PRISONS AND PROBATION OMBUDSMAN
for England and Wales
Independent Investigations

A Report by the Prisons and Probation Ombudsman Nigel Newcomen CBE

Investigation into the death of a man in December 2014 at HMP Dartmoor

Our Vision

To be a leading, independent investigatory body,
a model to others, that makes a significant contribution
to safer, fairer custody and offender supervision.

This is the investigation report into the death of a man, from a pulmonary embolism and lung cancer, in December 2014 at HMP Dartmoor. He was 63 years old. I offer my condolences to his family and friends.

A clinical review of the care the man received at Dartmoor was undertaken. The prison cooperated fully with the investigation.

The man was sentenced to life imprisonment on 23 March 2005 and had been at HMP Dartmoor since June 2014. He suffered from chronic obstructive pulmonary disease. In November 2014, after complaining of chest pain, he was diagnosed with lung cancer. A consultant indicated that after radiotherapy and chemotherapy he would have a life expectancy of up to five years. However, first he needed a procedure to go to drain his lungs. This was arranged on the day he collapsed and died in his cell on the day he was scheduled to go to hospital.

I agree with the clinical reviewer that the man received a generally good standard of care in prison, equivalent to that he could have expected to receive in the community. Although he had been diagnosed with cancer, his sudden death was unexpected and I am satisfied that there is nothing the prison could have done to prevent it. However, I am concerned that he was restrained for hospital appointments without fully considered risk assessments, which took into account how his health and mobility affected his risk of escape.

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

1. On 23 March 2005 the man was sentenced to life imprisonment for murder. In June 2014, he moved to HMP Dartmoor. He was a life long smoker and had been diagnosed with chronic obstructive pulmonary disease (COPD – lung disease).

2. The man complained of chest pain on 31 October 2014 and was admitted to hospital. A scan revealed blood clots on his lung and a suspicious mass. The hospital discharged him later that day with an urgent referral to a respiratory specialist.

3. On 11 November, the man attended the respiratory clinic at the hospital for further tests. On 19 November, a respiratory consultant told him that he had lung cancer. The consultant recommended radiotherapy and chemotherapy and indicated he might have a life expectancy of up to five years after treatment.

4. Before treatment for cancer could begin, the man's lung needed draining of pus and this was arranged. However, on the day of his appointment an officer found him struggling for breath and radioed a medical emergency. Nurses attended and gave him oxygen and pain relief. He subsequently stopped breathing. Nurses attempted resuscitation but he did not respond. Paramedics arrived and continued emergency treatment but pronounced his death.

5. We agree with the clinical reviewer that, overall, the man received a standard of care equivalent to that he could have expected to receive in the community. His sudden and unexpected death could not have been prevented. We are concerned that prison managers authorised officers to restrain him for hospital appointments without any input from healthcare staff. We make one recommendation.

THE INVESTIGATION PROCESS

6. The investigator issued notices to staff and prisoners at HMP Dartmoor informing them of the investigation and inviting anyone with relevant information to contact her. No one responded.

7. NHS England commissioned a clinical reviewer to review the man's clinical care in prison.

8. The investigator obtained copies of the man's prison medical records and relevant extracts from his prison record. On 21 January 2015, she and the clinical reviewer interviewed four members of staff and a prisoner by video link.

9. We informed HM Coroner for Exeter and Greater Devon District of the investigation, who provided a copy of the post-mortem report. We have sent the coroner a copy of this investigation report.

10. The investigation was suspended from 30 January until 30 March 2015, because the coroner was unable to confirm the man's cause of death until the results of toxicology tests and histology were received. We are sorry for the delay this has caused with issuing this report.

11. One of the Ombudsman's family liaison officers contacted the man's friend, his nominated next of kin, to explain the investigation. She did not have any specific concerns she wanted the investigation to take into account.

12. The investigation has assessed the main issues involved in the man's care, including his diagnosis, security arrangements for hospital escorts, liaison with his family, and whether compassionate release was considered.

