Prisons & Probation
Ombudsman
Independent Investigations

Investigation into the death of Mr Jan Tulej a prisoner at HMP Doncaster on 31 August 2015

**A report by the Prisons and Probation Ombudsman
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Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*
Respectful: *we are considerate and courteous*
Inclusive: *we value diversity*
Dedicated: *we are determined and focused*
Fair: *we are honest and act with integrity*

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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 Jan Tulej died of cancer of the lining of blood vessels, which had spread to other organs on 31 August 2015, while a prisoner at HMP Doncaster. He was 62 years old. I offer my condolences to Mr Tulej's family and friends.

Mr Tulej had been treated for cancer before he arrived at Doncaster. The investigation found that there was poor communication with community services about Mr Tulej's ongoing care after he arrived at the prison, which meant he did not attend follow up appointments. This might have delayed his further diagnosis, but we do not know whether this affected the eventual outcome. Although there was evidence of a compassionate approach to his subsequent care at Doncaster, there was a lack of coordinated care planning to help ensure all his needs were met.

I am pleased to note that there was good liaison with Mr Tulej's family and that the prison appropriately did not use restraints when he went to hospital at the end of his life.

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 **April 2016**

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Summary

Events

1. In June 2013, Mr Jan Tulej was remanded to HMP Doncaster, charged with sexual offences. Mr Tulej was Czechoslovakian, did not speak or understand much English and needed an interpreter to communicate. Mr Tulej was sentenced to 15 years in prison in June 2014.

2. At an initial health screen, Mr Tulej said that he had had surgery to remove an angiosarcoma (a cancer of the lining of blood vessels) from his skull, when he was in Czechoslovakia in 2009. In the UK, he had had two further operations to remove further cancer from his skull in 2011 and 2013. He said he was waiting for plastic surgery in September, to cover the scar. He also suffered from heart disease, angina and asthma.

3. On 29 July 2013, Mr Tulej's neurosurgeon's secretary informed a prison nurse that the neurosurgeon had been due to see Mr Tulej for a review of his cancer on the day he was remanded. She said they would liaise about a further appointment. There is no record that this happened and the prison did not follow this up. In August, Mr Tulej asked about his September appointment for surgery and a nurse told him that this would be cancelled and a new one arranged. In November, Mr Tulej's solicitor asked what was happening about his appointment and Mr Tulej followed this up in December, but still received no information. It was not until 15 July 2014 that a prison GP made an urgent referral to the neurosurgeon. There is no record that the hospital acknowledged this or that prison healthcare staff followed it up until 2015, after Mr Tulej had been diagnosed with widespread cancer.

4. On 9 October 2014, a dentist examined Mr Tulej who had a swelling on his jaw, which he said had been present for about three months. The dentist made an urgent referral to a maxillofacial specialist for suspected cancer.

5. On 23 October, a hospital consultant concluded that the swelling was likely to be a return of Mr Tulej's cancer and scans in November confirmed this. There appears to have been a mix up about an appointment later in November to discuss the results. The hospital arranged an alternative appointment for 8 December, but Mr Tulej would not attend because he had a visit. There was no interpreter present at the next appointment on 17 December and the consultant was not able to explain his condition to him fully. On 19 January 2015, the consultant, using an interpreter, told Mr Tulej that his condition was incurable and he had less than 12 months to live.

6. Mr Tulej had a course of radiotherapy to alleviate his symptoms. His condition gradually deteriorated and he was admitted to hospital on 28 July. He died in hospital on 31 August.

Findings

7. The investigation found that there was poor continuity of care when Mr Tulej arrived at the prison and there were failures to communicate effectively with the hospital about his post-operative care and follow up referrals. This possibly

delayed his diagnosis but it might not have altered the outcome. While staff were compassionate and aimed to respond to Mr Tulej's cultural, spiritual and social needs, his care was fragmented. There was no dedicated palliative care nurse to coordinate his care or liaise with palliative care services and his pain was not always managed effectively. The clinical reviewer considered that the standard of care Mr Tulej received at Doncaster was not equivalent to that he could have expected to receive in the community.

