

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Norman Potts a prisoner at HMP Durham on 21 August 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.

We carry out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

Mr Norman Potts died on 21 August 2016 of lung cancer. He was 51 years old. I offer my condolences to Mr Potts' family and friends.

I consider that Mr Potts received a good standard of care at HMP Durham. In particular, the approach of prison healthcare staff was well co-ordinated and compassionate.

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

February 2017

Contents

Summary 1
The Investigation Process 2
Background Information 3
Findings 4

Summary

Events

1. On 11 September 2015, Mr Norman Potts was sentenced to five years and eight months in prison for sexual offences and sent to HMP Durham.
2. Mr Potts had a history of chronic obstructive pulmonary disease (COPD – lung disease) and lung cancer, diagnosed in January 2015. His community records showed that he had received chemotherapy and radiotherapy treatment for lung cancer.
3. On 27 October 2015, a hospital specialist told Mr Potts his lung cancer had responded to treatment and he would be monitored every three months. At his first review, in January 2016, a specialist told Mr Potts that his condition had deteriorated and was terminal, but did not give him a clear prognosis.
4. Mr Potts was treated with palliative chemotherapy which initially prevented any progression of his lung cancer. However, in July 2016, a CT scan revealed that his condition had deteriorated further and there were no other active treatment options.
5. Healthcare staff treated Mr Potts palliatively, focusing on managing his pain. On 6 August, Mr Potts agreed to move to the prison's inpatient unit for full nursing care.
6. On 10 August, Mr Potts moved to a hospice for end of life care. He died on 21 August.

Findings

7. The investigation found that Mr Potts received a standard of care that was equivalent to that he would have expected to receive in the community. The clinical reviewer considered that the care provided was of a good standard.
8. Mr Potts' palliative care and pain management was delivered to a good standard and healthcare staff ensured he was able to maintain his independence and dignity. Nurses created care plans to manage his chemotherapy treatment and pain relief. Consideration was given to Mr Potts' wishes to remain on the wing with his friends before moving to a hospice for end of life care.
9. We are also pleased that, appropriately, officers did not restrain Mr Potts when he went to hospital for appointments and during his short stay in May.

The Investigation Process

10. The investigator issued notices to staff and prisoners at HMP Durham informing them of the investigation and asking anyone with relevant information to contact her. No one responded.
11. The investigator obtained copies of relevant extracts from Mr Potts' prison and medical records.
12. NHS England commissioned a clinical reviewer to review Mr Potts' clinical care at the prison.
13. We informed HM Coroner for County Durham and Darlington of the investigation who gave us the cause of death. We have sent the coroner a copy of this report.
14. The investigator wrote to Mr Potts' brother to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He did not respond to our letter.
15. The investigation has assessed the main issues involved in Mr Potts' 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.
16. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

Background Information

HMP Durham

17. HMP Durham is a local prison serving the courts of Tyneside, Durham and Cumbria, which holds approximately 1,000 men. G4S provides primary healthcare. The prison's inpatient unit has six beds with 24-hour healthcare.

HM Inspectorate of Prisons

18. The most recent inspection of HMP Durham was in December 2013. Inspectors reported the standards of healthcare were satisfactory. There were appropriate opportunities for primary care and support for lifelong conditions. Inspectors found that the new healthcare centre and inpatient care of patients with lifelong conditions, such as asthma, diabetes and heart disease, was good. Individual treatment was provided at nurse-led clinics. The prison worked in partnership with Macmillan Cancer Support to offer palliative and end of life care.

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 October 2015, the IMB reported that healthcare services were disrupted by the re-commissioning process, which meant that experienced staff left and replacing them was slow. New prisoners received a full healthcare assessment within 72 hours of arrival.

Previous deaths at HMP Durham

20. Mr Potts was the fourth prisoner to die of natural causes at Durham since January 2013. There were no significant similarities to the previous cases.

Findings

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

21. On 11 September 2015, Mr Norman Potts was sentenced five years and eight months in prison for sexual offences and sent to HMP Durham.
22. When he first arrived at Durham, Mr Potts told a prison GP he suffered from chronic obstructive pulmonary disease (COPD – lung disease) and had a diagnosis of lung cancer from January 2015. Mr Potts used an inhaler and oral steroids to manage his symptoms of COPD. Nurses created a care plan to manage Mr Potts' symptoms of COPD and ensure he received his medication. The GP obtained a summary from Mr Potts' community GP, which said that he had a carcinoma of the left lung which was being treated with chemotherapy and radiotherapy.
23. Mr Potts was under the care of respiratory and oncology specialists at hospital in Newcastle. On 27 October 2015, a respiratory consultant told Mr Potts his lung cancer had responded to treatment and he would be monitored every three months.
24. Mr Potts received support from the prison's Macmillan Specialist Nurse. She saw Mr Potts regularly to assess him and offer support.
25. On 26 January 2016, a respiratory consultant at the hospital told Mr Potts that an x-ray had shown that there was now rapid deterioration in his lung cancer and his condition was terminal. The only treatment was palliative, providing symptomatic relief. The respiratory consultant did not give Mr Potts a clear life expectancy and said oncologists at the hospital would manage his treatment.
26. When Mr Potts returned to Durham, a prison GP discussed his diagnosis with him and reassured him that healthcare staff would offer support. Prison GPs liaised with hospital specialists to ensure Mr Potts received his palliative chemotherapy in the prison inpatient unit, rather than going to hospital.
27. Mr Potts arrived at Durham with a diagnosis of cancer, which specialists were monitoring. When his condition deteriorated and he was informed that this was suitable for palliative care only, a prison doctor discussed this with Mr Potts and supported him. We are satisfied that both hospital and prison healthcare staff kept Mr Potts informed of his condition and supported him throughout.

