

**Investigation into the circumstances surrounding the
death of a man in October 2008 in hospital, whilst in the
custody of HMP Frankland**

Report by the Prisons and Probation Ombudsman
for England and Wales

April 2009

This is the report of an investigation into the death of a man who died in October 2008, in hospital, whilst in the custody of HMP Frankland. The man had been diagnosed with Hodgkin's disease (lymph node cancer), and had been transferred from Frankland to the hospital the day before. The man was 55 years old.

A post mortem was held at the request of HM Coroner for Durham and Darlington. It found that the man died from natural causes resulting from his diagnosed cancer.

I extend my sincere condolences to the man's family and friends

This investigation was undertaken by one of my investigators. In addition, a review of the man's healthcare was commissioned from County Durham Primary Care Trust. I am grateful to the clinical reviewer who carried out the review. I would also like to thank the Governor of Frankland and his staff for their help and assistance. I am particularly grateful to the prison's liaison officer.

The man had previously been treated for cancer in January 2006 and received chemotherapy. In August 2008, he became unwell and medical tests indicated his cancer had returned. By October, his condition had deteriorated to such a degree that he had to be transferred to hospital.

I make one recommendation for the attention of the Governor at Frankland in relation to risk assessments for hospital appointments. The clinical reviewer has noted two points of good practice in regard of healthcare and palliative services at both Frankland and HMP Wakefield.

In this final report I note the acceptance of the recommendation by the Governor at Frankland. No comments to the draft report were received from the man's family.

Stephen Shaw CBE
Prisons and Probation Ombudsman

April 2009

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SUMMARY

The man was sentenced to life imprisonment in 1987 for murder. He served his sentence in three prisons within the high security estate and was assessed as a category A prisoner (the highest security category). On reception into prison he reported no serious physical or mental problems. In 1990, whilst he was at HMP Full Sutton, the man's daughter died. Other serious family concerns were to follow.

The man was received into HMP Wakefield from HMP Frankland in 2002. He developed a chest infection in August 2005 and was admitted to hospital. Whilst in hospital, medical tests revealed a tumour on his lung. He was discharged back to Wakefield to wait for further medical investigations. On 2 November, the man was transferred to Frankland for security reasons. This was despite an intervention by the prison's medical officer who was concerned that the transfer meant that the man would not receive a bronchoscopy on that day. (A bronchoscopy is an examination of the lungs by passing a camera down the airway.)

On returning to Frankland, the medical officer made an urgent referral to hospital for the bronchoscopy. Two weeks later, the man was seen at the hospital and the procedure was carried out. On 9 December, the man had further medical procedures and a diagnosis of cancer was made. He underwent a course of chemotherapy (a treatment for cancer) in January 2006. In April 2006, it was noted he was responding well to treatment.

In January 2008, a Computerised Tomography (CT) scan was cancelled for security reasons. (A CT scan is an x-ray of the whole body.) A further appointment was cancelled on 15 February as the prison was unable to provide an escort of officers. On 25 March, the re-arranged scan was cancelled for security reasons (a risk assessment had been completed with inappropriate restraint arrangements). The man finally had his scan on 2 April and it showed that his medical condition remained in remission; however there is a concern about the importance of attending hospital appointments

The man became unwell in August 2008 and was admitted to UHND. Following medical tests it was noted that there was a recurrence of his cancer. The man's physical condition began to deteriorate and he was offered morphine based pain control and admitted to the prison's healthcare unit. In September, Macmillan nurses (nurses who are specialist in terminal illness) visited the man and advised healthcare staff on pain control medication. A consultant in palliative care also visited the man to monitor his condition and advised on his nursing care.

One day, early in October, the man was admitted to UHND for terminal care. He died the following day.

The investigation found that the man received a prompt response to the initial symptoms of his illness and received quality palliative care from healthcare staff at Frankland. However, the cancelled appointments for the CT scans raise concerns and a recommendation has been made concerning hospital appointments.