Recommendations

- The Head of Healthcare should ensure that community health records are obtained for newly arrived prisoners, particularly for prisoners with serious health conditions, that prisoners are taken to any outstanding hospital appointments and that there is a robust system to record, monitor and chase up appointments as necessary. Appointments should not be cancelled unless there are fully justified and documented reasons and no detriment to the prisoner's health.
- The Head of Healthcare should ensure that prisoners are informed promptly about a serious diagnosis and arrange in advance that, when necessary, there is an interpreter present for hospital appointments.
- The Head of Healthcare should ensure that terminally ill prisoners are cared for in line with NHS guidance, have appropriate care plans, and a named palliative care nurse to coordinate their end of life care.
- The Director and Head of Healthcare should ensure that prisoners with terminal illnesses are assessed promptly and regularly and have appropriate accommodation and equipment to meet their needs.

The Investigation Process

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

9. The investigator obtained copies of relevant extracts from Mr Tulej's prison and medical records. She interviewed two members of staff by telephone on 15 October.

10. NHS England commissioned a clinical reviewer to review Mr Tulej's clinical care at the prison.

11. We informed HM Coroner for Doncaster of the investigation who gave us the cause of death. We have sent the coroner a copy of this report.

12. One of the Ombudsman's family liaison officers wrote to Mr Tulej's wife to explain the investigation. She did not have any specific matters for the investigation to consider.

13. The investigation has assessed the main issues involved in Mr Tulej'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.

14. Mr Tulej's family were informed the initial report was available, but did not wish to receive a copy or make any comment.

15. The Prison Service also received a copy of the report, there were no factual inaccuracies. They submitted an action plan in response to our recommendations which is appended to this report

Background Information

HMP Doncaster

16. HMP Doncaster is a local prison, operated by Serco, which holds up to 1,145 remanded and sentenced men over 18. There are three houseblocks, each with four wings, holding between 90 and 96 prisoners on each wing. Nottingham Healthcare NHS Foundation Trust provides physical and mental health services, and substance misuse services 24 hours a day, 7 days a week.

HM Inspectorate of Prisons

17. The most recent inspection of HMP Doncaster was in April 2014. The Inspectorate found that some aspects of healthcare were good. There were some delays in giving out medicines. A wide range or clinics, including for managing chronic diseases were run, but there were delays in initial access to healthcare services because of a poorly managed application procedure. Inspectors noted that the prison had palliative care and end-of-life policies and protocols, but, at the time of the inspection, these had not been required. Inspectors considered that hospital appointments were managed efficiently.

Independent Monitoring Board

18. 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 September 2015, the IMB noted that daily triage clinics continued and there was a new minor illness/ailment clinic run by nurse prescribers. Waiting times to see a GP had reduced.

Previous deaths at HMP Doncaster

19. Mr Tulej was the sixth prisoner to die of natural causes at Doncaster since January 2013. We have made recommendations about the lack of effective care plans before.

Findings

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

20. On 26 June 2013, Mr Jan Tulej was remanded to HMP Doncaster, charged with sexual offences. Mr Tulej was Czechoslovakian, did not speak or understand much English and needed an interpreter to communicate.

21. When he first arrived at Doncaster in June 2013, Mr Tulej told the nurse carrying out his reception health screen that he had had surgery in Czechoslovakia in 2009 to remove an angiosarcoma (cancer of the lining of the veins) from his skull. When he came to the United Kingdom, he had additional operations to remove cancerous tissue in 2011 and on 24 April 2013. Mr Tulej said he was waiting for a neurosurgical follow up appointment, after this operation. The nurse noted that Mr Tulej also had heart disease, angina and asthma, which were managed with medication. A prison GP saw Mr Tulej and re-prescribed his medication. The doctor asked for Mr Tulej's community records, but there is no record that these were received or the request followed up.

