

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Harry Warren a prisoner at HMP Forest Bank on 23 September 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 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 Harry Warren died of colorectal cancer on 23 September 2015, while a prisoner at HMP Forest Bank. He was 82 years old. I offer my condolences to Mr Warren's family and friends.

Mr Warren's cancer was widespread at the time of diagnosis and I am satisfied that he received appropriate care and support at the prison. He was admitted to hospital for end of life care. I do not consider that a decision to restrain Mr Warren when he was taken to hospital towards the end of his life fully took into account his health and actual risk at the time, but I welcome the fact that a manager promptly reviewed this decision and removed restraints.

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

Nigel Newcomen CBE
Prisons and Probation Ombudsman

May 2016

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Summary

Events

1. Mr Harry Warren had been on remand at HMP Forest Bank since January 2014. In August, a GP prescribed Mr Warren medication for haemorrhoids. He was also investigated for symptoms of a possible stroke. In January 2015, he received further treatment for haemorrhoids.
2. On 18 June 2015, Mr Warren was prescribed laxatives for constipation and said he had a reduced appetite and tiredness. On 26 June, a prison GP assessed Mr Warren who had lumps his head and neck and lesions on his back. Blood tests results received in July were abnormal. On 17 July, a GP referred Mr Warren to a haematologist urgently.
3. On 22 July, a haematology consultant advised that Mr Warren did not have a haematological problem and advised that he should be referred to a dermatologist. On 24 July, a doctor referred Mr Warren urgently to the dermatology department at hospital urgently. The lesions had been present for some time and the GP did not suspect they were cancerous or that he met the criteria for referral for suspected cancer. Mr Warren received a dermatology appointment for 11 September.
4. Mr Warren's health deteriorated and he lost weight. Although he had reported bowel problems, he had consistently refused a rectal examination. On 21 August, he was admitted to hospital suffering from abdominal pain, constipation and blood in his faeces. Mr Warren was diagnosed with colorectal cancer, which had spread to his liver. The hospital discharged him to Forest Bank on 29 August. No active treatment was possible.
5. On 9 September, a colorectal consultant admitted Mr Warren to hospital because his condition had deteriorated significantly. He was restrained when he was taken to hospital but the restraints were removed later that day. Mr Warren remained in hospital for ongoing palliative and end of life care. He died in hospital on 23 September.

Findings

6. We are satisfied that prison GPs made appropriate hospital referrals to investigate Mr Warren's symptoms. Mr Warren had declined rectal examinations, which might have slightly delayed the diagnosis of colorectal cancer but this would not have affected the outcome, as the cancer was widespread and untreatable. After his diagnosis, Mr Warren received appropriate care at the prison. While restraints were removed shortly after his admission to hospital on 9 September, we are not satisfied that their initial use was justified by a fully considered risk assessment.

Recommendation

- The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position and that assessments 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 Forest Bank 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 Mr Warren's prison and medical records.
9. NHS England commissioned a clinical reviewer to review Mr Warren's clinical care at the prison.
10. We informed HM Coroner for Greater Manchester West District of the investigation who gave us the cause of death. We have sent the coroner a copy of this report.
11. One of the Ombudsman's family liaison officers contacted Mr Warren's daughter to explain the investigation. Mr Warren's daughter had no specific issues for the investigation to consider and did not want to be involved in the investigation.
12. The investigation has assessed the main issues involved in Mr Warren'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. Mr Warren's daughter did not wish to receive a copy of the initial report.
14. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

Background Information

HMP Forest Bank

15. HMP Forest Bank is a local prison in Salford, serving courts in the North West. It holds around 1,364 remanded and sentenced men. The prison is privately managed by Sodexo Justice Services. Sodexo provides primary health care services. There is a 20-bed inpatient unit with 24-hour nursing cover. An agency provides GP services with doctors available from 9.00am to 9.00pm Monday to Friday, 1.00pm to 5.00pm Saturday and 9.00am to 12.00pm Sunday. There is out of hours cover at other times.

HM Inspectorate of Prisons

16. The most recent inspection of Forest Bank was in October 2012. Inspectors reported that a large team worked well together to provide a high standard of health services. Prisoners had access to a well-trained and professional team who delivered a wide range of clinics with minimal waiting times. Inspectors reported that there had been significant investment in palliative care services.

