitoring in order to manage his risk. The Parole Board adjourned the hearing and directed his offender manager to produce a risk assessment for Mr Nelmes' proposed release accommodation in Luton (his home area) and for Luton Adult Social Care Services to assess his care needs in the community.

39. Luton Social Services proposed that Mr Nelmes should live in the community with a 'care package' or in sheltered accommodation. However, on 25 November, an advanced nurse practitioner and a forensic social worker, both emailed the MAPPA (Multi-agency Public Protection Arrangements) co-ordinator and to say that in their opinion that Mr Nelmes would not be able to care for himself independently in the community and needed 24-hour residential care. A prison GP saw Mr Nelmes and referred him to the dementia service so his care could be planned before his release. There is no record that the dementia service saw Mr Nelmes before his death.

40. On 6 January 2020, a MAPPA meeting discussed Mr Nelmes and agreed that he would be released to Mulberry Court care home in Luton for a six-week assessment.

41. The following day, a forensic psychiatrist saw Mr Nelmes and completed a mini-mental state examination (MMSE – a questionnaire used to measure cognitive

impairment). The forensic psychiatrist noted that Mr Nelmes was disorientated in relation to time, place and season and scored four out of 30 on the MMSE (scores of nine and below indicate severe impairment). The forensic psychiatrist asked for the MMSE to be repeated in two weeks and for healthcare staff to check that a urinary tract infection (UTI) Mr Nelmes was suffering from had not caused the confusion. There is no record that anyone repeated the MMSE.

42. On 14 January, the Parole Board held an oral hearing and heard that Mulberry Court had been placed into special measures so could no longer accommodate Mr Nelmes. Luton Social Services proposed St Brendan's care home, Luton, as alternative accommodation for Mr Nelmes. The Parole Board adjourned the hearing and directed the offender manager to update the risk assessment based on the new proposed accommodation.

43. On 27 January, a nurse took a urine sample from Mr Nelmes, which was sent to hospital for analysis. On 3 February, a prison GP reviewed the results, which showed that Mr Nelmes had a UTI, and he prescribed an antibiotic.

44. From February onwards, Mr Nelmes' health deteriorated.

45. On 6 February, a MAPPA meeting discussed Mr Nelmes and were told that St Brendan's had refused to accept him. Luton Social Services proposed The Georgiana care home, Luton, as alternative accommodation. On 5 March, the nurse practitioner noted in Mr Nelmes' electronic medical record that The Georgiana had accepted him and a bed was available from 2 April.

46. On 20 March, the Parole Board wrote to Mr Nelmes and confirmed that they had directed his release to The Georgiana on 15 April (although an administrative error meant that this date changed to 16 April).

23 March onwards

47. On 23 March, prison and the healthcare managers at Oakwood decided to shield prisoners with underlying health problems to reduce their risk of catching COVID-19. Mr Nelmes was one of the shielded prisoners.

48. On 2 April, the nurse practitioner noted that Mr Nelmes needed to be reviewed the day before his release to ensure that he did not have any signs of COVID-19. Four days later, the nurse practitioner created a COVID-19 decision support tool for Mr Nelmes. The tool said that if Mr Nelmes became ill with COVID-19, he should be sent to hospital in the first instance, and, if that was not possible, healthcare staff should trial oxygen.

49. On 7 April, a nurse saw Mr Nelmes, who had fallen overnight. She took his basic observations and found that his blood pressure was high and his temperature was low at 35.3C (a normal temperature reading is between 36.1C and 37.2C and a symptom of COVID-19 is a temperature of 37.8C or above). She thought Mr Nelmes probably had a UTI, as his social care support workers said that his urine was dark with a strong smell, and she told his carers to report any concerns. A prison GP prescribed Mr Nelmes an antibiotic.

50. Later that day, a nurse saw Mr Nelmes, who had fallen again and cut his head. She took his basic observations and found that his blood pressure was high and

his temperature was low at 35.2C. She noted that Mr Nelmes was “very chesty” and seemed exhausted, so she sent him to hospital. Mr Nelmes returned to Oakwood later that evening, after hospital staff stitched his head.