22. On 29 July 2013, the neurosurgeon's secretary informed a prison nurse that Mr Tulej should have attended a review appointment with the consultant on the day he was remanded to prison. She said she would speak to the consultant about arranging another appointment. There is no record of any further contact from the hospital or that anyone from the prison followed this up.

23. In August, Mr Tulej asked about his September appointment for surgery and a nurse told him that this would be cancelled and a new one arranged. No explanation for cancelling the appointment was given. Despite Mr Tulej asking several times about his follow up appointment, there is no record that healthcare staff took any steps to find out about this. On 5 November, Mr Tulej's solicitors contacted the prison asking for information about Mr Tulej's follow-up care. There is no record of a response. In December, Mr Tulej asked again about his neurology appointment. There is no record that anyone followed this up until a GP sent an urgent referral for a neurosurgical opinion on 15 July 2014. The letter from the GP was not acknowledged by the hospital and there is no record that anyone followed this up at the time.

24. On 9 October 2014, a dentist examined Mr Tulej and noted he had a three-centimetre swelling on the right side of his neck, behind his lower jaw. Mr Tulej said it was tender and had been there for about three months. She was concerned about the swelling and made an urgent referral to a maxillofacial specialist, under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks.

25. On 14 October, a prison GP also examined Mr Tulej at the dentist's request and agreed an urgent specialist referral had been appropriate. On 23 October, a maxillofacial consultant (a specialist in the head, neck, face and jaw) at hospital reviewed Mr Tulej and considered that the lump and a further three lumps found on Mr Tulej's face were likely to be cancerous. Mr Tulej had scans on 7 and 11 November.

26. On 27 November the consultant faxed the prison to ask why Mr Tulej had not attended a follow up appointment on 26 November. There is a note in his medical record on 26 November, indicating that Mr Tulej had not attended the appointment but no reason is given. However, an entry of 27 November said that the prison had been unaware of the appointment. The consultant said the scans had indicated extensive metastatic angiosarcoma (cancer of the lining of the veins that has spread to other parts of the body) and it was very important that he informed him in person and arranged any appropriate treatment. The hospital rearranged the appointment for 8 December, but Mr Tulej refused to go because his family was visiting him that day. There is no record that anyone explained the importance of the appointment to him or encouraged him to attend.

27. On 17 December, the consultant saw Mr Tulej but was only able to have a limited discussion, as there was no interpreter present. On 19 January 2015, an oncologist at hospital saw Mr Tulej with an interpreter. He told him his condition was incurable and that he had a life expectancy of less than 12 months.

28. We are concerned that Mr Tulej did not have appropriate follow up care with the neurosurgical consultant after he arrived at Doncaster in 2013 and no one obtained his community records. Mr Tulej had an operation for cancer in April 2013, and the prison knew from July 2013 that he needed a follow up appointment. Partly this appeared to be a problem with the hospital but the prison should have followed this up. It is possible that better liaison with the hospital would have led to an earlier diagnosis that the cancer had spread; although the clinical reviewer noted that this might not have changed the outcome.

29. We are also concerned that there was a delay in fully informing Mr Tulej of the terminal diagnosis. There is no explanation for the missed appointment on 26 November, nothing to show that staff explained the importance of the appointment and we consider that the prison should have arranged in advance that an interpreter was available for 17 December (provided by either the hospital or the prison). We make the following recommendations:

The Head of Healthcare should ensure that community health records are obtained, particularly for prisoners with serious health conditions, that prisoners are taken to any outstanding hospital appointments and that there is a robust system to record, monitor and chase up appointments as necessary. Appointments should not be cancelled unless there are fully justified and documented reasons and no detriment to the prisoner's health.

The Head of Healthcare should ensure that prisoners are informed promptly about a serious diagnosis and arrange in advance that, when necessary, there is an interpreter present for hospital appointments.

Mr Tulej's clinical care

30. When Mr Tulej returned to the prison from seeing the oncologist on 19 January 2015, staff noted he was very emotional and began to support him using Prison Service suicide and self-harm prevention procedures.