THE INVESTIGATION PROCESS

1. On 6 October 2008, my investigator telephoned the appointed liaison officer at HMP Frankland and requested the man's medical notes and Offender Assessment System document (OASys). The Ombudsman's terms of reference and notices of investigation were sent in return. A request for a review into the man's medical care was made with Durham PCT.
2. One of my Family Liaison Officers made contact with the man's brother on 31 October. He declined a visit at this stage whilst he was waiting for some of his brother's property. He wanted to review documents held in the property before he made any decision to meet with members of my office.
3. My investigator made contact with the security department at HMP Wakefield on 6 November. She requested information in relation to the man's transfer from Wakefield to Frankland.
4. On 12 November my investigator visited Frankland to formally open the investigation into the man's death. She met an officer from the prison's secretariat, and reviewed the man's prison files. Copies of documents from those files were sent to my investigator. Later, my investigator met with Operations Support Security Manager and a Healthcare Administration Officer.
5. My Family Liaison Officer wrote to the man's brother on 8 December, enclosing a document it was thought he might have been referring to in her conversation with him on 31 October. Since then, my Family Liaison Officer has made several telephone calls and left voice messages for the man's brother to contact her in relation to the document and her letter. Up to the circulation of this report, my Family Liaison Officer has been unable to speak directly to the man's brother.
6. On 5 January 2009, a clinical review into the man's medical care was received from the clinical reviewer.

HMP FRANKLAND

7. HMP Frankland is one of eight maximum security establishments in England and Wales. Frankland holds convicted category A and B adult male prisoners, and some high risk remand prisoners. The operational capacity of the prison is 734.
8. Healthcare services at Frankland are provided by the County Durham Primary Care Trust. The healthcare centre provides 24 hour inpatient care. It has two six-bedroom wards and eight furnished rooms.
9. The most recent full inspection report by HM Chief Inspector of Prisons, dated March 2003, describes Frankland as offering a safe environment based upon good relationships between staff and prisoners. The inspection found good staff understanding of individual prisoners and their needs.
10. Following a short unannounced follow up inspection on 25 October 2005, the Chief Inspector recorded that healthcare services at Frankland had improved since the full inspection. However, primary care still needed development and staffing shortages had hindered progress. Of the 12 healthcare recommendations made during the full inspection, nine had been fully achieved, one partially achieved, and two had not been achieved.
11. The latest Independent Monitoring Board (IMB) report (for the year 2006-07) found that healthcare had improved during the course of the year. The IMB reported that morale amongst healthcare staff, which had previously been low, had stabilised and improved. They also reported that all sections of healthcare appeared to be working well.

This is the 18th death from natural causes to have occurred at Frankland since April 2004, when I began investigating all deaths in prison custody in England and Wales. My investigator in this case investigated one of the earlier cases which concerned another man who suffered from cancer. That report recognised the excellent palliative care co-ordination and management which was again evident in the man's case.

KEY FINDINGS

12. The man was born in Scotland in 1953 and was 55 years old when he died. He was divorced with two children. In his twenties, the man left England and served for two and a half years in the Foreign Legion. He then found work as a driver.
13. In February 1988, the man was convicted of murder at Liverpool Crown Court and sentenced to life imprisonment. He had served three previous custodial sentences. During this final custodial sentence the man had eight adjudications (prison disciplinary hearings) which had been proved against him. He admitted to having anger management problems. In the early 1990s, the man had several serious family concerns.
14. The man was located at two prison establishments within the high security estate, Full Sutton and Wakefield, in addition to Frankland. He was transferred from Wakefield to Frankland on 1 November 2005 for operational reasons, despite being diagnosed with cancer. The man participated in several reducing offending behaviour courses during his sentence. Before being admitted to Frankland's healthcare unit for nursing care, he carried out light duties as a wing cleaner.
15. The man was first received into HMP Risley on 5 August 1988 on remand. His reception health screening noted that he was well with no health or mental health problems. Following his conviction, he was transferred to HMP Full Sutton. The man received support from healthcare staff following the death of his daughter in a road traffic accident in 1990. He was prescribed a sedative antidepressant of Amitriptyline. Over the next few years, the man had some back pain which was treated with painkillers, but otherwise he remained in good health. He remained at Full Sutton until 1994, and then spent seven years in Frankland before transferring back to Full Sutton for one year. On 23 August 2002, the man transferred to HMP Wakefield. His reception health screen document noted his occasional back pain.
16. On 28 January 2005, the man asked healthcare staff for nicotine patches to help him stop smoking. He became unwell on 29 September with bronchitis and was prescribed an antibiotic. Four days later, his condition had not improved and he was admitted to hospital. The man was treated as an inpatient and had a computerised tomography (CT) scan. The scan revealed that he had a tumour on his lung. A week later, the man was discharged back to Wakefield. He was offered a place in healthcare, which he declined. The man's medical notes indicate that an outpatient appointment had been made for him to undergo a bronchoscopy.
17. The man's medical notes record an entry by the medical officer, on 1 November 2005. The medical officer wrote that the man was being transferred from Wakefield despite an appointment for his bronchoscopy being arranged for that day. The doctor noted that the man had inoperable cancer and added his concerns over the transfer with the security department.

