

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Terrance Fountain a prisoner at HMP Exeter on 9 April 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*



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

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 Terrance Fountain died on 9 April 2016 of bone marrow cancer while a prisoner at HMP Exeter. He was 72 years old. I offer my condolences to Mr Fountain's family and friends.

Mr Fountain received a very good standard of care at both HMP Channings Wood and HMP Exeter. Healthcare staff managed his chronic illnesses well and reviewed him frequently. Staff treated Mr Fountain with respect and agreed an appropriate end of life care plan, which allowed him to die with dignity and in line with his wishes. I am satisfied that Mr Fountain received care equivalent to that he could have expected to receive in the community. However, I am concerned that an application for compassionate release was not progressed more quickly.

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

October 2016

Contents

Summary 1
The Investigation Process 2
Background Information 3
Findings..... 4

Summary

Events

1. In 1969, Mr Terrance Fountain was sentenced to life imprisonment. He was released on licence in 1979 but recalled to prison in 2007 and was subsequently sentenced to another six years in prison for further offences. He had been at HMP Channings Wood since December 2009.
2. In May 2015, Mr Fountain had an operation to remove a cancerous lesion from his nose. Following the operation, hospital staff diagnosed and treated him for a number of other conditions including respiratory failure, heart failure and a pancytopenia (reduction in red blood cells, white blood cells, and platelets).
3. On 25 June, a prison doctor noticed that Mr Fountain's blood test results indicated a worsening of the pancytopenia and referred him to a haematologist. On 14 September, a consultant haematologist reviewed Mr Fountain and arranged for him to have further investigations. On 2 November, the consultant diagnosed Mr Fountain with myeloma (bone marrow cancer).
4. On 5 February 2016, Mr Fountain was transferred directly from hospital to HMP Exeter, which had better facilities to meet his needs. Over the next two months, healthcare staff provided Mr Fountain with palliative care and monitored him frequently.
5. On 8 April, a prison doctor was concerned about Mr Fountain's condition and sent him to hospital as an emergency. Mr Fountain remained in hospital and his condition deteriorated. He died at the hospital on 9 April.

Findings

6. We are satisfied that prison healthcare staff managed Mr Fountain's myeloma diagnosis very well. They followed specialist advice, reviewed him frequently and treated his conditions accordingly. Palliative care was good and Mr Fountain was appropriately involved in decisions about his care. The clinical reviewer considered that Mr Fountain's care was at least equivalent to that he might have expected to receive in the community.
7. We were pleased that officers did not restrain Mr Fountain when he went to hospital. However, we are concerned that an application for release on compassionate grounds was not progressed quickly enough.

Recommendation

- **The Governor should ensure that applications for early release on compassionate grounds are progressed without delay.**

The Investigation Process

8. 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.
9. The investigator obtained copies of relevant extracts from Mr Fountain's prison and medical records.
10. The investigator interviewed one member of staff at HMP Exeter by telephone on 14 June 2016.
11. NHS England commissioned a clinical reviewer to review Mr Fountain's clinical care at the prison. He interviewed two members of healthcare staff from HMP Exeter by telephone on 22 May.
12. We informed HM Coroner for Exeter and Greater Devon of the investigation who sent the results of the post-mortem examination. We have given the coroner a copy of this report.
13. One of the Ombudsman's family liaison officers contacted Mr Fountain's partner to explain the investigation and to ask if she had any matters she wanted the investigation to consider. His partner wanted to know when Mr Fountain was diagnosed with cancer and whether his diagnosis was timely.
14. The investigation has assessed the main issues involved in Mr Fountain'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.
15. Mr Fountain's family received a copy of the initial report. They did not raise any further issues, or comment on the factual accuracy of the report.
16. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

Background Information

HMP Exeter

17. 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

18. The most recent inspection of HMP Exeter was in August 2013. Inspectors reported that care for prisoners with complex social care needs and disabilities was 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

19. 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 December 2015, the IMB reported that the number of healthcare staff remained an issue. Staffing levels were only just adequate and primary care was under pressure due to the large amount of prisoners passing through the prison.

