

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Scott Sinclair a prisoner at HMP Forest Bank on 30 June 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 Scott Sinclair died on 30 June 2016 of pneumonia in hospital. Mr Sinclair was 39 years old. I offer my condolences to Mr Sinclair's family and friends.

Mr Sinclair had suffered from HIV since November 2008 but refused regular monitoring of his condition and antiretroviral treatment. When this happened, healthcare staff made numerous attempts to encourage Mr Sinclair to take the treatment. The prison's mental health team regularly assessed his capacity to refuse treatment and he was fully aware of the consequences of his decision.

I am satisfied that Mr Sinclair received a good standard of care at HMP Forest Bank and that his healthcare was 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

January 2017

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Summary

Events

1. On 6 May 2007, Mr Scott Sinclair was convicted of a violent offence and sentenced to eight months in prison. He spent time on remand and completed short-term prison sentences before he received a five year sentence for a violent offence on 24 May 2012 and was sent to HMP Northumberland. Mr Sinclair was moved to HMP Forest Bank on 15 June 2015.
2. Mr Sinclair had a history of mental health problems and drug and alcohol abuse. He completed methadone programmes to address his drug dependency and prison GPs prescribed anti-depressant medication. Mr Sinclair often made threats to self-harm and prison staff frequently monitored him under the Assessment, Care in Custody and Teamwork (ACCT) process between 2008 and his death.
3. In November 2008, Mr Sinclair had a blood test that revealed he had Human Immunodeficiency Virus (HIV). Prison GPs referred Mr Sinclair to a hospital genitourinary clinic and he attended appointments in December 2008, June 2009 and December 2010.
4. On 6 May 2011, Mr Sinclair declined to attend any further appointments to monitor his HIV infection and told GPs that he did not want to start antiretroviral therapy when his condition deteriorated. GPs encouraged him to attend but Mr Sinclair continued to refuse treatment.
5. Mental health nurses regularly reviewed Mr Sinclair and encouraged him to have his HIV monitored. Mr Sinclair did not agree and GPs were satisfied he had the mental capacity to refuse treatment.
6. On 15 July 2015, a genitourinary consultant told Mr Sinclair his life expectancy was approximately twelve months if he did not start his antiretroviral treatment.
7. Prison nurses saw Mr Sinclair daily and encouraged him to take his prescribed medication. While Mr Sinclair agreed to take his anti-depressant medication, he continued to refuse antiretroviral treatment.
8. On 29 June 2016, prison officers found Mr Sinclair collapsed in his cell. A prison GP diagnosed gastroenteritis and advised Mr Sinclair that he needed to go to hospital. Mr Sinclair initially refused to go but changed his mind the next day.
9. On 30 June, Mr Sinclair was admitted to hospital. Hospital doctors treated him with intravenous antibiotics and fluids. Mr Sinclair's condition continued to deteriorate and he died at 6.10pm.

Findings

10. The clinical reviewer found that, after his HIV diagnosis in 2008, prison GPs quickly referred Mr Sinclair to the genitourinary clinic. From May 2011, Mr Sinclair refused to attend appointments to monitor his condition and he refused antiretroviral treatment. We are satisfied that healthcare staff continued to support Mr Sinclair, who had the capacity to make these decisions. We are

satisfied that Mr Sinclair's care at HMP Forest Bank was good and his healthcare was equivalent to that he could have expected to receive in the community.

The Investigation Process

11. The investigator issued notices to staff and prisoners at HMP Forest Bank informing them of the investigation and asking anyone with relevant information to contact her. No one responded.
12. The investigator obtained copies of relevant extracts from Mr Sinclair's prison and medical records.
13. NHS England commissioned a clinical reviewer to review Mr Sinclair's clinical care at the prison.
14. We informed HM Coroner for Great Manchester West District of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.
15. One of the Ombudsman's family liaison officers contacted Mr Sinclair's mother, to explain the investigation and to ask if she had any matters she wanted the investigation to consider. Mr Sinclair's mother said that Mr Sinclair suffered from depression and asked how healthcare staff managed his care. She also asked about Mr Sinclair's prescribed medication and if he had refused to take it. Another issue has been answered in separate correspondence.
16. Mr Sinclair's mother received a copy of the initial report. She did not raise any further issues, or comment on the factual accuracy of the report.
17. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies

Background Information

HMP Forest Bank

18. Forest Bank is a local prison in Salford, serving courts in the North West. It holds 1,460 remanded and sentenced men. The prison is privately managed by Sodexo Justice Services. Sodexo provides primary health care services. There is a 20-bed inpatient unit with 24-hour nursing cover. An agency provides GP services with doctors available from 9.00am to 9.00pm Monday to Friday, 1.00pm to 5.00pm Saturday and 9.00am to 12.00pm Sunday. There is out of hours cover at other times.

HM Inspectorate of Prisons

19. The most recent inspection of HMP Forest Bank was in February 2016. Inspectors reported that most areas of health provision were reasonable but some areas required considerable improvement. Some aspects of local governance required attention, including access to staff supervision and emergency equipment checks. Prisoners had access to an appropriate range of primary care services, with mostly acceptable waiting times, and long-term conditions were well managed.

Independent Monitoring Board

20. 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 November 2015, the IMB reported they were satisfied with the way in which the prison's healthcare responsibilities were provided and there had been no significant issues arising throughout the year.

Previous deaths at HMP Forest Bank

21. Mr Sinclair was the third prisoner at Forest Bank to die of natural causes since January 2015. There were no significant similarities with the circumstances of the previous deaths.

Key Events

22. Mr Scott Sinclair had a history of committing violent offences and first went to prison on 6 May 2007 for a violent offence. He completed several periods on remand and short-term prison sentences before he was sentenced to five years in prison for a violent offence on 24 May 2012.
23. Mr Sinclair had a history of mental health problems and was sectioned under the Mental Health Act on two occasions in the community. He had used illegal substances since he was a teenager and had abused alcohol.
24. In prison, Mr Sinclair completed several methadone programmes to treat his opiate dependency. Healthcare staff prescribed anti-depressant medication and he received regular support from the prison's mental health team.
25. While in prison, Mr Sinclair often made threats to self-harm. Prison staff continuously monitored him under the Assessment, Care in Custody and Teamwork (ACCT) process between 2008 and his death.
26. On 26 November 2008, while in HMP Nottingham, Mr Sinclair had a blood test, which revealed that he had Human Immunodeficiency Virus (HIV – a virus that attacks the immune system and is incurable, though antiretroviral therapy enables most people with the virus to live a long life). Prison GPs referred Mr Sinclair to the genitourinary clinic at the hospital and he attended his first appointment on 9 December.
27. On 6 May 2009, a blood test revealed Mr Sinclair was positive for hepatitis C. A clinical team manager made a referral to the prison's hepatitis C specialist nurse but Mr Sinclair regularly failed to attend the appointments.
28. Mr Sinclair attended further appointments at the genitourinary clinic in June 2009 and December 2010. On each occasion, the genitourinary consultant told Mr Sinclair that he would need to start antiretroviral therapy when his condition deteriorated but his viral load (the number of HIV particles in the blood) meant he did not require treatment at that time. The genitourinary consultant said Mr Sinclair's condition would be monitored to determine when Mr Sinclair needed antiretroviral treatment.
29. On 6 May 2011, Mr Sinclair declined to attend any further appointments to monitor his HIV infection because he did not want his condition monitored. Prison GPs encouraged him to attend to ensure that he started antiretroviral therapy when appropriate. Mr Sinclair told prison GPs he hoped for release from custody soon and preferred to seek help in the community.
30. On 20 July, Mr Sinclair was released from prison but he did not register with a community GP.
31. On 30 December, after returning to custody on remand, Mr Sinclair refused to attend an appointment with the prison's sexual health clinic despite encouragement from prison nurses.
32. On 27 September 2012, Mr Sinclair moved to HMP Northumberland. During an initial assessment with a prison GP, Mr Sinclair said he had tested negative for

