Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr David Dams a prisoner at HMP Isle of Wight on 16 December 2015

A report by the Prisons and Probation Ombudsman Nigel Newcomen CBE

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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*

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 David Dams died on 16 December 2015, of metastatic malignant melanoma (widespread cancer) at HMP Isle of Wight. He was 49 years old. I offer my condolences to Mr Dams' family and friends.

I am satisfied that Mr Dams received a good standard of care at the prison. Although he frequently refused treatment and care, healthcare staff did their best to meet his physical and emotional needs and managed his cancer and palliative care in line with national clinical guidelines. I am pleased to note that managers properly took into account Mr Dams' health when considering security arrangements and did not use restraints when he was taken to hospital.

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

Nigel Newcomen CBE
Prisons and Probation Ombudsman **June 2016**

Contents

Summary

Events

1. Mr David Dams was remanded to prison in October 2012, and was sentenced to ten years in prison for sexual offences a year later. In 2011, surgeons had removed a malignant melanoma from Mr Dams' leg and lymph nodes from his groin.

2. In February 2014, Mr Dams was transferred to a secure mental health hospital. On 19 February, a brain scan revealed a tumour, which doctors thought was a secondary cancer. Mr Dams refused a full body scan and any other tests or treatment. Doctors were satisfied that he had the mental capacity to make this decision. In December, Mr Dams was discharged from the hospital and was sent to HMP Isle of Wight.

3. Mr Dams declined to be referred to oncology services. Between May and July 2015, he developed pain in his leg and back, a tumour in his groin and poor vision in his right eye but continued to refuse specialist referrals. In August, he lost sight in his eye and agreed to a scan, which showed he had cancer in his brain, spine, leg and groin. A hospital doctor told Mr Dams and was concerned that his leg would fracture from the cancer without an operation. Mr Dams continued to refuse treatment and to be admitted to the prison's inpatient unit.

4. On 17 September, an X-ray revealed a break in Mr Dams' leg. After initially refusing, he had surgery on 21 September. The hospital discharged him on 29 September but he was readmitted on 1 October, with heavy bleeding from his operation site. He stayed in hospital for over a month and his overall condition declined. On 4 November, he was discharged to the prison's inpatient unit for end of life care. Mr Dams died on 16 December.

Findings

5. Although Mr Dams' refusal of treatment made his care more complex and difficult, we consider that prison healthcare staff looked after Mr Dams well and managed his cancer and end of life care in line with national clinical guidelines. Clinicians frequently assessed Mr Dams and were satisfied he had capacity to refuse treatment. We consider that Mr Dams was appropriately located throughout his illness in line with his wishes and that the prison appropriately took into account Mr Dams' condition when considering security arrangements for hospital visits and admissions and did not use restraints. We make no recommendations.

The Investigation Process

6. The investigator issued notices to staff and prisoners at HMP Isle of Wight informing them of the investigation and asking anyone with relevant information to contact him. No one responded.

7. The investigator obtained copies of relevant extracts from Mr Dams' prison and medical records.

8. NHS England commissioned a clinical reviewer to review Mr Dams' clinical care at the prison.

9. We informed HM Coroner for the Isle of Wight of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

10. One of the Ombudsman's family liaison officers contacted Mr Dams' brother to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He asked if Mr Dams was located appropriately in the prison, but was satisfied he understood the circumstances of Mr Dams' death and did not have any other specific issues for the investigation to take into account.

11. The investigation has assessed the main issues involved in Mr Dams' 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.

12. The initial report was shared with the Prison Service. The Prison Service pointed out some factual inaccuracies and this report has been amended accordingly.

13. Mr Dams' brother was informed the initial report was available, but did not wish to receive a copy or make any comment.

Background Information

HMP Isle of Wight

14. HMP Isle of Wight is an amalgamation of two prisons, Parkhurst and Albany, and holds approximately 1,100 men, mostly convicted of sex offences. Care UK provides healthcare services at the prison.

15. There is an inpatient health unit (IHU) at the Albany site, providing 24-hour care for prisoners with a wide range of health needs and which includes special facilities for end of life care.

HM Inspectorate of Prisons

16. The most recent inspection of HMP Isle of Wight was in July 2015. Inspectors reported that health services were good, the inpatient unit provided compassionate care to men with complex needs and prisoners with palliative and end of life needs received excellent care.

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 31 December 2014, the IMB said it was impressed by the standard of healthcare provided by Care UK and the care given to terminally ill prisoners.