Independent Monitoring Board

17. 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 October 2014, the IMB was positive that the King's Fund had funded the refurbishment of a five-bed ward, which was equipped and furnished for specialist treatment and end of life care.

Previous deaths at HMP Forest Bank

18. Mr Warren was the third prisoner to die from natural causes at Forest Bank since January 2014. We have raised the issue of the unjustified use of restraints before.

Findings

The diagnosis of Mr Warren's terminal illness and informing him of his condition

19. In January 2014, Mr Harry Warren was remanded to HMP Forest Bank, charged with attempted murder. He was 81 years old. He had hypertension, rheumatism and osteoarthritis and was prescribed medication for these conditions. He also suffered from short-term memory loss. (From August, Mr Warren had neurological examinations for a suspected stroke.)
20. On 11 August, a prison GP prescribed Mr Warren medication for haemorrhoids and on 30 January 2015, a GP prescribed a further course of medication for haemorrhoids. The GP noted this was an ongoing problem, which Mr Warren reported having for years. There were no "red flags" (warning signs of a serious condition).
21. On 18 June 2015, a nurse prescribed laxatives when Mr Warren said he was suffering from constipation, reduced appetite and was feeling tired. He said he did not have any abdominal pain. On 26 June, a prison GP assessed Mr Warren, who had lumps on his head and neck, and asked for blood tests. On 7 July, a GP noted some of the results were abnormal and referred them to another GP.
22. On 17 July, a prison GP examined Mr Warren and reviewed the blood test results. Mr Warren reported ongoing constipation but declined a rectal examination. As well as the lumps, he has some lesions on his skin. The GP referred Mr Warren to the haematology department at hospital with suspected cutaneous lymphoma (a rare type of non-Hodgkin lymphoma that affects the skin).
23. On 22 July, a consultant haematologist spoke to the prison GP as she did not think a haematology referral was required. She advised that the GP should refer Mr Warren to a dermatologist or to an ear nose and throat specialist if he was worried about the node on Mr Warren's neck. The consultant advised making an urgent referral under the NHS pathway, which requires patients to be seen by a specialist within two weeks, if cancer was suspected. The GP noted that he thought another GP should review this and decide the best course of action. Later that day, a nurse assessed Mr Warren as officers were concerned he looked unwell. Mr Warren reported blood in his last bowel movement, but again refused a rectal examination.
24. On 24 July, a prison GP examined Mr Warren, noted he had ongoing skin lesions, and referred him urgently to the dermatology department at hospital. The GP did not consider that he met the criteria for a two week referral for suspected cancer as he did not consider the lesions on Mr Warren's skin, which he had had for some months, indicated cancer. Mr Warren received a dermatology appointment for 11 September.
25. On 21 August, a prison GP assessed Mr Warren as officers were concerned his health was deteriorating and he appeared to have lost weight. Mr Warren said he had lost his appetite and felt lethargic. She noted he had slurred speech, abdominal pain, constipation, and blood in his faeces. She arranged for Mr Warren to be admitted to hospital. In hospital, scans and biopsies showed that Mr Warren was suffering from colorectal cancer, which had spread to his liver.

His discharge summary from the hospital indicated that he had been informed of his diagnosis at the hospital, before he returned to Forest Bank on 29 August.

26. We are satisfied that prison GPs appropriately referred Mr Warren to investigate his symptoms. We note that Mr Warren had declined rectal examinations, which might have slightly delayed the diagnosis of colorectal cancer. However, this would not have affected the outcome, as the cancer was widespread and untreatable.