18. The following day, the man transferred from Wakefield to Frankland. On his reception into Frankland, his medical notes record that he was aware of his medical condition and an urgent referral was made for him with hospital. The man was located on a mainstream wing.
19. On 7 November, the man was seen by a healthcare member of staff. He was unwell with a bad cough, shortness of breath, vomiting and chest pain. Tramadol (a painkiller) and a cough linctus were prescribed, both of which he held in his own possession. The man was offered a place in the healthcare unit but he declined that saying he was coping on the wing. The man was advised to contact nursing staff if he felt the pain was increasing.
20. Three weeks later, the man was seen in the healthcare unit with increased pain and shortness of breath. Later that day, he attended an outpatient appointment at hospital for a CT scan. The man's dosage of Tramadol was increased.
21. On 1 December, the man was treated with an antibiotic for a chest infection. Four days later, he was admitted to hospital for tests. His medical notes record that he had been diagnosed with a small cell lymphoma and his pain was now under control. On 9 December, he was discharged back to Frankland. After he had been seen by healthcare staff, he returned to the wing.
22. The man complained to a nurse of feeling unwell on 14 December. He was vomiting, and had a nose bleed. The nurse spoke to the man's hospital consultant who advised that he should see the prison doctor the next day as he thought that the symptoms were not associated with the recent inpatient tests. The nurse returned to the man's cell and checked how he was feeling. She advised the man to contact staff immediately if he had any further problems and to attend the healthcare unit later that afternoon. Later, the man was seen by a nurse in the healthcare unit. His blood pressure, pulse rate and temperature were checked and within the normal range. (The normal range for blood pressure is 120-140/80-90, the pulse rate is 60-100 beats per minutes and temperature is 36.5 degrees.)
23. The following day, the man saw the doctor and he noted his symptoms. On 29 December, the man attended an outpatient appointment at the hospital for further tests. Five days later, he was seen in the healthcare unit with some pain to his lung where a biopsy had been performed at the hospital. The wound was checked along with his observations. The man's temperature was noted at to be 36.8 degrees. An appointment was made for him to see the doctor the next day.

24. On 4 January 2006, the man was examined by the doctor who noted that the man was starting a cold and that his breathing was difficult. An electrocardiograph (ECG) test was carried out. (An ECG measures the performance of the heart.) Six days later, the man saw the doctor to prepare for chemotherapy. A nurse from the hospital visited the prison to see the man after his outpatient appointments for the chemotherapy. Regular blood tests and physical checks were undertaken by healthcare staff whilst the man continued with his chemotherapy treatment. It was noted that the man was losing weight, and on 23 June his medical notes record that the hospital would need to be informed if he lost any more weight. A week later, his weight had increased.
25. The man was feeling better and asked the doctor if he could start work on light duties on 23 August. The doctor assessed that he was fit for light work. On 12 October, the man attended a Patient Advice and Liaison Service (PALS) clinic at the hospital. The PALS clinic asked if the man would like a doctor or nurse to visit him and explain the next process in his treatment which was radiotherapy. (Radiotherapy is a treatment using high energy x-rays.) The man said that he would like to speak to someone as he did not wish to go ahead with the radiotherapy as he felt it would not make a lot of difference. He said he was content with his treatment at Frankland.
26. In September 2006, security intelligence suggested that the man might have been trading prescription medication to other prisoners on his wing.
27. On 4 July 2007, the man was next seen by a nurse who noticed him using his inhaler to help his breathing. He was getting breathless, in increasing pain, but his weight had remained the same for the last year. The nurse made an appointment for the man to see the doctor.
28. Five days later, the man was seen by the doctor. The doctor noted that a recent scan showed that a nodule had been identified on his lung. The man told the doctor he had been weepy and depressed. The doctor reviewed the man's medication and prescribed Fluoxetine (to relieve anxiety and depression). A further review of the man's medication was carried out by the doctor on 6 September.
29. On 13 December, wing staff asked a member of healthcare to see the man as he was complaining of feeling unwell. When he was later examined in the healthcare unit, his blood pressure and pulse rate were within normal range. The man told the doctor his pain had increased over the last four days. His dosage of Tramadol was increased and the doctor noted that the man should be referred to the palliative care team.
30. An appointment for a CT scan was cancelled on 9 January 2008, and re-arranged. On 21 January, the man's medical notes record that he was not receiving all his medication as there might have been problems with it being stolen on the wing. A weekly check of the man's medication was requested to avoid him missing any drugs. Palliative care was also discussed with the man.

