

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Joseph Daly a prisoner at HMP Exeter on 4 March 2016

**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 Joseph Daly died on 4 March 2016 of sepsis resulting from a kidney infection while a prisoner at HMP Exeter. He was 83 years old. I offer my condolences to Mr Daly's family and friends.

I consider that Mr Daly received a very good standard of care at Exeter. Staff at the prison treated him with compassion and dignity and I am satisfied that he received care equivalent to that he could have expected to receive in the community.

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

September 2016

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Summary

Events

1. On 8 August 2011, Mr Joseph Daly was convicted of sexual offences and remanded to prison for sentencing. On 19 August, he was sentenced to eight years in prison. He was 79 at the time and had diabetes and hypertension. He had a history of heart disease and osteoarthritis. In June 2011, Mr Daly had completed a full course of radiotherapy for prostate cancer.
2. In January 2012, Mr Daly suffered a suspected stroke. In April 2015, he was diagnosed with chronic obstructive pulmonary disease (COPD – the name for a collection of lung diseases including chronic bronchitis and emphysema). In September 2015, he fell and broke his hip. On 15 December 2015, Mr Daly was transferred to HMP Exeter from HMP Leyhill, which had better facilities to meet his needs and cater for his multiple conditions.
3. Over the next two months, Mr Daly's health declined. In February 2016, a blood test showed a marked decline in Mr Daly's renal function and an accompanying urinary tract infection. On 26 February, a prison GP noted that Mr Daly had lost weight and was declining. He was moved to the prison's palliative care suite.
4. On 2 March, Mr Daly was admitted to hospital for a blood transfusion. Mr Daly remained in hospital and his condition deteriorated. He died at the hospital on 4 March.

Findings

5. We are satisfied that Mr Daly received a good standard of care at Exeter and that the prison met his health needs. Healthcare and prison staff treated him with compassion, dignity and respect. Mr Daly was appropriately involved in decisions about his care. The clinical reviewer considered that Mr Daly's care was equivalent to that he might have expected to receive in the community.

The Investigation Process

6. The investigator issued notices to staff and prisoners at HMP Exeter 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 Daly's prison and medical records.
8. NHS England commissioned a clinical reviewer to review Mr Daly's clinical care at the prison.
9. We informed HM Coroner for Exeter and Greater Devon District 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 Daly's daughter to explain the investigation and to ask if she had any matters she wanted the investigation to consider. Mr Daly's daughter wanted to know why he was moved to Exeter and how they had managed his health needs.
11. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.
12. The initial report was shared with the Independent Monitoring Board (IMB) for HMP Exeter. The IMB pointed out a factual inaccuracy and this report has been amended accordingly.
13. Mr Daly's daughter received a copy of the initial report. She did not raise any further issues, or comment on the factual accuracy of the report.

Background Information

HMP Exeter

14. HMP Exeter is a local prison holding 565 men. Dorset Healthcare University NHS Foundation Trust provides health services. There are ten cells on F Wing for prisoners who need social care and one cell for end of life palliative care. The wing has facilities for visiting relatives.

HM Inspectorate of Prisons

15. The most recent inspection of HMP Exeter was in August 2013. Inspectors reported that care for prisoners with complex social care needs and disabilities were impressive. There were 24-hour health services and a wide range of clinics, including for chronic diseases. Two nurses led the care of older prisoners. Palliative care was supported through an excellent new suite, which had been created for the care of terminally ill prisoners.

Independent Monitoring Board

16. 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 most recently published annual report, for the year to December 2015, the IMB reported that it believed that Exeter was a well-run and generally safe establishment and staff made a genuine effort to treat prisoners with dignity and respect. The IMB made special mention of the work of healthcare staff but considered that healthcare resources were inadequate and did not reflect community provision. However, they considered that the palliative care provided in the end of life unit was excellent.

Previous deaths at HMP Exeter

17. Mr Daly was the seventh prisoner to die from natural causes at HMP Exeter since January 2015. We have consistently found that Exeter has provided good palliative and end of life care.