Previous deaths at HMP Exeter

20. Mr Fountain was the twelfth prisoner to die of natural causes at HMP Exeter since April 2015. We have consistently found that Exeter has provided good palliative care.

Findings

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

21. In 1969, Mr Terrance Fountain was sentenced to life in prison. He was released on life licence in 1979, but he was recalled to prison on 12 July 2007, after breaching the conditions of his licence. On 25 September 2009, Mr Fountain was sentenced to another six years in prison for further offences. On 22 December, he was moved to HMP Channings Wood. Mr Fountain suffered from a number of chronic health conditions including diabetes and an irregular heartbeat. He had poor mobility and used a walking stick to get around.
22. On 12 May 2015, Mr Fountain had an operation to remove a cancerous lesion from his nose at hospital. Following the surgery, he developed heart failure and was found to have type 2 respiratory failure and a pancytopenia (reduction in red blood cells, white blood cells, and platelets). Hospital staff treated Mr Fountain's heart failure with medication and fitted a pacemaker. They treated his respiratory failure with oxygen therapy and suggested follow up blood tests to monitor the pancytopenia. The hospital discharged Mr Fountain back to prison on 29 May.
23. As part of his discharge, the hospital asked the prison to test Mr Fountain's blood regularly. Healthcare staff took Mr Fountain's blood on 23 June and, two days later, a prison GP made a haematology referral after the blood test indicated a worsening of Mr Fountain's pancytopenia.
24. On 14 September, a consultant haematologist reviewed Mr Fountain at hospital and, suspecting underlying myeloma, arranged for a bone marrow biopsy and skeletal survey. On 2 November, the consultant haematologist saw Mr Fountain to discuss the results and formally diagnosed myeloma. The consultant estimated that Mr Fountain had a prognosis of approximately one year. After discussing treatment, Mr Fountain said he would prefer palliative care over chemotherapy.
25. The clinical reviewer considered that healthcare staff at Channings Wood followed specialist hospital advice and monitored Mr Fountain's blood levels accordingly, seeking further advice when necessary. He considered there was no delay in diagnosis. We are satisfied that prison healthcare staff appropriately referred Mr Fountain to haematology without delay.

Mr Fountain's clinical care

26. Healthcare staff at Channings Wood monitored Mr Fountain's chronic health conditions and reviewed his medication frequently. Prison doctors monitored his blood levels in accordance with specialist advice and remained in regular contact with the haematology department.
27. On 6 January 2016, the consultant haematologist saw Mr Fountain at hospital for a review. He advised Mr Fountain that chemotherapy treatment would not be a viable option in light of his other health conditions and indicated that weekly treatment with dexamethasone (a steroid) was the only option and this was

prescribed for Mr Fountain. On 22 January, a prison GP was concerned that Mr Fountain had a chest infection and sent him to Torbay Hospital where he received treatment.