13. The man's friend received a copy of the draft report. She did not make any comments. The prison considered our draft report and recommendations, which they have accepted. The prison has also submitted an action plan detailing what they have done to address the issues we raised and this is included at the end of the report.

HMP DARTMOOR

14. HMP Dartmoor is a medium security prison in Devon, which holds up to 659 adult men. The healthcare provider is Dorset Healthcare University NHS Foundation Trust. Healthcare staff are on duty from 8.00am until 6.00pm Monday to Friday and up to 5.00pm Saturday and Sunday. There are GP clinics on four weekdays. Overnight and weekend cover is provided by an out of hours service. There is no inpatient facility.

HM Inspectorate of Prisons

15. The most recent inspection of Dartmoor was in December 2013. The Inspectorate found the delivery of health services had improved with a new provider and more robust clinical governance arrangements. Access to services was good and clinical rooms were suited for their purpose. Inspectors noted that were healthcare policies and protocols for palliative and end of life care.

Independent Monitoring Board

16. Each prison 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 report for the year to September 2014, the IMB noted that prisoners held at Dartmoor had high healthcare needs. The IMB considered that healthcare provision was satisfactory but uncertainty about the budget had held up recruitment, leading to staff shortages. A shortage of GPs had led to some surgeries being cancelled and longer waiting time for appointments.

Previous deaths at HMP Dartmoor

17. The man was the third person to die from natural causes at HMP Dartmoor since 2012. There were no significant similarities with the circumstances of the other deaths.

ISSUES

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

18. The man had been in prison since 23 March 2005, and had spent time at several prisons including Dartmoor. He returned to Dartmoor in June 2014. He had a history of chronic obstructive pulmonary disease (COPD). Healthcare staff offered him help to give up smoking, but he did not want to stop. Over the next five months, healthcare staff saw him frequently to administer medication for COPD.

19. On 31 October 2014, the man reported severe chest pain and staff called an ambulance. Paramedics decided that his symptoms did not need a hospital admission. However, a prison GP reviewed him and decided he should go to hospital. He was taken to hospital by taxi. The hospital admitted him and, after a scan, doctors said he had blood clots on his lung and a suspicious mass. They arranged an urgent appointment with a respiratory specialist and prescribed clexane (anti-clotting medication).

20. The man attended the respiratory clinic on 11 November and had further tests. On 19 November, a respiratory consultant told him he had lung cancer and recommended radiotherapy and chemotherapy, after which his life expectancy would be three to five years. When he returned to prison, two mental health nurses and his offender supervisor met him and offered support. Wing staff also supported him.

21. We are satisfied that prison doctors appropriately reviewed and referred the man to hospital promptly when he complained of chest pain. A hospital consultant informed him of his diagnosis and prison staff supported him.

The man's clinical treatment

22. Despite his diagnosis a prison GP told the clinical reviewer that the man was quite well and they did not implement any immediate formal care plans. The clinical reviewer considered that he should have had care plans after his serious diagnosis, but we recognise that his diagnosis had been very recent and his treatment had not begun.

23. On 27 November, a prison GP reviewed the man, who said he had a painful cough. The doctor noted he was waiting for a hospital oncology review and prescribed pain relief. The next day, the doctor increased the dose of pain relief as he had said the pain made it difficult to sleep.

24. On 1 December, the man told a healthcare assistant that he was desperate to give up smoking. The healthcare assistant offered to meet him weekly to monitor and support him. A prison GP prescribed nicotine patches to help him stop smoking.

25. On 3 December, the hospital informed healthcare staff that scan results showed an empyema (collection of pus) on the man's lung, which needed

draining before treatment could begin. They arranged an appointment for the next day.

26. Just after cells had been unlocked, the man called to his friend to come to his cell as he had breathing problems. His friend asked another prisoner to get help while he stayed with him. At 8.00am, an officer went to his cell and found him struggling for breath. He radioed a code blue, which is used to indicate an emergency such as when a prisoner is unresponsive or having difficulty breathing. The control room called an ambulance immediately.