51. On the morning of 8 April, the nurse practitioner saw Mr Nelmes and noted that he seemed unwell. She calculated his National Early Warning Score (NEWS – an aggregate scoring system, in which a score is allocated to physiological measurements, that helps manage deteriorating patients) as 6 (medium risk). She thought this was probably due to his UTI but the nurse practitioner completed a COVID-19 screen as Mr Nelmes had a fever, and moved him to the Hazel Unit (a unit located above the healthcare department) for self-isolation as a precaution given his high risk.

52. Two hours later, the nurse practitioner calculated Mr Nelmes’ NEWS at 5 and advised staff to keep an eye on him. She recorded that Mr Nelmes had a temperature of 38.2C which was probably due to a UTI, but that they obviously could not rule out COVID-19, although Mr Nelmes would not let staff swab him to test for the virus. That evening, a nurse calculated Mr Nelmes’ NEWS at 5.

53. On the morning of 9 April, the nurse practitioner saw Mr Nelmes and noted that his observations had improved, though his temperature was high at 37.5C and his oxygen saturation rate was low. He was later swabbed to test for COVID-19.

54. On 10 April, a prison GP reviewed the results and noted that Mr Nelmes had tested positive for COVID-19. A nurse saw Mr Nelmes, who was more confused than normal. As he had fallen twice overnight and was unable to bear weight, she sent him to hospital. Mr Nelmes returned to Oakwood later that afternoon without having had any treatment.

55. On 11 April, a nurse saw Mr Nelmes, who said that he felt “knackered”. A nurse calculated Mr Nelmes’ NEWS at 6 and sent him to hospital. Hospital doctors diagnosed him with a lower respiratory tract infection and he returned to Oakwood later that afternoon.

56. The following day, a nurse and the nurse practitioner agreed not to send Mr Nelmes to hospital again because he had found the recent trips to hospital distressing and confusing and they considered that the disadvantages outweighed any possible benefits, given he had tested positive for COVID-19, was already on oral antibiotics and did not fit the criteria for ventilation due to his underlying health conditions.

57. On 14 April, the nurse practitioner told the offender manager and the prison’s Offender Management Unit that Mr Nelmes was too unwell to travel to the care home in Luton. She also thought that the care home would not accept him as he had tested positive for COVID-19.

58. On the morning of 16 April, a prison GP saw Mr Nelmes, who was agitated and extremely frail. The prison GP gave Mr Nelmes morphine and midazolam for agitation and confirmed that he was likely to die shortly. The nurse practitioner sat with him all day.

59. Mr Nelmes’ condition continued to deteriorate and the prison GP confirmed that he had died at 3.55pm on 16 April.

Contact with Mr Nelmes’ next of kin

60. On 16 April, the prison appointed the Head of Safer Custody, as a family liaison officer. After trying unsuccessfully to telephone Mr Nelmes’ next of kin on the landline and mobile numbers listed for him, she contacted Bedfordshire Police and Mr Nelmes’ solicitor and asked for their help in finding Mr Nelmes’ next of kin. Neither organisation was able to provide any contact details for Mr Nelmes’ next of kin so no one was contacted after his death.

61. The prison arranged and paid for Mr Nelmes’ funeral, which was held on 21 May.

Support for prisoners and staff

62. After Mr Nelmes’ death, the Head of Healthcare debriefed the healthcare staff involved in his care to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support.

63. The prison posted notices informing other prisoners of Mr Nelmes’ death, and offering support. Staff reviewed all prisoners assessed as at risk of suicide or self-harm in case they had been adversely affected by Mr Nelmes’ death.

Cause of death

64. A prison GP concluded that Mr Nelmes died from frailty caused by vascular dementia, and that he also had COVID-19 which contributed to but did not cause his death.