- hepatitis C and HIV. The GP requested a full review of Mr Sinclair's medical record to establish if this was correct.
33. On 10 October, the clinical team manager saw Mr Sinclair to discuss his hepatitis C and HIV diagnosis. Mr Sinclair told her he did not want any medical intervention to monitor these conditions and signed a disclaimer to that effect.
 34. During the next eleven months, nurses saw Mr Sinclair daily to issue his prescribed medications and manage his withdrawal from methadone. The substance misuse team saw him regularly to ensure he was compliant with the methadone programme. Mr Sinclair continued to refuse to attend the genitourinary clinic.
 35. On 26 September 2013, the clinical team manager assessed Mr Sinclair because his mental and physical health had deteriorated. She encouraged Mr Sinclair to have a full set of blood tests and a chest x-ray to monitor his hepatitis and HIV but Mr Sinclair initially refused. After further encouragement from healthcare staff, he had a chest x-ray on 4 October. The results showed Mr Sinclair was suffering from a chest infection. The clinical team manager advised Mr Sinclair that he needed hospital treatment but he refused to go.
 36. On 12 October, Mr Sinclair agreed to go to hospital when his condition deteriorated. Hospital doctors diagnosed pneumonia (swelling of lung tissue caused by infection) and Acquired Immune Deficiency Syndrome (AIDS), caused by a lack of HIV treatment. The next day, Mr Sinclair discharged himself from hospital against the advice of hospital doctors and returned to prison.
 37. On 14 October, the clinical team manager discussed with Mr Sinclair his refusal to have HIV treatment and she explained that without it he would die. Mr Sinclair agreed to return to hospital on 16 October. Hospital doctors started antiretroviral treatment for HIV and intravenous antibiotics for pneumonia. Mr Sinclair returned to prison on 1 November and agreed to continue taking antiretroviral treatment.
 38. After taking antiretroviral treatment for several weeks, on 25 November, Mr Sinclair told a prison GP he had stopped taking his medication. The GP explained the consequences but Mr Sinclair maintained his decision and signed a disclaimer to that effect. On 29 November, healthcare staff attended a multi-disciplinary meeting to discuss Mr Sinclair's care. The plan said that nurses would continue to offer Mr Sinclair his antiretroviral treatment daily. Mr Sinclair continued to refuse medical treatment for HIV.
 39. On 19 January 2014, the genitourinary consultant wrote to the prison and said Mr Sinclair had the capacity to refuse treatment and was aware of the consequences of doing so.
 40. On 13 March, Mr Sinclair was released on licence. He was returned to HMP Nottingham on 17 March after poor behaviour in the community. A prison GP made an immediate referral to the genitourinary clinic at the hospital. Mr Sinclair refused to attend an appointment on 4 April and told a prison GP he wanted nature to take its course. The GP made a referral to the prison's mental health team to provide Mr Sinclair with extra support and to ensure he fully understood

the consequences of his decision to refuse antiretroviral treatment. On 2 May, Mr Sinclair refused to attend a mental health review.

