

**Prisons &
Probation**

Ombudsman
Independent Investigations

Investigation into the death of a man, a prisoner at HMP Altcourse, in February 2015

**A report by the Prisons and Probation Ombudsman
Nigel Newcomen CBE**

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 such as this 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.

The man who is the subject of this report died from lung cancer in February 2015, while a prisoner at HMP Altcourse. He was 44 years old. I offer my condolences to his family and friends.

The investigation found that the standard of healthcare the man received in prison was at least equivalent to that he could have expected to receive in the community. He was examined appropriately and there is no evidence of any delay in diagnosis or treatment. However, I am concerned that, in contrast to the commendably balanced approach taken by managers at Parc, those at Altcourse authorised the use of restraints when he was clearly ill, in pain and with very limited mobility. I have raised this issue a number of times with Altcourse and the Director needs to take active steps to make sure that staff understand the guidance and the legal position about the use of restraints on terminally ill prisoners.

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

Nigel Newcomen CBE
Prisons and Probation Ombudsman

September 2015

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Summary

Events

1. The man was sentenced to ten years in prison on 12 August 2005. On 1 September 2014, he transferred to HMP Parc. He first complained of pain in the left side of his chest on 30 December 2014. A prison GP diagnosed him with a chest infection and prescribed antibiotics and ibuprofen.
2. On 12 January, another GP examined the man after his chest infection did not improve and he complained of pain. The doctor noted he was not short of breath and had not lost weight. He considered the pain was either muscle strain from continued coughing or possible asthma. The doctor referred him for a chest X-ray and a spirometry test to measure his lung function. A prison physiotherapist reviewed the man on 15 January and diagnosed muscle spasm through coughing.
3. On 17 January, before he had had the X-ray or the spirometry test, a prison GP sent the man to outside hospital as he had an enlarged bladder, was unable to urinate and was suffering from back pain. He was admitted to hospital. On 23 January, after further investigations, doctors informed the man that it was likely he had lung cancer. The diagnosis was confirmed a few days later. The man remained in hospital and on 11 February, he was moved to a further hospital to be closer to his family. At that time, he was technically in the custody of HMP Altcourse. He remained in hospital and died a couple of weeks later.

Findings

4. The clinical reviewer considered that the man received a very good standard of medical and nursing care in prison. When he complained of ill health, he was examined appropriately and referred to hospital specialists when indicated. There was no evidence of any delay in diagnosing the man's lung cancer.
5. We are concerned that Altcourse decided to restrain the man after he arrived at outside hospital without risk assessments that fully took into account his health and mobility at the time.
6. Parc started an application for compassionate release on 5 February. Sadly, because of a delay in receiving information from his hospital consultant, the man died before the application was decided.

Recommendations

- The Director and Head of Healthcare at HMP Altcourse should take active steps to ensure that staff authorising the use of restraints for prisoners taken to hospital understand the legal position, and that risk assessments are completed which fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

The Investigation Process

7. The investigator issued notices to staff and prisoners at HMP Altcourse and HMP & YOI Parc informing them of the investigation and asking anyone with relevant information to contact her. No one responded.
8. The investigator obtained copies of relevant extracts from the man's prison and medical records.
9. NHS England commissioned a clinical reviewer to review the man's clinical care.
10. We informed HM Coroner for Merseyside, Liverpool District of the investigation who gave the cause of death. We have sent the coroner a copy of this report.
11. One of the Ombudsman's family liaison officers contacted the man's partner and his sister (who he had named as his next of kin), to explain the investigation and to ask if they had any matters they wanted the investigation to consider. They asked that the investigation consider:
 - Whether the man had access to appropriate healthcare in prison. His family said he had complained of being unwell from September 2014, but prison healthcare staff did not investigate this until December.
 - Whether the doctor, who had first diagnosed a chest infection, had assessed him appropriately and whether he should he have been diagnosed with cancer sooner.
 - Whether there was a delay in the man receiving antibiotics after the diagnosis of a chest infection.
 - Whether there were delays transferring the man to outside hospital for review, and later to a further outside hospital. They were concerned that officers restrained the man when he was in hospital.
12. The investigation has assessed these issues and the main issues involved in the man's care, including his diagnosis and treatment, whether appropriate palliative care was provided, his location, security arrangements for hospital escorts, liaison with his family, and whether compassionate release was considered.
13. The draft report was issued for consultation with the Prison Service. There were no factual inaccuracies and the action plan has been added to the end of this report.
14. The man's family received a copy of the initial report. They did not raise any further issues or comment on the factual accuracy of the report.

