

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Andrew Armstrong a prisoner at HMP Moorland on 6 November 2015

**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 Andrew Armstrong died on 6 November 2015 of bronchial cancer, while a prisoner at HMP Moorland. He was 71 years old. I offer my condolences to Mr Armstrong's family and friends.

Mr Armstrong had been diagnosed with melanoma (skin cancer) before he was sent to prison and had declined treatment or hospital intervention. He had the right, and the capacity, to make this decision, but the clinical reviewer was concerned that there should have been better periodic monitoring, fully recorded advice about the consequences of his decision and fuller investigation of new symptoms.

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

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Summary

Events

1. Mr Andrew Armstrong had been in prison since September 2013. Initially, he was held at HMP Leeds before being transferred to Moorland in October. Before he arrived in prison, he had been diagnosed with melanoma and had declined any treatment and surgery to remove lymph nodes. Mr Armstrong had type 2 diabetes and hypertension (high blood pressure.)
2. When he was at Leeds, a doctor had tried to persuade Mr Armstrong that he should have periodic monitoring of his condition, which Mr Armstrong said he would think about. He was transferred to Moorland shortly afterwards and this was not pursued with him when he arrived. In December 2013, a prison GP noted that Mr Armstrong did not want treatment for his condition but did not record any discussion about monitoring. Prison GPs did not consider Mr Armstrong's melanoma again until August 2015.
3. Mr Armstrong often received pain relief medication, which was prescribed under a patient group directive (PGD), which allows clinicians to give patients pain relief medication without an individual prescription. Healthcare staff did not fully record why Mr Armstrong needed pain relief or whether melanoma was the cause.
4. In January 2015, Mr Armstrong told prison nurses that he had coughed up blood and felt breathless but he did not see a prison GP until several weeks later. The GP reviewed his breathing difficulties but was unaware of the earlier incidents of coughing up blood and did not refer him for further investigation.
5. In August, Mr Armstrong's health deteriorated and he lost weight. On 21 August, a prison GP referred Mr Armstrong urgently to a hospital specialist for suspected cancer. However, on 31 August, before he received an appointment, Mr Armstrong collapsed in his cell and was taken to hospital. Hospital doctors diagnosed an intracerebral haemorrhage (a bleed into the brain which causes stroke like symptoms) and admitted him to the hospital's stroke unit. Further investigations revealed Mr Armstrong had lung and liver metastases (where the cancer had spread).
6. Mr Armstrong remained in hospital but did not want any active treatment so doctors arranged palliative care. On 29 October, Mr Armstrong was released from prison on temporary licence to a nursing home where he received end of life care. He died at 10.55pm on 6 November.

Findings

7. Mr Armstrong had made it clear before he was sentenced to prison that he did not want any active treatment or to attend hospital appointments for melanoma. After he arrived at Moorland, prison GPs accepted his decision but did not discuss with him the possibility of further monitoring and clearly record his decision, which would have been good practice. No one reviewed his frequent requests for pain relief to assess whether there had been a deterioration in his condition. While we recognise that Mr Armstrong did not want active treatment

for cancer, we consider he should have been referred to hospital earlier, when he reported further concerning symptoms.

Recommendations

- The Head of Healthcare should ensure that when a prisoner declines medical treatment, this should be discussed with him. The advice given and the decision taken should be fully recorded in his medical record.
- The Head of Healthcare should ensure that prisoners reporting frequent pain have their symptoms thoroughly examined and investigated to determine the root cause and that that prison doctors follow NICE guidelines on urgent referral for suspected cancer.

The Investigation Process

8. The investigator issued notices to staff and prisoners at HMP Moorland 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 Armstrong's prison and medical records. She interviewed one member of staff by telephone.
10. NHS England commissioned a clinical reviewer to review Mr Armstrong's clinical care at the prison.
11. We informed HM Coroner for South Yorkshire East District 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 contacted Mr Armstrong's sister to explain the investigation. His sister said she had been very happy with the care Mr Armstrong had received and was very positive about the support the prison had given her. She had no specific issues for the investigation to consider.
13. Mr Armstrong's sister did not wish to receive a copy of the initial report.
14. The initial report was shared with the Prison Service. The Prison Service pointed out a factual inaccuracy and this report has been amended accordingly. The action plan has been annexed to this report.

Background Information

HMP Moorland

15. HMP & YOI Moorland in South Yorkshire holds up to 1,000 men. Nottinghamshire Healthcare NHS Trust runs healthcare services at the prison, including primary care, mental health and substance misuse services. The prison does not have an inpatient facility or full time nursing cover.