31. The next day a GP saw Mr Tulej with a healthcare assistant interpreting. The doctor noted that Mr Tulej understood he had a terminal diagnosis and would be receiving palliative radiotherapy. The GP reviewed Mr Tulej's pain relief and planned to see Mr Tulej every two or three weeks with an interpreter. On 21 January, Mr Tulej complained he was in pain and a nurse arranged stronger pain relief. On 24 January, Mr Tulej told the healthcare assistant (who interpreted for him often) that he was doing well but the pain was bad during the night and he could not sleep. She arranged for a GP to review his pain relief.

32. On 2 and 4 February, Mr Tulej attended hospital for radiotherapy. On 4 February, he told a GP that he was still in pain at night and was experiencing heartburn. The doctor reviewed and amended his pain relief and prescribed medication to relieve heartburn and indigestion. He also ordered a low fat, low spice diet for Mr Tulej.

33. Over the next three weeks, Mr Tulej often complained of pain and a burning in his chest. Nurses gave him medication for heartburn and his prescribed pain relief.

34. On 25 February, a locum GP saw Mr Tulej, with the healthcare assistant interpreting. Mr Tulej complained of serious pain in his back. The doctor considered that Mr Tulej's current medication was not managing his pain effectively. He prescribed strong pain relief patches and medication to reduce stomach acid. On 27 February, a GP prescribed oramorph (liquid morphine) instead of the pain relief patches and antibiotics for a possible chest infection.

35. On 20 March, a GP examined Mr Tulej and noted that he had a chesty cough and a sore chest. He arranged a chest X-ray and prescribed more antibiotics. On 27 March, healthcare staff noted that the hospital had not replied to the GP's referral of July 2014, and re-referred Mr Tulej to the neurosurgeon. (The neurosurgeon replied on 1 June and said that the referral was no longer appropriate as Mr Tulej now had widespread metastatic cancer and there was no option for surgical intervention or any active treatment.)

36. Over the next month, Mr Tulej frequently complained of pains in his chest and some breathing difficulties. He continued to receive pain relief medication and medication to reduce stomach acid.

37. On 27 April, the results of a chest X-ray showed that the cancer had spread to Mr Tulej's lungs and chest. On 29 April, a GP explained this to Mr Tulej, who decided that he did not want anyone to try to resuscitate him if his heart or breathing stopped. Over the next six weeks, healthcare staff continued to monitor Mr Tulej, who still complained of pain and some discomfort.

38. On 25 July, an officer found Mr Tulej vomiting in his cell. A nurse noted his oxygen levels were low and gave him oxygen. On 26 and 27 July, nurses gave Mr Tulej anti-vomiting medication.

39. On 28 July, Mr Tulej was tearful and told the healthcare assistant that he could not cope with the pain and his situation. She asked a GP to review him. Two GPs saw him shortly afterwards and noted he was more frail, had lost 11kg in

three months and his condition was deteriorating. A GP planned to review Mr Tulej the next day and arranged urgent blood tests.

40. That evening, a nurse manager saw Mr Tulej who was in a significant amount of pain and distress. She gave him additional pain relief and arranged for him to go to hospital that evening. The hospital admitted Mr Tulej and gave him intravenous fluids and antibiotics. Mr Tulej was too ill to return to Doncaster and he died in hospital on 31 August.

41. The coroner gave the cause of death as disseminated angiosarcoma (cancer in the lining of the blood vessels, which has spread through the body).

42. The NHS document, 'The route to success in end of life care – achieving quality in prisons and for prisoners' sets out how an end of life care pathway might be implemented in prisons. Among the benefits of an end of life pathway are that it helps carers plan when and how care will be delivered and helps patients make choices about how they are cared for towards the end of their lives. The clinical reviewer noted that staff attempted to address Mr Tulej's social, cultural and spiritual needs, and were compassionate and responsive. However, there were no clear care plans and Mr Tulej's care was fragmented, which resulted in poor pain management. A named palliative care nurse to coordinate his care would have ensured effective care plans, appropriate liaison with palliative care services and better pain management. The clinical reviewer did not consider that Mr Tulej's clinical care at Doncaster was equivalent to that he could have expected to receive in the community. We make the following recommendation:

The Head of Healthcare should ensure that terminally ill prisoners are cared for in line with NHS guidance, have appropriate care plans, and a named palliative care nurse to coordinate their end of life care.