27. Nurse A arrived and the man told her he was having difficulty breathing and had a pain in his chest. She said he was very distressed and, as she knew he had COPD and lung cancer, she administered oxygen. She asked a colleague to bring oral morphine for pain relief.

28. At 8.02am, the nurse asked for the ambulance to be cancelled. She told us this was because she knew the man had a hospital appointment that day and did not consider he needed emergency hospital treatment, as he appeared to have stabilised. Nurse B cancelled the ambulance but immediately afterwards discussed the man's symptoms with Nurse A and a prison manager, and asked the control room to recall the ambulance.

29. At 8.10am, Nurse A gave the man pain relief, which appeared effective, but then he collapsed. He was breathing and talking but was distressed. Both nurses tried to lay him on the bed but he stopped breathing. The nurses moved him to the floor and started cardiopulmonary resuscitation. He did not respond. The ambulance arrived at 8.25am. After further emergency treatment, a paramedic confirmed that he had died.

30. Although, originally Nurse A considered that the man's condition had stabilised and cancelled the original ambulance, we are satisfied that the emergency response was appropriate and nothing could have been done to prevent his sudden and unexpected death. Although he had been given appropriate anti-coagulant medication, the pathologist found that his death had been caused by a new blood clot on his lung.

The man's location

31. The man was in prison for the duration of his illness and remained there until his sudden death. He said that he wanted to remain on his wing, where he could be with his friends. He was in a single cell and was supported by a friend who helped him with day-to-day tasks, such as collecting his meals. We are satisfied that he was appropriately located.

Restraints, security and escorts

32. 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 judgement 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.

33. Between October and December 2014, the man attended hospital a number of times. On each occasion, two officers escorted him and restrained him with an escort chain. His friend told us that the man became increasingly less able to walk to work and, as his COPD worsened, he was unable to walk to collect his meals. However, staff who completed risk assessments, assessed him as a medium risk of escape. Managers authorised the use of restraints without any healthcare input into the risk assessments as required by the 2007 High Court judgement. We make the following recommendation:

    The Governor should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position. Assessments should fully take into account the health of a prisoner and be based on the actual risk the prisoner presents at the time.

Liaison with the man's next of kin

34. On 20 November, the prison appointed a family liaison officer to the man. She spoke to him and checked the friend's contact details with him, who he had named as his next of kin.

35. When the man died, the family liaison officer visited his friend to inform her. The officer remained in contact and helped arrange the funeral. The funeral was held on 7 January 2015 and the prison contributed to the funeral costs.

Compassionate release

36. Prisoners can be released from custody before their sentence has expired on compassionate grounds for medical reasons. This is usually when they are suffering from a terminal illness and have a life expectancy of less than three months. On 19 November, the consultant told the man his life expectancy was expected to be around three to five years after treatment. He therefore did not meet the criteria for compassionate release.

RECOMMENDATION

1. The Governor should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position. Assessments should fully take into account the health of a prisoner and be based on the actual risk the prisoner presents at the time.

ACTION PLAN

No	Recommendation	Accepted/Not Accepted	Response	Target date for completion and function responsible
1	The Governor and Head of Healthcare at Dartmoor should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position, that assessments fully take into account the health of a prisoner, and are based on the actual risk the prisoner presents at the time.	Accepted	All operational managers responsible for risk assessment of prisoners and the use of restraints were briefed on the Prisons and Probation Ombudsman (PPO), Learning Lessons Update, on the 16 January 2015. All future risk assessments will now also consider the health of the prisoner and evidence of the "actual risk posed" by the prisoner at the time of escort to hospital will be recorded appropriately. A new local risk assessment document is now in use by all staff and partners at HMP Dartmoor, which takes into account the requirements contained in the standard risk assessment form contained in the National Security Framework	The Governor and Head of Healthcare. Completed