28. On 5 February, Mr Fountain was moved from hospital to the social care wing at HMP Exeter, which was better suited to his needs. When he arrived, a nurse conducted an initial assessment and a prison GP prescribed appropriate medication.
29. On 17 February, a multidisciplinary meeting took place to discuss Mr Fountain's care needs and a nurse created multiple care plans for his various conditions including an end of life plan. A prison GP discussed and confirmed that Mr Fountain did not want anyone to resuscitate him if his heart or breathing stopped and appropriately recorded this.
30. Over the next two months, health and social care staff continued to review Mr Fountain frequently and issue his medication. Prison and healthcare staff attended daily reviews, with monthly multidisciplinary meetings taking place to discuss his overall care. Prison doctors repeatedly monitored Mr Fountain's blood tests and discussed the results with the consultant haematologist when required. The prison chaplaincy also provided counselling so that Mr Fountain could have some additional emotional support.
31. On 5 April, a nurse noted that Mr Fountain's pain had increased and she spoke with a specialist palliative care nurse, who suggested a change to his pain medication. Later that day, a prison GP spoke with the palliative care nurse and subsequently prescribed amitriptyline (a pain medication).
32. On 8 April, a nurse tried to obtain Mr Fountain's International Normalised Ratio (INR – a standardised scoring system that indicates blood thickness), but the machine would not produce a result, despite working for other patients. She was concerned that Mr Fountain's INR level might be too high for the machine to read so she requested an urgent GP review. Later the same day, a prison GP examined Mr Fountain and sent him to hospital, which was his preferred option. He remained in hospital and his condition deteriorated. On 9 April, at 8.40am, hospital doctors confirmed that Mr Fountain had died.
33. The clinical reviewer considered that Mr Fountain received a high standard of care in prison. Healthcare staff managed his chronic conditions well and followed instructions from specialist haematologists in relation to his myeloma diagnosis, monitoring his blood levels accordingly. Staff put in place care plans, prescribed appropriate medication and involved Mr Fountain in decisions about his ongoing treatment. We are satisfied that the care Mr Fountain received was at least equivalent to that he could have expected to have received in the community.

Mr Fountain's location

34. On 10 January 2016, a nurse manager at Channings Wood noted that Mr Fountain had difficulty managing his personal care and he was keen to move to the social care wing at HMP Exeter. On 22 January, she requested a transfer to Exeter social care wing's palliative care suite. On 4 February, another nurse

manager confirmed Mr Fountain's suitability for the move and he was transferred directly from hospital the following day.

35. We are satisfied that the prison appropriately took account of Mr Fountain's preferences about his location for end of life care and that the social care wing at HMP Exeter was appropriate for his needs.

Restraints, security and escorts

36. When prisoners have to travel outside of the prison, a risk assessment determines the nature and level of 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. Any restraints used should be necessary and decisions should be based on the security risk taking into account factors such as the prisoner's health and mobility.
37. Mr Fountain only went to hospital once from Exeter, on 8 April. A prison manager reviewed his risk assessment and authorised two officers to escort him but not to use any restraints as he was so ill. We are pleased to note that, appropriately, Mr Fountain was not restrained.

Liaison with Mr Fountain's family

38. On 3 November, an officer spoke to Mr Fountain in length about his myeloma diagnosis and offered him a private office to telephone his partner. It is not clear from the records whether Mr Fountain accepted this offer.
39. On 17 February, Exeter appointed an officer as the prison's family liaison officer. She telephoned Mr Fountain's partner to introduce herself. She continued to provide Mr Fountain's partner with regular updates and agreed to telephone her when he died. After Mr Fountain's death she telephoned Mr Fountain's partner to inform her and offer condolences and support.
40. Mr Fountain's funeral was on 30 April. The prison contributed to the funeral costs in line with national policy.

Compassionate release

41. 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. The criteria for early release for determinate sentenced prisoners are set out in Prison Service Order (PSO) 6000. 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).
42. Staff at Exeter first discussed an application for early release on compassionate grounds for Mr Fountain during a multidisciplinary meeting on 17 February. They considered that Channings Wood might have responsibility for the application

and arranged for someone to check this. Over a month later at the next multidisciplinary meeting on 22 March, Exeter assumed responsibility for the application and started to explore the possibility of Mr Fountain going to a care home. A prison GP was asked to complete the medical section so it could be sent to the Governor for authorisation, but sadly, Mr Fountain died before the application was completed.

43. During the first multidisciplinary meeting, the prison GP confirmed that Mr Fountain had a prognosis between one to five months so the need for urgency should have been apparent. However, after seven weeks the prison had still not completed or submitted the application. Exeter should have been aware that it was their responsibility to complete the application, in the first instance, and they should have done so without delay. While the outcome might still have been the same, we consider the application should have been progressed more quickly. We make the following recommendation:

The Governor should ensure that applications for early release on compassionate grounds are progressed without delay.

**Prisons &
Probation**

Ombudsman
Independent Investigations