HM Inspectorate of Prisons

16. The report of the most recent inspection of Moorland has yet to be published. At the previous inspection in December 2012, inspectors reported that the overall quality of health services had improved since the previous inspection. There was a wide range of clinics as part of a wing based service and prisoners were generally positively about their health 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 February 2015, the IMB was concerned that healthcare staffing resources had been stretched because of staff leaving and sickness absences. The IMB was also concerned about the number of missed healthcare appointments, either because prisoners chose not to attend or because they were not released from houseblocks. The IMB also noted that prisoners missed a number of hospital appointments because escorts were cancelled as a result of operational pressures elsewhere in the prison.

Previous deaths at HMP Moorland

18. Mr Armstrong was the fourth prisoner to die from natural causes at Moorland since January 2014. There were no significant similarities with the other cases.

Key events

19. In September 2013, Mr Andrew Armstrong was sentenced to five years in prison for sexual offences and sent to HMP Leeds. He had type 2 diabetes and hypertension (high blood pressure) and was prescribed medication for these conditions.
20. The prison obtained Mr Armstrong's community GP records, which indicated that Mr Armstrong had had a malignant melanoma removed from his back in March 2012. A hospital consultant had advised him to have surgery to remove lymph nodes to help prevent the cancer spreading but Mr Armstrong had refused. He had declined any further treatment and did not attend any follow up appointments. Mr Armstrong's family had written to a hospital consultant on his behalf to say he did not want the hospital to contact him further.
21. On 21 October, a GP at Leeds discussed his decision not to have further intervention. The GP noted that Mr Armstrong said he did not want to know if he was dying of melanoma. An examination did not show any evidence of cancer in Mr Armstrong's lymph nodes and the doctor agreed to inform Mr Armstrong's consultant. The doctor advised Mr Armstrong that periodic monitoring by his hospital consultant would be beneficial and Mr Armstrong said he would think about this. The doctor was satisfied that Mr Armstrong had the mental capacity to decide not to have further treatment.
22. On 25 October, Mr Armstrong was moved to HMP Moorland. A prison nurse completed his reception health screen and described Mr Armstrong as fit and well and recorded his weight as 93.4kg (14st 9lbs). The nurse did not discuss his melanoma. Nurses created care plans to monitor Mr Armstrong's hypertension and diabetes.
23. On 28 October, Dr A, a prison GP, recorded Mr Armstrong's medication in his medical record, but there is no record that she saw Mr Armstrong and there was nothing further about the doctor at Leeds suggestion that Mr Armstrong should consider allowing periodic monitoring of the melanoma. On 10 December, Dr B, a prison GP, noted that Mr Armstrong understood the potential for recurrence of the cancer but did not want further treatment.
24. During his time at Moorland, nurses frequently gave Mr Armstrong ibuprofen and paracetamol under a patient group directive (PGD). This allows registered health professionals to give patients pain relief medication without the need for an individually named prescription. On 24 September 2014, a pharmacy technician, noted that Mr Armstrong frequently asked for pain relief and that he should be assessed to determine his need for regular pain relief medication. There is no record that this was done and he continued to receive pain relief under the PGD.
25. On 20 October, Dr A prescribed Mr Armstrong a 28-day prescription of ibuprofen but did not record any details about the location or severity of Mr Armstrong's pain. On 25 October, a nurse gave him an additional 16 ibuprofen tablets, but did not record why he needed it. On 2 December, Mr Armstrong returned the ibuprofen tablets to a pharmacy technician because they made him breathless and he did not want to continue taking them. The pharmacy technician did not refer Mr Armstrong to a GP to assess this.

26. On 18 January 2015, Mr Armstrong coughed up blood and told a nurse that he often had a build up of mucus and felt breathless. His temperature, pulse, blood pressure, and oxygen saturation level were within normal ranges. On 20 January, a nurse assessed Mr Armstrong who said he had coughed up very red blood. The nurse added him to the GP waiting list, but Mr Armstrong did not attend an appointment arranged for 10 February. No reasons were recorded.
27. On 27 February, Dr B saw Mr Armstrong to assess his breathing difficulties. The doctor was unaware of the previous incidents of coughing up blood so did not discuss this with him and did not refer him for any further investigation.
28. Between May and August, healthcare staff saw Mr Armstrong six times when he complained of pain. They gave him 16 paracetamol tablets each time.
29. On 20 August, officers were concerned that Mr Armstrong's health was deteriorating and he appeared to have lost weight. A nurse recorded that he weighed 78.8kg (12st 5lb). Mr Armstrong said he was concerned that his cancer had returned and the nurse referred him to a GP.
30. On 21 August, Dr A assessed Mr Armstrong. She noted he had lost one and a half stone (9.98kg) since he had arrived at Moorland and asked for blood tests. The doctor made an urgent referral under the NHS pathway, which requires patients with suspected cancer to be seen by a specialist within two weeks. On 28 August, the doctor reviewed the blood test results, which were abnormal, and noted Mr Armstrong was waiting for a hospital appointment.
31. At 7.37am on 31 August, officers found Mr Armstrong collapsed in his cell and called an ambulance. Hospital doctors said Mr Armstrong had suffered an intracerebral haemorrhage (a bleed into the brain, which causes stroke-like symptoms) and admitted him to the hospital's stroke unit. A CT scan revealed Mr Armstrong also had lung and liver metastases (where cancer had spread from another site).
32. Prison nurses contacted the hospital daily for updates on Mr Armstrong's condition. On 8 September, Dr A discussed Mr Armstrong's diagnosis with a stroke specialist. The stroke specialist was not aware of Mr Armstrong's previous history of melanoma or that he had been referred for suspected cancer before he collapsed on 31 August.
33. On 23 September, the Head of Healthcare visited Mr Armstrong in hospital. Mr Armstrong understood that he had cancer and he had refused any further investigations or treatment. Hospital doctors decided his care would be palliative and gave him pain relief to make him comfortable.
34. On 29 October, the prison released Mr Armstrong on temporary licence and he moved to a nursing home for end of life care. He died at 10.55pm on 6 November.