31. A further CT scan was cancelled on 15 February because of operational difficulties. There were no officers available to act as an escort for the man. (The man was a category A prisoner and required a minimum of three officers to escort him. On that day, another category A prisoner required dialysis treatment which took precedence over the man's escort.) Ten days later, the man saw the doctor. His medication was reviewed and Fortisip (a food supplement drink) was prescribed.
32. On 25 March, a CT scan was again cancelled by the security department due to a risk assessment by the first governor. The first governor had requested that the man be restrained by double cuffs (the prisoner's hands are cuffed together in front of their body then cuffed to an officer). Healthcare staff had previously requested that an escort chain be used (an escort chain is 1.8 metre chain attached to the prisoner and an officer). An escort chain allows more movement and greater access for medical staff who are administering treatments. Because of this risk assessment, Healthcare had to cancel the appointment.
33. The man was seen by a nurse on 2 April because of a pain to his upper body which he believed had happened whilst pulling a trolley when carrying out his wing cleaner duties. The man also told the nurse he had been vomiting and having panic attacks. The nurse suggested that the man would benefit from advice from the doctor. The following day, the man attended hospital for his CT scan. A medication review by the doctor was noted on 21 April. The man was still being seen regularly by healthcare staff and his medication reviewed.
34. On 17 August, healthcare staff were called to the wing as the man was very unwell, with shortness of breath and increasing pain. The nurse noted that he was clammy and grey in colour. An ECG procedure was performed and faxed to the hospital for the attention of the doctor. The man's clinical observations were monitored, and he was transferred to hospital by ambulance. Two days later, he was discharged back to the healthcare unit at Frankland and stayed there as an in patient for two days.
35. An entry in the man's medical notes on 22 August, said that he was back on the wing, although still feeling unwell. He told the nurse he had had pain in his knees and was advised to take paracetamol. Nine days later, the man was seen in the healthcare unit, his Tramadol medication was missing and he was in pain. (Tramadol has an opiate effect to combat pain.) His observations were within the normal range and an ECG showed some irregular rhythm, but was otherwise normal. The nurse noted she would discuss the missing medication with a senior nurse.
36. The next day, the doctor recorded that the man should now only have medication dispensed to him by healthcare staff as some of his medication had gone missing. Later that day, the man was given his medication by a nurse on the wing. The nurse noted that the man looked as if he had lost weight and added a weight monitoring check to his medical notes. Two

37. On 2 September, the doctor agreed that the man could resume holding his own medication. His frail condition and lack of mobility made it difficult for him to go to the medication hatch to collect it from the nurse. The man said he would take greater care of his medication in the future as he had let other prisoners in his cell when his medication was on the top of his locker. The man was provided with a secure locker in his cell to store the Tramadol and other drugs.
38. Two days later, the decision was reversed. The man was again required to collect his medication as the healthcare team were concerned that he could be a victim of bullying or that he could be trading it. (There is no indication from the man's personal file that he was being bullied.) On 8 September, The man was unable to collect his Tramadol. A nurse noted in his medical record that in future staff should take the medication to his cell.
39. On 11 September, a doctor recorded in the man's medical notes that he could now have in possession medication as he had a court appearance coming up and would need his medication then. (There is no indication in the man's prison file as to why he would be attending court.) A team meeting in healthcare the following day agreed that the man could retain the medication which was to be taken twice daily.
40. The man was admitted to the healthcare unit on 17 September, at his own request, as he was unable to cope on the wing any more. He was examined by a nurse who noted that the man had shortness of breath, and was coughing too much for his blood pressure reading to be taken. A wheelchair needed to be provided for him and the palliative care team were contacted. The man was also prescribed nicotine patches.
41. The next day, palliative care was discussed between the man and a member of healthcare staff. Although he was initially reluctant to accept this, he agreed that it would be helpful for his pain control. A referral was made to the Macmillan nursing team to visit the man. (Macmillan nurses are specialist carers in terminal illness.)
42. The man was examined by the doctor the following day as he was feeling unwell. A Macmillan nurse had been in contact with healthcare staff and it was advised that the man should start to receive Oramorph (a morphine based pain killer in liquid form) for his pain control.
43. On 22 September, The man was examined by the doctor. It was noted that he was now taking frequent doses of Oramorph for his pain control. A prescription of Fortisip was added to his medication as the man was finding it difficult to eat. His medical notes recorded that his observations of blood pressure, temperature and pulse rate had to be taken twice a day.