Mr Warren's clinical care

27. On 29 August, the hospital discharged Mr Warren back to the prison. His medical record noted that his discharge summary indicated that he had been diagnosed with colorectal cancer and liver metastases. A colorectal cancer outpatient follow up had been arranged by the hospital. He also had possible metastatic melanoma and a skin biopsy had been taken from his back. The hospital had prescribed medication for hypertension, iron supplements and cream to relieve itchy skin.
28. On 2 September, a prison GP spoke to Mr Warren about his diagnosis, who said he had not been told what was wrong with him. The GP explained to Mr Warren that it was probable that he had cancer. Mr Warren said he had suspected he had cancer but it was still a surprise to him. The GP referred Mr Warren to the mental health team for support.
29. On 4 September, Mr Warren told a prison GP that he understood he had cancer, He said he was not in pain but suffering from constipation. He advised Mr Warren to eat regularly and prescribed medication for constipation. Nurses saw Mr Warren daily to ensure he was coping and was not in pain. Mr Warren said he did not want to speak to the mental health team or anyone from the chaplaincy for support.
30. On 9 September, a colorectal consultant at hospital saw Mr Warren to discuss his care and possible treatment. The consultant admitted Mr Warren to hospital because he was concerned that his condition had deteriorated significantly since he had been discharged on 19 August. His medical records noted that he was weak, tired and extremely unwell.
31. The consultant considered that active treatment was not possible and arranged hospital palliative care to control his symptoms and pain. Mr Warren remained in hospital and staff gave him oxygen therapy, intravenous fluids and antibiotics. He received oramorph (liquid morphine) for pain relief. Hospital staff provided ongoing palliative and end of life care. Mr Warren died in hospital on 23 September.
32. The clinical reviewer considered that healthcare staff at the prison treated Mr Warren with care and compassion and gave him good emotional support after he returned from hospital on 29 August. We are satisfied that he received appropriate care at the prison, after his diagnosis.

Mr Warren's location

33. When Mr Warren was discharged from hospital on 29 August, he wanted to go back to his usual cell on a standard prison wing. Nurses went to see him every day to ensure he was coping, taking his medication and was not in pain.
34. When the consultant admitted Mr Warren to hospital on 9 September, his condition had deteriorated significantly. On 18 September, a hospital manager contacted the prison to arrange for Mr Warren to go back to Forest Bank, which he wanted to do. Plans were made for Macmillan nurses and district nurses to be involved in Mr Warren's care and arrangements were made for him to be discharged to Forest Bank on 22 September.
35. However, Mr Warren's condition continued to decline and hospital doctors decided that he needed a high level of care, which was best provided in hospital. We are satisfied that Mr Warren was appropriately located throughout his illness.

Restraints, security and escorts

36. 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.
37. When Mr Warren was taken to hospital on 9 September, a prison manager decided that he should be restrained by an escort chain. (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.) The risk assessment said that he was a low risk to the public, hospital staff, of escape and of hostage taking. The healthcare section did not record any objection to the use of restraints and indicated Mr Warren's medical condition did not restrict his ability to escape unaided. There was no further information about Mr Warren's medical condition or his cancer diagnosis.
38. Shortly after Mr Warren arrived at hospital, the escort staff contacted a prison manager and told her that Mr Warren had been admitted to hospital and had terminal cancer. She decided that the escort chain should be removed and Mr Warren was not restrained after that.
39. Public protection is fundamental, but security measures must be proportionate to a prisoner's individual circumstances, which must be fully considered, taken into account and balanced against the security risks. By 9 September, records show Mr Warren was extremely ill and frail. He was 82, suffering from cancer and could mobilise only short distances to attend to his personal hygiene. It is therefore difficult to see how he could have escaped unaided from a two officer

escort. We welcome the fact that a manager very quickly took a sensible decision to remove the restraints, but we do not consider that staff appropriately assessed Mr Warren's risk, or took fully into account his condition at the time he was taken to hospital. We make the following recommendation:

The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position and that 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 Mr Warren's family

40. On 10 September, the prison appointed a prison chaplain as Mr Warren's family liaison officer. The chaplain visited him in hospital that day. Mr Warren said he did not want his family told that he was in hospital. The chaplain visited Mr Warren three times and each time he maintained that he did not want his family informed.
41. However, on 23 September, Mr Warren told the chaplain that he wanted him to let his daughter know that he was in hospital. The same day, the chaplain telephoned Mr Warren's daughter and arranged for her to visit him. The hospital telephoned Mr Warren's daughter when he died and the chaplain spoke to her to offer support. The prison arranged Mr Warren's funeral.
42. We are satisfied that the prison appropriately appointed a family liaison officer when Mr Warren was admitted to hospital and contacted his daughter in accordance with his wishes.

Compassionate release

43. As Mr Warren was on remand, he was not eligible for release on compassionate grounds.
44. On 17 September, Mr Warren's solicitor asked the court if they would release Mr Warren on bail. A judge adjourned Mr Warren's case until 14 October and said he was unable to make a decision without a report from a hospital consultant confirming Mr Warren's diagnosis and life expectancy.
45. The same day, a legal and bail officer at Forest Bank wrote to the hospital to ask for this information. Sadly, Mr Warren died before the application for bail could be considered further. We are satisfied that the prison appropriately assisted efforts to release Mr Warren at the end of his life.

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