Mr Potts' clinical care

28. From February 2016, a nurse developed care plans to manage Mr Potts' palliative chemotherapy treatment, which included pain relief and nutrition. On 4 February, Mr Potts underwent his first cycle of chemotherapy treatment at Durham.
29. On 7 April, an oncologist told Mr Potts that a CT scan had shown that the chemotherapy treatment had not slowed the progression of his condition. Mr Potts had further cycles of chemotherapy on 11 April and 10 May.

30. Mr Potts complained to nurses on 10 May, that he had persistent diarrhoea. He was admitted to hospital, where hospital doctors diagnosed neutropenic sepsis (a complication of chemotherapy caused by a reduced number of white blood cells in the body). Hospital doctors treated Mr Potts with intravenous antibiotics and he returned to Durham on 17 May.
31. On 19 May, Mr Potts decided he did not want anyone to resuscitate him if his heart or breathing stopped and signed an order to that effect. During an appointment with his oncologist at the hospital on 26 May, Mr Potts was told that the chemotherapy had halted the progression of his condition. He underwent two further cycles of chemotherapy on 7 and 27 June.
32. A multidisciplinary team meeting took place on 29 June, to discuss Mr Potts' pain management. Nurses controlled Mr Potts' pain with morphine. Records show that they frequently asked Mr Potts if he was in any pain or discomfort and increased his pain relief when necessary. On 21 July, an oncologist told Mr Potts that his lung cancer had progressed.
33. When it became evident that Mr Potts' pain relief could not be effectively controlled on a main wing in the prison, he moved to the inpatient unit. Mr Potts' condition continued to deteriorate and, on 10 August, he agreed to move to a hospice for end of life care. The Macmillan nurse maintained daily contact with hospice staff and received regular updates about his condition. Mr Potts died at 5.00am on 21 August.
34. We agree with the clinical reviewer that Mr Potts received a good standard of care at Durham that was at least equivalent to that he could have expected to receive in the community.

Mr Potts' location

35. Mr Potts lived in a single cell on a main wing in the prison. Nurses regularly encouraged Mr Potts to move to the inpatient unit which was better equipped for his needs, but he said he wanted to remain on the wing where he felt supported by his friends.
36. On 6 August, Mr Potts agreed to move to the inpatient unit where nurses could monitor him more closely and manage his pain relief. Prison managers allowed his cell to be unlocked to allow healthcare staff easy access to monitor him. On 10 August, Mr Potts moved to a hospice, where he remained until he died.
37. We are satisfied that Mr Potts was appropriately located throughout his illness. The move to a hospice was appropriate and allowed him a peaceful death.

Restraints, security and escorts

38. 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.

39. When Mr Potts travelled outside of the prison, two officers escorted him and did not restrain him at any time.
40. We are pleased that the managers at Durham decided not to restrain Mr Potts at any time and took appropriate account of how his health affected his risk to the public and of escape.

Liaison with Mr Potts' family

41. On 26 January 2016, the prison appointed a prison chaplain as family liaison officer. He visited Mr Potts on the wing and offered support. Mr Potts had regular contact with his brother, his nominated next of kin.
42. When Mr Potts went to hospital on 10 May, the chaplain arranged for Mr Potts' brother to visit him. He remained in contact with Mr Potts' brother and provided regular updates on his condition
43. On 10 August, Mr Potts moved to a hospice and the chaplain arranged for Mr Potts' brother to visit him there. When Mr Potts died on 21 August, the chaplain and the Deputy Governor visited Mr Potts' brother at home and told him Mr Potts had died. He remained in contact with Mr Potts' brother until his funeral on 12 September. The prison contributed towards the costs in line with national policy.
44. We are satisfied there was good, supportive liaison with Mr Potts' brother.

Compassionate release

45. Prisoners can be released 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.
46. When Mr Potts moved to a hospice for end of life care on 10 August, prison and healthcare staff spoke to him about the possibility of compassionate release. Mr Potts said he wanted to apply for early release on compassionate grounds.
47. On 11 August, the offender management unit at the prison started an application. The Prison Service's Public Protection Unit said they could not consider the application without a medical report which gave Mr Potts a clear prognosis.
48. On 17 August, a hospice doctor completed a medical report for the application, but the Public Protection Unit needed more information before it could be progressed. This included arrangements for continuity of care if Mr Potts was released from prison and where he would live. The application was not completed before Mr Potts died. We are satisfied that the prison appropriately considered compassionate release for Mr Potts.

**Prisons &
Probation**

Ombudsman
Independent Investigations