Findings

Clinical care

65. Mr Nelmes had significant healthcare needs but the clinical reviewer is satisfied that the standard of care that he received was very good and equivalent to that which he could have expected to receive in the community. Healthcare staff knew him well, there was consistency among staff towards the end of his life and they worked hard to find appropriate accommodation for his release.

Management of Mr Nelmes' risk of catching COVID-19

66. The clinical reviewer is satisfied that Mr Nelmes and other vulnerable patients had been appropriately shielded at Oakwood from 23 March, and that procedures had been put in place to enable social distancing, improved cleaning and continued access to personal protective equipment. She was also satisfied that the decision not to send Mr Nelmes to hospital after 11 April was correct as he would not have benefitted from hospital admission and it was less distressing for him to remain in familiar surroundings.

67. Although it appears likely that Mr Nelmes contracted COVID-19 in prison, we note that this was in the early days of the pandemic and that Oakwood took the decision to shield Mr Nelmes and other vulnerable prisoners on 23 March, before HMPPS issued guidance about this on 24 and 31 March.

Mr Nelmes' early release

68. In early September 2019, the Parole Board considered whether to release Mr Nelmes early on compassionate grounds, subject to a risk assessment and an assessment of his community care needs. We are satisfied that Mr Nelmes' clinical and social care needs were met at Oakwood, but we are disappointed that the Parole Board was not able to authorise his release until 20 March and that his condition deteriorated to such an extent that he died in prison on the date of his proposed release.

69. The Care Act 2014 identifies that it is the responsibility of local authorities to provide assessments and care and support services for adults in prisons. It is unclear whether Staffordshire Adult Social Care Services were asked to assess Mr Nelmes' care needs on release. The offender manager and the nurse practitioner were active in trying to ensure that Mr Nelmes' needs were identified and met in the community. We note that they expressed frustration at the delays in assessing his care needs

70. We recognise that part of the seven-month delay was also due to the initial care home going into special measures, the second care home refusing his admission and Mr Nelmes contracting COVID-19 in April when he should have moved to the third care home. However, at the heart of this case was an elderly prisoner with dementia whose needs would have been better met in a care home. It appears that this did not happen in large part because the structures and pathways to follow were not effective or easy to navigate.

71. In July 2016, we published a Learning Lessons Bulletin about dementia. We identified that prisoners aged over 60 are the fastest-growing segment of the prison population and that this has led to an increase in deaths from natural causes and increasing social care needs of elderly and infirm prisoners. In the context of an aging prison population, it is likely that there will be many elderly prisoners like Mr Nelmes with dementia needs. It is important that they have access to the appropriate setting to meet their needs and that there are structures, processes and pathways in place for this to happen promptly. We make the following recommendation:

The Director and Head of Healthcare should liaise with the Medical Director for Care UK to ensure that a clear and effective pathway is developed to help prisoners with dementia access care home placements promptly when appropriate.

Liaison with Mr Nelmes' next of kin

72. Prison Service Instruction (PSI) 64/2011 on safer custody sets out the processes to follow when a prisoner dies. This includes that prisons must record a prisoner's next of kin during their early days in prison and that this information must be updated.

73. HMPPS guidance on *Acting as Family Liaison Officer by telephone – communicating with a prisoner's next of kin*, published in March 2020, sets out the processes for family liaison during the COVID-19 pandemic. This includes that when a prisoner is diagnosed with COVID-19, they should be asked whether they want to inform anyone and that next of kin details should be updated so that they can be contacted if the prisoner becomes unwell.

74. When Mr Nelmes first entered prison custody in 2010, he named a friend as his next of kin. Although nearly ten years had passed and Mr Nelmes was diagnosed with COVID-19 on 10 April 2020, there is no record that anyone checked the details for his next of kin to ensure that they had been updated. Also, there is no record that anyone asked Mr Nelmes whether he wanted to contact anyone after he had been diagnosed with COVID-19. As a result, no one of significance to Mr Nelmes was told of his death. We make the following recommendation:

The Director should ensure that prisoners' next of kin details are kept up to date and are readily available if they become seriously ill.

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