

**Prisons &
Probation**

Ombudsman
Independent Investigations

**Independent investigation into
the death of Mr Raymond
Whittaker, a prisoner at HMP
Wakefield, on 27 September 2022**

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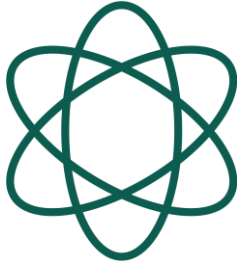
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Our vision

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

OGL

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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 Raymond Whittaker died on 27 September 2022 of an acute lower respiratory tract infection caused by multiple sclerosis at HMP Wakefield. He was 56 years old. We offer our condolences to Mr Whittaker's family and friends.
4. The clinical reviewer concluded that the clinical care Mr Whittaker received at Wakefield was equivalent to that which he could have expected to receive in the community. However, she made two recommendations.
5. We found that staff never submitted an application for Mr Whittaker's early release on compassionate grounds despite him becoming eligible when he became bedbound in 2012.

Recommendations

- The Head of Healthcare should ensure that registered members of the nursing team are able to verify deaths in patients who are known to be at the end of their lives.
- The Head of Healthcare should ensure that advance care planning is considered and updated during gold standard framework meetings so that all patients' wishes about their end of life care are up to date and implemented
- The Governor should ensure that staff:
 - are aware of the eligibility criteria for early release on compassionate grounds; and
 - make applications for early release on compassionate grounds as soon as a prisoner becomes eligible.

The Investigation Process

6. NHS England commissioned an independent clinical reviewer to review Mr Whittaker's clinical care at HMP Wakefield.
7. The PPO investigator investigated the non-clinical issues relating to Mr Whittaker's care, including Mr Whittaker'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 Whittaker's next of kin, his sister, to explain the investigation and to ask if she had any matters she wanted us to consider. She did not respond to our letter.
9. We shared our initial report with HM Prison and Probation Service (HMPPS). They found no factual inaccuracies. They provided an action plan which is annexed to this report.

Previous deaths at HMP Wakefield

10. Mr Whittaker was the twentieth prisoner to die at Wakefield since September 2020. Of the previous deaths, three were self-inflicted and the rest were from natural causes. We have previously made recommendations on advance care planning and compassionate release applications.

Key Events

11. On 8 February 2002, Mr Raymond Whittaker was sentenced to life imprisonment for murder, with a minimum term of 23 years. In June 2008, he was moved to HMP Wakefield.
12. In 2006, Mr Whittaker was diagnosed with multiple sclerosis (MS - a condition that can affect the brain and spinal cord, causing a wide range of potential symptoms, including problems with vision, arm or leg movement, sensation or balance). Mr Whittaker had primary progressive MS, which is where the symptoms get gradually worse over time. By 2012, Mr Whittaker was bedbound and required healthcare staff to carry out all his care.
13. On 8 February 2022, a prison GP referred Mr Whittaker to a Telemed neurologist (a doctor who specialises in treating diseases of the nervous system, and provides consultations on the phone and online) for support with his neuropathic pain (pain caused when your nervous system is damaged or not working correctly) caused by his MS.
14. On 29 March, Telemed advised the healthcare staff at Wakefield that the neurologist had rejected their referral and advised that they should begin palliative care for Mr Whittaker.
15. On 24 September, prison healthcare staff noted that Mr Whittaker appeared lethargic and tearful and was unable to express himself. Healthcare referred him to the mental health team.
16. On 25 September, prison healthcare staff noted that Mr Whittaker continued to be unsettled and tearful and appeared to have a chest infection.

Events of 26 September

17. At 8.14am on 26 September, a nurse tried to relieve Mr Whittaker's cough using a cough machine (a machine to help clear phlegm by providing pressure support to assist breathing) three times with no success.
18. At 9.00am, a clinical support worker noticed that Mr Whittaker did not appear as responsive as usual and requested a nurse, who took his observations and commenced oxygen therapy. Mr Whittaker began to recover.
19. Prison healthcare diagnosed Mr Whittaker with a chest infection and prescribed antibiotics.
20. At 6.10pm, a nurse took Mr Whittaker's observations. She documented Mr Whittaker had a raised respiratory rate, low blood oxygen level and high blood pressure. She gave oxygen therapy and Mr Whittaker began to recover.
21. The advanced nurse practitioner advised that due to Mr Whittaker's palliative status and request to remain at Wakefield, it was not appropriate to send him to hospital, and he should instead continue to be monitored.

Events of 27 September

22. At 6.56am on 27 September, a nurse noted that Mr Whittaker's breathing appeared laboured and there were longer pauses between his breaths, indicating that he was approaching the end of his life.
23. At 5.30pm, a nurse was giving Mr Whittaker his medication when his breathing became delayed, and he died.

Cause of death

24. The Coroner accepted the cause of death provided by a prison GP and no post-mortem examination was carried out. The GP gave Mr Whittaker's cause of death as acute lower respiratory tract infection caused by multiple sclerosis.

Non-Clinical Findings

Compassionate release

25. 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 be permanently released from custody before their sentence has expired. The criteria for early release are set out in the Early Release on Compassionate Grounds (ERCG) Policy Framework. Among the criteria is 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 ERCG must be submitted to the Public Protection Casework Section (PPCS) of HM Prison and Probation Service (HMPPS).
26. The ERCG policy says that applications may be made where the prisoner is incapacitated or has health conditions such that the experience of imprisonment causes suffering greater than the deprivation of liberty intended by the punishment. This could include paralysis, those who have experienced severe strokes, or advanced dementia. It also says that where a prisoner appears to meet the criteria for early release but expresses a wish to remain in prison, an application should still be made if early release would be in the best interests of the prisoner.
27. Prison staff started two applications for ERCG for Mr Whittaker, one in 2020 and one in 2022. Neither application was completed. Mr Whittaker changed his mind on a few occasions about whether he wanted compassionate release.
28. Mr Whittaker became bedbound, due to his multiple sclerosis, in 2012. We saw no evidence that his eligibility for ERCG was considered at that time. We consider this should have been done regardless of whether Mr Whittaker expressed a desire to remain in prison. We are concerned that staff might not have been aware that the ERCG policy covers prisoners who become incapacitated, as well as those with terminal diagnoses. We recommend:

The Governor should ensure that staff:

- **are aware of the eligibility criteria for early release on compassionate grounds; and**
- **make applications for early release on compassionate grounds as soon as a prisoner becomes eligible.**

Louise Richards
Assistant Ombudsman

April 2023

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