Mr Tulej's location

43. Mr Tulej lived in a shared cell all the time he was at Doncaster. On 9 April 2015, three months after his terminal diagnosis, he asked the healthcare assistant if he could move to a single cell because his cellmate smoked excessively at night and he found it uncomfortable. There is no record that anything further was done and Mr Tulej remained in a shared cell. Mr Tulej was a light smoker, but at this time, he was suffering a considerable amount of chest pain and we consider that the prison should have moved him to a single cell without delay.

44. In January 2015, Mr Tulej asked for a walking stick as his mobility was deteriorating. An urgent appointment with a physiotherapist was cancelled because of a shortage of staff, and a physiotherapist did not see him until 22 July. There is no record that Mr Tulej ever received a walking stick.

45. While we recognise that the prison ordered specialist equipment, including a bed, a special mattress and a wheelchair (when there was a possibility that Mr Tulej would be discharged from hospital for end of life care), overall, we do not consider he was appropriately located or that sufficiently timely assessments of his needs were made as his condition deteriorated. We make the following recommendation:

The Director and Head of Healthcare should ensure that prisoners with terminal illnesses are assessed promptly and regularly and have appropriate accommodation and equipment to meet their needs.

Restraints, security and escorts

46. When prisoners have to travel outside prison to a hospital or hospice, a risk assessment is conducted to determine the nature and level of any security arrangements, including any restraints. The Prison Service has a duty to protect the public but this has to be balanced with a responsibility to treat prisoners with humanity and maintain their dignity. The level of restraints used should be necessary in the circumstances and based on a risk assessment which considers the risk of escape, the risk to the public and which also takes account of factors such as the prisoner's health and mobility.

47. On 28 July, when Mr Tulej went to hospital, one officer accompanied him and did not restrain him at any time. Prison managers based this decision on a comprehensive and considered risk assessment, which clearly took into account how Mr Tulej's condition affected his risk of escape. We consider this was appropriate and consistent with legal guidance for the use of restraints for seriously ill prisoners.

Liaison with Mr Tulej's family

48. There was good liaison with Mr Tulej's family from when he first became ill. Prison staff arranged extra telephone credit so that Mr Tulej could call his wife and arranged frequent visits.

49. On 31 July, a prison manager contacted Mr Tulej's wife and, with the help of an interpreter, informed her that he was in hospital and seriously ill. The same day, the prison appointed a prison manager as the prison's family liaison officer. She remained in contact with Mr Tulej's family.

50. Throughout August, Mr Tulej's wife and brother visited him often. The hospital arranged interpreters for discussions about his diagnosis and care. When Mr Tulej died, members of his family were with him.

51. Mr Tulej's funeral was on 25 September, and the prison contributed towards the cost in line with national policy.

52. We are satisfied that there was good liaison with Mr Tulej and his family, who were well informed and supported after his diagnosis and death.

Compassionate release

53. Release on compassionate grounds is a means by which prisoners who are seriously ill, usually with a life expectancy of less than three months can be permanently released from custody before their sentence has expired. A clear medical opinion of life expectancy is required. 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 (NOMS).

54. After receiving the news that he had no more than 12 months to live, Mr Tulej asked for compassionate release to allow him to die at home. A GP completed the health section of the application on 18 February 2015. On 3 March, the PPCS refused Mr Tulej's application compassionate release, as he did not meet the criteria, including a prognosis of more than three months. They considered his risk of re-offending was still high.

55. The prison began another application for compassionate release in August 2015, but sadly this was not completed before Mr Tulej died.

56. We are satisfied the prison appropriately considered compassionate release.