Previous deaths at HMP Isle of Wight

18. Mr Dams was the sixteenth prisoner to die of natural causes at HMP Isle of Wight since January 2014. There were no significant similarities between the circumstances of Mr Dams' death and previous deaths at the prison.

Findings

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

19. On 24 October 2012, Mr David Dams was remanded to HMP Exeter charged with sexual offences. A year later, he was sentenced to ten years in prison. sexual offences. In February 2011, surgeons had removed a malignant melanoma (skin cancer) from his leg and lymph nodes from his groin.

20. On 3 February 2014, Mr Dams was transferred to a secure psychiatric hospital for treatment after a psychotic episode. On 19 February, a scan indicated he had a brain tumour with a suspected melanoma deposit, which doctors thought was related to the earlier cancer. Doctors recommended a full body scan, but Mr Dams refused a further review or treatment. Doctors judged that he had full capacity to make this decision. Mr Dams' mental health improved and on 1 December, he returned to Exeter. On 18 December, he was transferred to HMP Isle of Wight.

21. On 18 February, after he developed further symptoms, Dr A, a prison GP, discussed the possible brain tumour and suspicions of metastatic melanoma with Mr Dams, who said he did not want any investigations and believed he would be okay. He declined an urgent referral to an oncologist and. The doctor considered Mr Dams had the capacity to make this decision.

22. In March, Mr Dams said he did not want any further blood tests or other appointments. On 30 April, he complained of lower back spasms and Dr B prescribed pain relief. On 7 May, the doctor noted Mr Dams had significant wasting of his thigh muscles, which he thought was related to the brain tumour. The doctor made an urgent neurological referral and requested full blood tests. On 12 May, Mr Dams signed a disclaimer refusing to attend the urgent hospital appointment. Two days later, he refused blood tests.

23. Later in May, Mr Dams reported stabbing pains in his upper left leg but would not attend a blood clinic appointment. On 30 May, Nurse A, a mental health nurse, assessed that Mr Dams had capacity to decline treatment. On 16 June, a psychiatrist assessed him further and was also satisfied that Mr Dams had the capacity to refuse treatment.

24. On 19 June Mr Dams agreed to a scan and Dr B referred him to a neurology consultant. On 9 July, he also made an urgent oncology referral after finding a weeping tumour in Mr Dams' groin. Later in July, Mr Dams reported problems with his right eye and severe headaches. The doctor chased up Mr Dams' neurology and oncology appointments.

25. On 5 August, Dr B examined Mr Dams and found he had no vision in his right eye. His right leg was swollen and he walked with a limp. The doctor told Mr Dams the situation was serious. On 12 August, Mr Dams attended hospital and had a CT scan which showed that cancer had spread to his brain, spine, leg and groin. Hospital doctors informed Mr Dams of the diagnosis.

26. Although a scan in February 2014 had indicated a brain tumour, doctors were unable to give a definite diagnosis of cancer until 12 August 2015, principally

because Mr Dams had refused investigations or treatment. We are satisfied that clinicians established that Mr Dams had the mental capacity to make these decisions and investigated his symptoms as far as he would allow.

Mr Dams' clinical care

27. On 13 August, Dr C, a prison GP, discussed the diagnosis with him and advised him to use a wheelchair as there was a high risk that a tumour would cause his leg to break spontaneously. Mr Dams refused.

28. The next day, Dr B discussed Mr Dams with a palliative care consultant and a consultant orthopaedic surgeon. They recommended Mr Dams had a metal rod inserted in his leg, through the tumour, to give strength to the bone, but Mr Dams declined surgery and the doctor's suggestion that he should avoid bearing weight on his leg and should use a wheelchair. The tumour subsequently broke through Mr Dams' skin and nurses regularly dressed the wound.

29. On 22 August, Mr Dams was admitted to the prison's inpatient unit as he could no longer manage well on the wing and now used a wheelchair. Healthcare staff reviewed his nutritional needs, the state of his skin, and his other care needs. He was prescribed morphine sulphate for increased pain relief. On 26 August, Mr Dams saw an orthopaedic surgeon, but again declined to have the operation on his leg and said he wanted to think about it. The next day he attended a cancer support group run in the prison but did not go again. On 1 September, Mr Dams cancelled his follow up appointment with the consultant ophthalmologist.

30. On 7 September, Mr Dams discharged himself from the inpatient unit and went back to his wing. On 10 September, he told Dr A that he had stopped taking his medication and did not want any surgery while he was in prison. However, he agreed to take some pain relief. On 14 September, Nurse A assessed Mr Dams and noted he still had capacity to make decisions about his care. On 16 September, Mr Dams agreed to return to the inpatient unit as he acknowledged he could not manage well on the wing.