Background Information

HM Prison Parc

15. HMP & YOI Parc is a local prison in Bridgend, which mostly takes prisoners from the courts in Wales. It holds more than 1,400 sentenced and remanded adult and young adult men. G4S custodial services manage the prison and provide 24-hour primary general and mental healthcare services. St John's Medical Practice provides 24-hour GP cover.

HM Inspectorate of Prisons

16. The most recent inspection of Parc was in July 2013. Inspectors found that the prison was safe and, overall, prisoners received good care. Inspectors noted that the standard of health services was good, with an impressive new healthcare unit. However, waiting times to see a nurse or a GP were too long and prisoners often had to wait four or five days for a nurse assessment and a further four or five days before seeing a GP. Most waited a further day for medication.

Independent Monitoring Board

17. Each prison in England and Wales has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help ensure that prisoners are treated fairly and decently. In its most recently published annual report for the year to February 2014, the IMB commented that the number of missed appointments and length of waiting times to see healthcare staff had reduced. However, the IMB was concerned that it received a disproportionate number of applications about healthcare at the prison.

Previous deaths at HMP Parc

18. Eleven prisoners have died from natural causes at Parc since the start of 2013. There are no similar issues with this man's case.

HMP Altcourse

19. HMP Altcourse is a local prison in Liverpool, which takes prisoners from the courts in Merseyside, Cheshire and North Wales. It holds up to 1,324 sentenced and remanded adult and young adult men. G4S custodial services manage the prison and provide primary healthcare services.
20. We have raised the issue of the need for appropriate risk assessments to justify the use of restrains in a number of previous investigations into deaths at Altcourse.

Findings

The diagnosis of the man's terminal illness and informing him of his condition

21. The man was sentenced to ten years in prison on 12 August 2005. He was released on licence in April 2012, but recalled to prison in June that year, as he had not complied with his licence conditions. He transferred to HMP Parc on 1 September 2014. At an initial health screen, he did not mention any health concerns. After that, there is no record that he asked to see, or had any contact with healthcare staff, until 20 December.
22. On 20 December, the man was moved to the prison's segregation unit for disciplinary reasons. At an initial segregation health screen, he appeared fit and well but, on 23 December, he told a nurse that a prison GP had told him he could have some antibiotics. There is no record that he had seen a GP. It is possible that he spoke informally to a doctor visiting the segregation unit but he had not been prescribed antibiotics. The nurse said she would arrange for him to see a GP the next day. However, records show he did not see a GP until 30 December.
23. On Wednesday 30 December, a prison GP examined the man, who said he had a pain in the left side of his chest. The doctor noted he did not have a fever and his blood oxygen levels and blood pressure were normal. She diagnosed a chest infection and prescribed antibiotics and ibuprofen. The man did not receive this medication from the pharmacy until Monday 5 January 2015. It is not clear what caused this delay.
24. On 6 January, the man applied to see a GP. A nurse saw him on 8 January and noted no improvement in his chest infection. He also complained of pain in his upper back. A prison GP examined him later that day and recorded that he generally appeared well. He had a slight wheeze on the left side of his chest, but otherwise his chest sounded normal. The GP asked the man to complete the course of antibiotics and she would see him again if needed.
25. On 12 January, another prison GP examined the man and noted his chest infection had not improved. He had tenderness in his ribs, which the GP attributed to muscle strain caused by fits of coughing. The doctor noted he was not short of breath and had not lost any weight, but said he had suffered from a persistent cough for eight weeks. (There is no record that he had previously reported the persistent cough.) The GP considered the possibility of asthma. He noted that the man was a long-term smoker, and referred him for an urgent chest X-ray and spirometry.
26. A physiotherapist reviewed the man on 15 January, and also diagnosed probable muscle spasm caused by his continued coughing. He asked the man to come back and see him in three weeks.
27. A prison GP examined the man again, later on 15 January, after he became breathless after smoking a cigarette. A peak flow rate test (a hand-held device used to monitor a person's ability to breathe out air) showed a reading of 50% that suggested a narrowing of his airways. However, his blood oxygen saturations were normal. The GP again considered the possibility of asthma or