Key Events

18. On 8 August 2011, Mr Joseph Daly was convicted of sexual offences and remanded to HMP Wormwood Scrubs for sentencing. On 19 August, he was sentenced to eight years in prison. He was 79 at the time and took medication for diabetes and hypertension. He had a history of heart disease and osteoarthritis. In June 2011, he had had completed a full course of radiotherapy for prostate cancer.
19. On 18 January 2012, Mr Daly suffered a suspected stroke, after which doctors prescribed aspirin to reduce his risk of strokes.
20. Regular diabetic reviews in 2012 showed that Mr Daly's control of his diabetes was not good. On 15 February 2013, an alternative treatment (glibenclamide) was added to his medication and this resulted in better control.
21. On 6 September 2013, Mr Daly transferred to HMP Ashfield. In September 2014, doctors prescribed rivaroxaban (an anticoagulant) to minimise his risk of further strokes.
22. On 27 February 2015, Mr Daly developed a chest infection. On 17 April, a doctor diagnosed him with chronic obstructive pulmonary disease and prescribed inhaler therapy. In September, he fell and broke his hip and was treated in hospital.
23. In October 2015, Mr Daly transferred to HMP Leyhill, an open prison. On 15 October, officers found Mr Daly vomiting in his cell and appeared confused. A nurse reviewed him and sent him to hospital. While he was in hospital, a doctor diagnosed that he had had multiple cerebral infarcts (strokes) and melena (blood in his stools associated with upper gastrointestinal bleeding). The hospital investigated the melena with an endoscopy and sigmoidoscopy but neither showed anything of concern.
24. Before he left hospital, Mr Daly's daughter raised concerns about Leyhill's ability to meet his increased high dependency needs, which included incontinence, difficulty in swallowing, poor mobility and poor cognitive function. Leyhill liaised with HMP Exeter, which had better facilities and resources to care for Mr Daly and agreed to accept him. On 15 December, Mr Daly was discharged from the hospital to Exeter.
25. On 23 December, after discussion with a prison GP, Mr Daly decided he did not want anyone to try to resuscitate him if his heart or breathing stopped. Although Mr Daly was sometimes confused, the GP was satisfied he had the capacity at the time to make this decision.
26. On 12 January 2016, a prison GP reviewed Mr Daly, who was confused and not eating or drinking. She asked for blood tests, which showed a raised C reactive protein (CRP – a blood test marker for inflammation in the body), which is associated with an infection, and mild anaemia but there were no physical signs of either.

27. On 17 February, another prison GP reviewed Mr Daly who was suffering from bleeding from his rectum. He asked for a blood test, which revealed a marked decline in renal function, anaemia, a raised CRP and a raised white blood cell count. A urine dipstick test indicated that Mr Daly had a urinary tract infection and the GP prescribed an antibiotic.
28. On 19 February, a nurse wrote a care plan, which included monitoring Mr Daly's medications and a referral to a gastroenterologist. The nurse reviewed Mr Daly's decision about resuscitation and Mr Daly maintained his earlier decision.
29. On 26 February, a prison GP was concerned that Mr Daly had lost weight and discussed the possibility of bowel cancer with him. She made an urgent referral under the NHS pathway that requires patients with suspected cancer to be seen by a specialist within two weeks. She also noted that his renal function was deteriorating, and arranged for him move the prison's palliative care suite for hourly observations and intensive nursing care.
30. Over the next few days, Mr Daly was tired and unsettled. He reported occasional mild abdominal pain but declined pain relief.
31. On 1 March, a prison GP had detailed discussions with Mr Daly and his family. This included the possibility of cancer. She noted that he was very frail and might not survive long enough for a definitive diagnosis. She suggested he should go to hospital for a palliative blood transfusion and Mr Daly agreed.
32. On 2 March, Mr Daly was admitted to hospital. No restraints were used. At first, hospital doctors were concerned that he might have sepsis, but the next day reported that his condition had improved.
33. Over the next day, Mr Daly began to deteriorate and in the early hours of 4 March, his breathing became very shallow. Mr Daly continued to decline and at 4.10am, a doctor recorded that he had died.

Contact with Mr Daly's family

34. On 29 December 2015, shortly after Mr Daly arrived at Exeter, the prison appointed two officers as family liaison officers. One officer started regular contact with Mr Daly's family.
35. At 4.30am on 4 March, as had previously been agreed, a prison manager phoned Mr Daly's wife and his daughter to inform them of his death and offered support and condolences. Mr Daly's family lived a long way from the prison and the manager offered to arrange for a family liaison officer from another prison to visit them. However, Mr Daly's wife and daughter said they preferred to deal by telephone with the staff they knew at Exeter.
36. Mr Daly's funeral was on 10 June. The prison contributed towards the cost in line with national policy.

Support for prisoners and staff

37. The prison posted notices informing staff and prisoners of Mr Daly's death, and offering support. Staff reviewed all prisoners assessed as at risk of suicide or self-harm in case they had been adversely affected by Mr Daly's death.
38. After Mr Daly's death, the prison manager debriefed the officers who were with Mr Daly at the hospital at the time he died and offered support.

Post-mortem report

39. A post-mortem examination found that Mr Daly had died of sepsis secondary to pyelonephritis (a kidney infection caused by bacteria transferring from the bladder to the kidney) and acute chronic kidney failure with a background of a stroke.

Findings

Clinical care

40. Mr Daly had a number of complex and debilitating conditions. However, the clinical reviewer considered that he received competent and attentive treatment throughout his time in prison.
41. The clinical reviewer noted that Mr Daly's medical issues were identified early and quickly investigated. The treatment he received appropriately took into account his age and frailty. He was nursed expertly and with compassion during his final illness and the GP discussed his care and prognosis with him and his family sensitively and appropriately. Detailed care plans were implemented during his final illness and his wishes about resuscitation were correctly discussed and reviewed.
42. Mr Daly's reduction in renal function and possibility of infection, in his final two weeks of his life, might have indicated the need for hospitalisation earlier. However, the clinical reviewer was satisfied that healthcare staff were treating this with antibiotics and appropriately waited to see whether his renal function and white cell count had improved before sending him to hospital.
43. The clinical reviewer had some concerns about some delays in treatment and medication changes for Mr Daly's chronic conditions. However, he was satisfied that these did not materially affect the outcome of Mr Daly's illnesses or contribute to his death. He concluded that Mr Daly's care was equivalent to that he might have expected to receive in the community.

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