31. On 17 September, Mr Dams told Dr C he had increased pain in his leg. An X-ray the next day, found a fracture of the femur. The hospital admitted Mr Dams but he discharged himself against medical advice on 19 September. On 21 September, he agreed to go back to hospital for complex surgery on his leg. On 29 September, the hospital discharged him back to the prison. On 1 October, Mr Dams suffered significant blood loss from his operation wound site and was readmitted to hospital. His wound was re-sutured and he had a blood transfusion. He remained in hospital where his overall condition declined.

32. On 4 November, Mr Dams returned to the prison's inpatient unit for palliative and end of life care. Healthcare staff monitored him regularly, dressed his wound and helped with hygiene and mobility. On 10 November, Dr A discussed his future care with him. Mr Dams said if he had a massive haemorrhage he wanted to be treated, but if his breathing or heart stopped he did not want anyone to resuscitate him. This decision was formally recorded.

33. On 28 November, Mr Dams was admitted to hospital with a fever. He was treated with intravenous antibiotics and had a blood transfusion. The hospital

discharged him on 4 December and he continued taking antibiotics and morphine for pain relief.

34. Mr Dams' condition continued to decline. He became frailer and needed more nursing care. On 7 December, Dr A noted Mr Dams was getting weaker, and was struggling to breathe, due to the large amount of metastatic melanoma in his lungs. On 13 December, Mr Dams became more breathless. After some initial reluctance, he began to receive oxygen via a nasal cannula.

35. At 2.25pm on 16 December, Nurse B noticed Mr Dams had stopped breathing. In line with Mr Dams' wishes, he did not try to resuscitate him and called Dr A. At 2.33pm, the doctor confirmed that Mr Dams had died.

36. A post-mortem showed that Mr Dams died of metastatic malignant melanoma (widespread cancer).

Mr Dams' location

37. Records show that healthcare staff frequently offered to admit Mr Dams to the prison's healthcare unit, but Mr Dams preferred to stay on the wing with his friends and where he had more freedom to smoke. He had a prisoner carer assigned to him to help with daily living tasks, such as keeping his cell clean and collecting his meals for him. Healthcare staff respected his preference to stay on the wing for as long as it was safe. When Mr Dams' condition deteriorated he was admitted to the inpatient unit. We are satisfied that Mr Dams' location was appropriate throughout his time at the prison and, in line with his wishes, staff allowed him to remain on the wing for as long as possible.

Restraints, security and escorts

38. When prisoners have to travel outside prison, a risk assessment determines the nature and level of any security arrangements, including 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. The level of restraints used should be necessary and the risk assessment should consider the risk of escape, the risk to the public and factors such as the prisoner's health and mobility.

39. Mr Dams went to hospital several times during the last few months of his life. Healthcare input into the risk assessments indicated that Mr Dams was frail and used a wheelchair. Prison managers decided that restraints were not necessary. We consider this was an appropriate, humane decision, which properly considered Mr Dams' poor health and mobility and how it affected his risk of escape.

Liaison with Mr Dams' family

40. On 15 August, the prison appointed a supervising officer, Officer A, as Mr Dams' family liaison officer. The officer spoke to Mr Dams many times but Mr Dams refused to give any family details and said he did not want the officer to contact anyone on his behalf.

41. On 13 December, Mr Dams asked Officer A to contact a community centre in Barnstaple, which his mother used to attend to see if they had her address and

telephone number. The centre did not have details for Mr Dams' mother but gave a telephone number for Mr Dams' brother.

42. On 15 December, Mr Dams gave Officer A permission to contact his brother but unfortunately the telephone number was no longer available. Mr Dams died the next day. Two days later, the police traced Mr Dams' brother who rang the officer. Officer A explained what had happened and gave his condolences and offered support. On 18 December, the Governor wrote to Mr Dams' brother and gave his condolences.

43. Mr Dams' funeral was on 8 January 2016. The prison arranged the funeral and contributed to the costs, in line with national policy.

Compassionate release

44. Prisoners can be released 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.

45. Dr B considered compassionate release for Mr Dams on 14 August 2015. He noted that Mr Dams needed 24-hour nursing care and had nobody in a position to care for him outside prison. His probation officer did not support release. The doctor considered in the circumstances it was better for Mr Dams to remain in the care of the inpatient unit, supported by local orthopaedic and palliative care consultants. We are satisfied that this was an appropriate decision.

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