chronic obstructive pulmonary disease (COPD – the name used for a range of lung diseases). He prescribed steroid medication to reduce inflammation.

28. On 17 January, a prison GP saw the man who said his back pain was worse and he was unable to pass urine. She found he had an enlarged bladder and arranged for him to go to hospital. Officers took the man to hospital, in a taxi.
29. The hospital admitted the man and, on 20 January, results of a chest X-ray showed pleural thickening (scarring and thickening of the lining surrounding the lungs causing tightness of the chest or breathlessness due to reduced lung function). On 23 January, a hospital doctor told the man that they suspected he had lung cancer. The doctor referred him for an MRI scan and to an oncologist. The scan results confirmed the diagnosis and hospital staff informed the man that he had lung cancer.
30. The clinical reviewer considered that the man received a very good standard of both medical and nursing care in prison. Although there was a delay seeing a GP at the end of December and in receiving antibiotics, the clinical reviewer said this was not detrimental to his care and did not affect the eventual outcome. Earlier prescription of antibiotics would have made no difference to the diagnosis of lung cancer and there was no reason to suspect cancer at that time.
31. When the man complained of ill health, he was examined and referred appropriately for further tests. The clinical reviewer considered that there was no delay in diagnosing the man's lung cancer. We are satisfied that healthcare staff responded appropriately to his symptoms. A GP had referred him for an X-ray and spirometry test on 12 January, and his referral to hospital with bladder problems on 17 January, led to an earlier X-ray than would otherwise have been the case.

The man's medical treatment

32. Parc's clinical team manager visited the man in hospital on 27 January. She noted he appeared weak, had lost weight but was still able to walk short distances. He was on morphine, which appeared to control his pain well. She spoke to him about his diagnosis and he said he wanted to move to a hospital closer to his home and family in Liverpool. She spoke to the clinical team lead at HMP Altcourse, who agreed the transfer in principle, as long as the man was well enough to travel and that there was a bed available at the local hospital.
33. On 29 January, hospital doctors moved the man to the respiratory ward to manage his pain better with a syringe driver. (A syringe driver is a battery powered small portable pump that is used to deliver continuous pain relief.) The man's consultant said he was not well enough to travel to Liverpool at the time.
34. On 30 January, test results showed the cancer had spread to the man's spine. A GP from Parc and a hospital palliative care specialist visited him the same day. The palliative care specialist arranged for him to move to a specialist cancer hospital for radiotherapy, with the aim of reducing his pain enough to allow him to move to Liverpool. He said he did not want to be resuscitated if his heart or breathing stopped and signed an order to that effect.

35. On 4 February, the man had radiotherapy treatment at outside hospital. On 6 February, a hospital doctor told a GP at the prison that the man's pain was now under control and he no longer needed the syringe driver. Arrangements were made to move him to outside hospital once a bed became available. To facilitate this, the man was administratively transferred to the custody of HMP Altcourse.
36. On 11 February, the man was taken by ambulance to outside hospital. The next day, a nurse from Altcourse visited the man to discuss his diagnosis and treatment and offer support.
37. On 19 February, another prison nurse visited the man, and noted he was struggling to breathe. The man's condition continued to decline and he died in hospital around a week later. His family were with him at the time.
38. All of the man's medical treatment after his diagnosis was in hospital, which is outside the remit of this investigation, but evidently, he received the same treatment as anyone else in the community. Prison healthcare staff from both prisons kept in contact with the hospitals for regular updates about his condition and visited him to support him.