Liaison with Mr Armstrong's family

35. On 23 September the prison appointed a prison officer, as the family liaison officer. The family liaison officer visited Mr Armstrong in hospital and offered support. In line with Mr Armstrong's wishes, he contacted his sister, told her

about his diagnosis, and gave her regular updates about Mr Armstrong's condition until he died.

36. As Mr Armstrong's sister lived a long way from the Moorland, a manager and a chaplain from HMP Guys Marsh, which was nearer her home, visited her and informed her of her brother's death. At 2.00pm on 6 November, the prison family liaison officer telephoned Mr Armstrong's sister and offered condolences and support. He kept in contact with her until after Mr Armstrong's funeral, which was on 8 December. The prison contributed to the costs, in line with national policy.

Support for prisoners and staff

37. Mr Armstrong died over two months after he had left prison for hospital. The prison posted notices informing staff and prisoners of Mr Armstrong's death and a prison manager informed his friends in prison and offered support.

Cause of death

38. The coroner gave the cause of death as 1a Carcinomatosis (widespread cancer) and 1b Carcinoma of the bronchus.

Findings

Clinical care

39. Mr Armstrong had been diagnosed with melanoma before he went to prison. He had declined treatment and made it clear that he did not want to attend any hospital appointments for follow up. At HMP Leeds, the doctor encouraged Mr Armstrong to have his condition monitored by a hospital consultant but noted that he had the mental capacity to make decisions about his treatment.
40. When Mr Armstrong arrived at HMP Moorland, clinicians did not discuss the melanoma with him or encourage him to have hospital reviews. Dr B told us that Mr Armstrong had made it clear that he did not want hospital intervention into his melanoma, but the clinical reviewer considered that there should have been a clear note about the decision entered in his medical record while he was at Moorland. We make the following recommendation:

The Head of Healthcare should ensure that when a prisoner declines medical treatment, this should be discussed with him. The advice given and the decision taken should be fully recorded in his medical record.

41. The clinical reviewer was concerned that there was no evidence that GPs considered whether Mr Armstrong's melanoma might have been an underlying reason for his frequent requests for pain relief medication, which were never fully assessed. She was also concerned that Mr Armstrong reported that he was coughing up blood in January 2015, but he was not referred for further investigations until August.
42. The clinical reviewer considered that Mr Armstrong's previous diagnosis of melanoma, his history of coughing up very red blood, increased breathlessness, and him being an ex-smoker was significant and clinicians should have referred him earlier for further investigations. The National Institute for Health and Care Excellence (NICE) guidance for suspected cancer says that such symptoms should prompt an urgent referral to a specialist for further investigation. We recognise that this would not have altered the outcome for Mr Armstrong, as it was clear that he did not want any active treatment for cancer and maintained this position until the end of his life. However, in other cases, early referral is important and some prisoners might change their mind about treatment. We make the following recommendation:

The Head of Healthcare should ensure that prisoners reporting frequent pain have their symptoms thoroughly examined and investigated to determine the root cause and that that prison doctors follow NICE guidelines on urgent referral for suspected cancer.

Compassionate release

43. 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.

44. On 25 September, the Governor of Moorland started an application for release on compassionate grounds. He requested a letter from Mr Armstrong's hospital consultant to complete the application. Mr Armstrong's offender supervisor noted that he had limited contact with his family and would not have a suitable address if he were released from prison. The application was not completed before Mr Armstrong died on 7 November.
45. On 29 October, prison managers released Mr Armstrong on temporary licence to a nursing home. Although the application for release on compassionate grounds had not progressed, we are satisfied that the prison made appropriate efforts to ensure Mr Armstrong was able to die with dignity in an appropriate environment.

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