41. Prison staff continued to monitor Mr Sinclair's mental health under the ACCT process. He regularly refused to attend appointments with the mental health team and continued to maintain that he did not want to see the genitourinary consultant. Nurses and prison GPs encouraged him to change his mind and made appointments at the genitourinary clinic. On each occasion, Mr Sinclair refused to attend.
42. On 2 January 2015, Mr Sinclair told a prison GP he intended to make an advanced directive (a legal statement of medical treatment preferences and refusal) to refuse medical treatment if his health deteriorated. The GP arranged a multi disciplinary meeting to discuss Mr Sinclair's decision.
43. On 20 January, a consultant psychiatrist assessed Mr Sinclair's mental capacity to refuse medical treatment. Mr Sinclair refused a psychiatric assessment and declined to attend subsequent appointments. The records show Mr Sinclair did not make an advance directive.
44. On 26 May, Mr Sinclair gave consent for the prison to contact his mother to discuss his decision to refuse antiretroviral treatment. A prison nurse telephoned Mr Sinclair's mother and explained that prison staff would continue to encourage Mr Sinclair to take his antiretroviral medication.
45. On 15 June, Mr Sinclair moved to the inpatient unit at HMP Forest Bank. He refused to see a prison GP and to take his prescribed medications. Staff continued to monitor Mr Sinclair under the ACCT process.
46. On 15 July, Mr Sinclair agreed to see the genitourinary consultant. He told Mr Sinclair if he continued to refuse antiretroviral treatment his life expectancy was approximately twelve months. Mr Sinclair said he did not want to start treatment.
47. On 21 January 2016, Mr Sinclair decided he did not want anyone to resuscitate him if his heart or breathing stopped. A prison GP saw Mr Sinclair to discuss this and concluded that given Mr Sinclair's deteriorating health and refusal to have treatment, the order should remain in place with a monthly review.
48. Over the next few months, nurses saw Mr Sinclair daily to encourage him to take his prescribed medication. Mr Sinclair agreed to take his anti-depressant medication but refused antiretroviral treatment. He regularly told nurses that he wanted to die and the prison's mental health team continued to offer him support.
49. On 26 May, Forest Bank arranged a transfer to HMP Durham to allow Mr Sinclair to have visits from his mother. After initially agreeing, Mr Sinclair refused to travel. The same day, a prison family liaison officer contacted Mr Sinclair's mother, at his request, to tell her about Mr Sinclair's decision and to offer her support.
50. On 27 June, Mr Sinclair's health deteriorated and a prison GP diagnosed gastroenteritis. Mr Sinclair initially refused to go to hospital, but changed his mind and agreed to be admitted the next day. Shortly after arrival, Mr Sinclair

discharged himself against the advice of hospital doctors and before he could receive treatment.

51. At 5.43am on 30 June, a prison officer found Mr Sinclair collapsed on his cell floor. Mr Sinclair was conscious but disorientated and agitated. The prison immediately called an emergency ambulance to take Mr Sinclair to hospital. Two officers escorted Mr Sinclair and did not use restraints.
52. Hospital doctors treated Mr Sinclair with intravenous antibiotics and gave him fluids. Mr Sinclair continued to deteriorate and he died at 6.10pm on 30 June.

Contact with Mr Sinclair's family

53. On 15 June 2015, the prison appointed a chaplain as a family liaison officer. He visited Mr Sinclair regularly and offered him support.
54. When Mr Sinclair went to hospital on 30 June 2016, the prison appointed a prison manager as a family liaison officer because the chaplain was away from the prison. She immediately telephoned his mother, his nominated next of kin, and arranged to meet her there. Mr Sinclair's mother asked her to telephone her if Mr Sinclair died before they reached the hospital.
55. Shortly after Mr Sinclair died, the prison manager telephoned Mr Sinclair's mother and informed her of his death. She met Mr Sinclair's mother at the hospital and offered condolences and support.
56. The prison manager and chaplain kept in contact with Mr Sinclair's mother until his funeral on 20 July. The prison contributed to the costs in line with national instructions.

Support for prisoners and staff

57. After Mr Sinclair's death, a senior prison manager debriefed the staff involved in the emergency response to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support.
58. The prison posted notices informing other prisoners of Mr Sinclair's death, and offering support. Staff reviewed all prisoners assessed as being at risk of suicide or self-harm in case they had been adversely affected by Mr Sinclair's death.

Post-mortem report

59. The coroner concluded that the cause of death was pneumonia. Mr Sinclair also suffered from Human Immunodeficiency Virus (HIV).

Findings

Clinical care

60. After his HIV diagnosis in 2008, prison GPs quickly referred Mr Sinclair to a hospital genitourinary consultant, who told him he did not need treatment at that time. In May 2011, Mr Sinclair declined to attend further appointments to monitor his HIV infection and saw the genitourinary consultant infrequently until his death.
61. Prison GPs and the genitourinary consultant ensured Mr Sinclair was fully aware of the consequences of refusing antiretroviral treatment. Mental health specialists assessed that he had the capacity to refuse treatment on a regular basis.
62. The clinical reviewer commented that Mr Sinclair's decision to refuse treatment limited his healthcare options. Healthcare staff continued to engage with Mr Sinclair and offered appropriate support.
63. We are satisfied that Mr Sinclair was treated well at HMP Forest Bank. The clinical reviewer concluded that Mr Sinclair's healthcare was equivalent to that he could have expected to receive in the community and we agree.

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