44. The following day, a Macmillan nurse visited the man. The nurse advised the man to continue to take Oramorph in addition to Morphine tablets. It was noted that his condition was deteriorating. The man was now receiving nursing care on the healthcare unit with regular medication.
45. On 30 September, a healthcare nurse made contact with the Macmillan nurse as the man's condition was deteriorating further. The Macmillan nurse told the nurse she would speak to a consultant in palliative care and visit the man the next day. The man was later seen by the doctor who noted his weakening condition.
46. The following day, the Macmillan nurse visited the man and requested an urgent blood test to rule out hypercalcaemia. (High levels of calcium salts in the bloodstream caused through a wide variety of illness including malignant disease. If hypercalcaemia were found to be present, it would require treatment.) The man was confused and hallucinating. His family made contact with the prison to arrange a visit to see him. (It is not recorded when the man's family was first made aware of his frail condition; nevertheless, it would seem some contact was made for them to arrange the visit.)
47. Later, a Consultant in Palliative Care, visited the man. The Consultant noted his chronic deterioration, weight loss and hallucinations, and contacted the hospital to discuss the man's current medical issues. It was agreed that he would remain at Frankland and be treated for his condition. (The medical notes also recorded that the man requested to remain at Frankland but would accept a transfer to hospital for investigations.) It was further agreed that two palliative care nurses would stay with the man for comfort care. The Consultant in Palliative Care finally noted that resuscitation would be unsuccessful and inappropriate given the man's poor medical condition.
48. The man was now being nursed in bed, receiving oxygen, Morphine based pain control, and intravenous (drip) fluids. Early October, the man was transferred to hospital at the request of the doctor. His condition had continued to deteriorate over night. An escort was arranged and the man was taken by ambulance to ward three in the hospital. He was not restrained.
49. At 9.00am on the next day after transfer to hospital, the man died with his family at his bedside. Following his death, the man's family received support from the Family Liaison Officer at Frankland. Financial assistance was offered towards the cost of the funeral.

ISSUES

50. A review of the man's clinical care was commissioned through Durham Primary Care Trust (PCT). The clinical reviewer carried out that review on behalf of the PCT.

The man's transfer to Frankland

51. The man was transferred to Frankland on 2 November 2005. The medical officer at Wakefield noted in the man's medical record that he was due to have a bronchoscopy that day at a hospital local to the prison. The medical officer at Wakefield further noted that he had spoken to the security department and, in his opinion, the man should have this medical procedure. For operational reasons, the man was transferred to Frankland instead of having his bronchoscopy. On arrival at Frankland it was recorded in his medical records that an urgent appointment was needed for the man to be seen at the UHND. Three weeks later, the man was seen at UHND. He had his bronchoscopy procedure that day.
52. The clinical reviewer comments that it was a concern that the man was transferred before his bronchoscopy. However, good communication between the clinical teams at Wakefield and Frankland ensured that the man was seen promptly by the hospital.
53. My investigator made enquiries with the security department at Wakefield to ask why the man was transferred. A reply from a Principal Officer said that a serious incident had taken place at Wakefield and a number of identified prisoners were moved out of the prison immediately. The man was one of those prisoners.
54. It was unfortunate that the man did not have his bronchoscopy before he was transferred to Frankland. However, I appreciate that security in a category A prison is fundamental and why, for that reason, the man needed to be transferred urgently. He had his bronchoscopy three weeks later at hospital.