The man's location

39. After doctors diagnosed cancer, the man asked to move closer to his family in Liverpool. Staff at Parc arranged a transfer as soon as he was fit enough to move. In order to arrange the transfer to outside hospital, the man was administratively transferred to the custody of HMP Altcourse, but he never went to the prison.
40. We are satisfied that staff at both Parc and Altcourse appropriately considered the man's request to move nearer to his family and arranged the move as soon as his health allowed.

Restraints, security and escorts

41. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility. A judgment in the High Court in 2007 made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. The judgment indicated that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change.
42. When officers took the man to hospital on 17 January, an escort risk assessment concluded that he was a medium risk to the public and of escape, and a high risk to women. A healthcare assessment indicated that the man's mobility was reduced but said that there were no medical objections to the use of restraints. A senior prison manager authorised officers to restrain the man with double handcuffs during the escort to hospital. (Double cuffing entails the prisoner having his hands handcuffed in front of him and then having one wrist attached to

a prison officer by an additional set of handcuffs.) Officers then replaced the handcuffs with an escort chain when he got to hospital. (An escort chain is a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer.)

43. On 20 January, a prison manager reviewed the level of restraint, and noted the risk levels were unchanged. The manager noted the man was mobile and had the ability to escape unaided. The manager authorised the continued use of restraints.
44. Senior prison managers at Parc reviewed the man's level of risk again on 27 January. They noted that he had reduced mobility, but was still able to get about. They noted that all staff understood and were aware of previous recommendations made by the Prisons and Probation Ombudsman about the use of restraints, but considered that in the interest of safety and security, the man should remain restrained. Senior managers reviewed the decision every 24 hours.
45. On 29 January, a senior prison manager visited the man in hospital. His mobility had reduced significantly and his pain was no longer controlled. He authorised the removal of restraints and officers removed the restraints at 3.00pm that day. He remained unrestrained for the rest of the time he was in the custody of Parc.
46. When the man transferred to outside hospital on 11 February, officers did not restrain him. The escort risk noted he was terminally ill with poor mobility.
47. Once he arrived at outside hospital, responsibility for the man's custody transferred to HMP Altcourse. The duty operational manager completed a new risk assessment. He assessed the man as a high risk to the public. The healthcare assessment noted he had full mobility, which does not fit with the previous risk assessments. No member of healthcare staff from Altcourse had seen or assessed the man at this stage, so they were not in a position to reach this view. The duty operational manager authorised the use of an escort chain and officers applied this at 7.45pm on 11 February. The acting Head of Safer Custody at Altcourse told us that the man's risk had increased, as he was in Liverpool, his home town, and the location of his offence.
48. The duty operational manager also stated on the risk assessment that an operational manager should attend outside hospital daily to review the man's condition. There is no record that this happened.
49. At 10.15am on 12 February, a security manager telephoned the escorting officers and instructed them to remove the man's restraints. He told the officers that a new risk assessment would be produced to reflect the change. However, at 6.00pm he asked officers to restrain the man again as the new risk assessment had not been completed. There is no record of any further review for the next five days.
50. On 18 February, the acting Head of Security reviewed the risk assessment of 11 February and authorised officers to remove the man's restraints.
51. When the man was transferred to outside hospital, he was very ill with a terminal diagnosis; he had limited mobility and was in considerable pain. Officers from

Parc had not restrained him since 29 January. We understand that Altcourse needed to complete a new review of his risk. However, it is clear that managers at Altcourse did not consider how his condition affected his risk of escape. They did not regularly review the risk assessment as the 2007 High Court judgment requires. We are concerned that the healthcare input into the risk assessment on 11 February was without any direct knowledge of the man.