Cancelled hospital appointments

55. The man had three scan appointments cancelled between 9 January and 25 March 2008. Although they did not have any impact on the outcome of his illness, my investigator spoke to the Operations Support Security Manager about the cancellations.

56. I understand that the appointment on 9 January, was cancelled as a nurse at the hospital had informed the man of the date of this appointment. For security reasons prisoners must not be given advance notice of the date of hospital appointments. The second appointment on 15 February was cancelled for operational reasons. Another category A patient was receiving dialysis as an outpatient in hospital. Frankland is only resourced to provide one escort for a category A patient at one time, and the prisoner needing dialysis was given priority that day.
57. So far as the third cancellation is concerned, a risk assessment by a governor had requested that the man be double cuffed for his scan appointment on 25 March. Healthcare staff had asked that the man be escorted on an escort chain which would permit easier access by medical staff. The appointment was cancelled as the double cuff arrangements were judged inappropriate by healthcare staff in light of the man's treatment.
58. My investigator was unable to speak directly to the governor but followed up the matter with Operations Support Security Manager. I understand that in January 2008, a prisoner escaped from two officers whilst attending hospital for an injury to his hand. Security arrangements were increased following the escape. The man was a category A prisoner and so every consideration had to be given to security whilst he was outside the prison.
59. The clinical reviewer has commented that CT scans are a follow up after chemotherapy to assess the patient's progress and to check for any recurrence of tumours. The last appointment was cancelled despite a letter from healthcare staff indicating that this appointment was to monitor a serious medical condition and should not be further delayed.
60. The scan was eventually carried out on 2 April, and it indicated that the man was still in remission. Nevertheless, the fact that there were three cancelled appointments and a three month delay could have had serious implications for his health.
61. The clinical reviewer comments that it was fortunate that the man did not come to any harm as a result of the delay. He further says:
- "I can fully appreciate the need to ensure that the public are protected from potentially violent prisoners, but since he [the man] had had previous CT scans, it is difficult to understand why it was felt necessary to increase security measures to a level which precluded his investigations."
62. It is a serious concern that three scan appointments were cancelled. Whilst this did not impact directly on the man's health at the time, it was a critical issue in the control of his illness. The governor's concerns about security should have been discussed with healthcare staff before making the decision to cancel the appointment. The previous cancelled appointments and the man's medical history should have been considered.

Risk assessments for outpatient appointments should be completed in consultation with senior healthcare staff.

In possession medication

63. The clinical reviewer comments that in August 2008 the man reported his medication was missing from his cell. The medication in question was Tramadol which is a powerful opiate based pain killer, and drugs of this kind are often sought after by prisoners and sold or traded. From time to time, the man was not permitted to keep medication in possession, and subsequently a secure locker was provided in his cell to keep it safe. However, information was forwarded to the security department which indicated that on three occasions, once in 2006 and twice in 2008, The man may have been selling his drugs to other prisoners. It would also seem that the man did not always keep the medication in the secure locker as directed.
64. During the times when the man was not allowed to have the medication in his possession, he either collected it from the nurse or it was dispensed to him in his cell. I acknowledge the steps taken by the healthcare staff to ensure the man was able to receive his medication and to stop any drug trading of the Tramadol on the wing.

Clinical Care

65. The clinical reviewer concludes his review of the man's healthcare without making any recommendations. He commends a senior medical officer at Wakefield, a medical officer at Wakefield, the healthcare team at Wakefield, and a medical officer and the healthcare team at Frankland, for their good communication which helped to ensure a prompt handover when the man transferred to Frankland. The clinical reviewer also recognises the good palliative care provided by the clinical team at Frankland and the Macmillan Nurses.

Conclusion

66. The man died from natural causes. My investigation has revealed a good quality of healthcare, save for my concerns over three cancelled hospital appointments.

RECOMMENDATIONS

For the Governor at Frankland

1. Risk assessments for outpatient appointments should be completed in consultation with senior healthcare staff.

Accepted – “ Consultation with the Healthcare Centre does take place in relation to any cancellations of escorts. The risk assessment process has been changed since the man’s death but additionally healthcare staff will now identify if any related hospital appointments have had to be cancelled because of the risk assessment. This will ensure a full dialogue takes place in the event of escorts being cancelled for security reasons.”