52. We are satisfied that Parc appropriately considered the man's risk and are pleased to note that they reviewed this frequently and removed the restraints when they judged that his condition meant that he was no longer a risk of escape. We commend Parc's careful approach in balancing security with decency. However, we are not satisfied that there was appropriate healthcare input at Altcourse or that managers there properly took into the man's health and mobility when authorising the use of restraints. We have raised this issue a number of times before with Altcourse, who undertook to ensure all staff were aware of the legal position when assessing risks for the use of restraints. We do not consider that this has been done. We make the following recommendation:

The Director and Head of Healthcare at HMP Altcourse should take active steps to ensure that staff authorising the use of restraints for prisoners taken to hospital understand the legal position, and that risk assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

Liaison with the man's family

53. When the man was admitted to hospital on 17 January, records show he did not want the prison to contact his family. However, on 19 January, the prison's family liaison officer visited the man and he asked her to keep his mother and partner updated about his condition. The family liaison officer spoke frequently to the man's mother and partner and the prison helped them with travel arrangements so they were able to visit him in hospital, before he moved to Liverpool.
54. After he moved to outside hospital, the family liaison officer briefed Altcourse's family liaison officer, a manager with the Offender Management Unit. On 12 February, Altcourse's family liaison officer visited the man in hospital and telephoned the man's family to update them. The family liaison officer kept in contact with the man and his family. When the man's health deteriorated on the morning of his death, he supported the man's family at the hospital.
55. The man's funeral was on 11 March. Altcourse arranged and paid for the funeral in line with national guidelines. We are satisfied that prison staff kept the man's family informed about his condition and appropriately supported them throughout his illness and after his death.

Compassionate release

56. Prisoners can be released before their sentence has expired on compassionate grounds for medical reasons, usually when they are suffering from a terminal illness and have a life expectancy of less than three months. Among the criteria

is that the risk of re-offending 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 early release on compassionate grounds must be submitted to the Public Protection Casework Section (PPCS) of the National Offender Management Service.

57. An offender supervisor started an application for compassionate release for the man on 5 February. She recommended that a suitable resettlement plan would be for hospital support and management. On 9 February, the man's offender manager supported the offender supervisor's recommendation.
58. On 11 February, a GP at Parc completed her section of the application and said that the man had cancer with an estimated life expectancy of two to three months. She considered that he was no longer capable of presenting any risk of a sexual or violent nature. On 18 February, the Head of Offender Management at Parc also concluded the likelihood of re-offending had significantly reduced and supported the application for compassionate release.
59. On 20 February, the PPCS said that the man's application could not be considered without a letter from his hospital consultant to confirm his diagnosis and life expectancy. A GP at Altcourse chased this up. Unfortunately, the hospital did not send a letter before the man died.
60. We are satisfied that Parc appropriately considered and applied for compassionate release for the man and that Altcourse followed this up when he transferred.

Action plan

Action Plan: [man's name] at HMP Altcourse on 25/2/15					
No	Recommendation	Accepted/ Not Accepted	Response	Target date for completion and function responsible	Progress (to be updated after 6 months)
1	The Director and Head of Healthcare at HMP Altcourse should take active steps to ensure that staff authorising the use of restraints for prisoners taken to hospital understand the legal position, and that risk assessments are completed which fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.	Accepted	<p>A review has been undertaken of the local escort risk assessment process at HMP Altcourse to ensure that assessments fully take into account the health of the prisoner and are based on the actual risk the prisoner presents at the time. The local risk assessment document will take into account the requirements contained in the standard risk assessment form within the National Security Framework.</p> <p>The legal position regarding risk assessments for prisoners taken to hospital and the actual risk the prisoner presents at the time, was communicated to all relevant staff on 30/6/15 via staff briefing. Monitoring of all routine escort risk assessments will be done by the Head of Security, and emergency escorts authorised by the Duty Director. Further monitoring and reviews of this recommendation will be undertaken by regular personal visits to the hospital by a security manager. Any changes will be fed back to the Head of Security and the security arrangements amended as necessary.</p>	Completed Director of Altcourse Head of Healthcare	

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