Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr George Dennis a prisoner at HMP Bullingdon on 6 February 2017

A report by the Prisons and Probation Ombudsman
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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*

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 George Dennis died on 6 February 2017 of lung cancer and liver cirrhosis while a prisoner HMP Bullingdon. He was 81 years old. I offer my condolences to Mr Dennis' family and friends.

I am satisfied that Mr Dennis received care that was equivalent to what he could have expected to receive in the community. I am concerned, though, that HMP Bullingdon restrained Mr Dennis on his transfer to hospital and the decision was not justified by a fully considered risk assessment.

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 2017**

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Summary

Events

1. On 20 September 2011, Mr Dennis was sentenced to 13 years in custody for sexual offences. He was sent to HMP Bullingdon on 27 June 2012. He had a history of diabetes, high blood pressure, glaucoma, depression and urinary outflow obstruction.

2. In March 2014, a prison doctor referred Mr Dennis to a gastroenterologist after he suffered from diarrhoea and vomiting throughout January and February. He was diagnosed with liver cirrhosis but refused further treatment. Bullingdon managed the condition through iron supplements and regular blood tests.

3. On two occasions in October 2015, Mr Dennis complained of shortness of breath and an ongoing cough. A prison GP prescribed antibiotics and referred him for an urgent chest x-ray. There is no record of the x-ray taking place.

4. In February 2016, Mr Dennis complained of shortness of breath and flu like symptoms. A prison GP admitted him to the inpatient department and prescribed him another course of antibiotics. Healthcare discharged Mr Dennis four days later.

5. A prison GP saw Mr Dennis on 10 March. He recorded that his chest x-ray appointment had been cancelled and another appointment had been booked for later that month. The chest x-ray showed possible lung cancer. In April, Bullingdon referred Mr Dennis to the end of life team at a hospice, and the results from a PET scan confirmed that he had lung cancer.

6. In September, Mr Dennis told a prison GP that he was not keen to receive any treatment for his cancer. In October and November, a senior manager and prison GP discussed future options of care and treatment with Mr Dennis. He said that that he did not want any further hospital treatment and indicated that when he became very ill, he wanted to go to a hospice near his brother in Kent. In December, he expressed a wish to die on the healthcare wing at Bullingdon.

7. At the end of January, the end of life team from the hospice visited Mr Dennis and noted that his condition had deteriorated and he was nearing death. He again expressed a wish to die on the healthcare wing at Bullingdon. Mr Dennis' health continued to decline and he died at 6pm on 6 February.

Findings

8. Mr Dennis' liver cirrhosis diagnosis was a chance finding; he did not have any serious symptoms until his cancer had developed. There was a delay in diagnosing his lung cancer, although this would not have affected the outcome for him. Overall, the care Mr Dennis received at HMP Bullingdon was the equivalent to the care to which he could have expected to receive in the community.

9. Escort staff restrained Mr Dennis on two occasions in June 2016 when he went to hospital for treatment. On both occasions, healthcare staff recorded that he

was immobile and was in need of a wheelchair. We are not satisfied that the decision to restrain him was justified.

Recommendations

- The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

The Investigation Process

10. The investigator issued notices to staff and prisoners at HMP Bullingdon 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 Dennis' prison and medical records

12. NHS England commissioned a clinical reviewer to review Mr Dennis' clinical care at the prison.

13. We informed HM Coroner for Oxfordshire of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

14. The investigator wrote to Mr Dennis' 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 Dennis' 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 Bullingdon

17. HMP Bullingdon is a training and local prison, serving the courts of Oxfordshire and Berkshire. It holds approximately 1,100 men. Care UK provides healthcare services and Cotswold Medicare Ltd provides general practitioner services.

HM Inspectorate of Prisons

18. The most recent inspection of HMP Bullingdon was in June 2016. Inspectors reported that healthcare services had improved and were generally good. The dietician service provided was particuarly good. Some older prisoners with disabilities were located on a wing together where paid carers provided assistance.

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 published annual report for the year to 31 July 2016, the IMB reported that the cleanliness in the healthcare department remained a concern and below NHS standards. The waiting list for prisoners to see a GP was one week and there had been significant improvements with missed appointments in the GP clinic. Waiting lists for out patient services were equal to those in the general community.

Previous deaths at HMP Bullingdon

20. Mr Dennis was the third prisoner to die from natural causes at HMP Bullingdon since January 2016. There are no significant similarities to any of the other deaths.

Findings

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

21. Mr George Dennis was serving a 13 year sentence for sexual offences and had been at HMP Bullingdon since 27 June 2012. He had a history of diabetes, high blood pressure, glaucoma, depression and urinary outflow obstruction.

22. On 24 January 2014, Mr Dennis told a dietician that he had occasional diarrhoea and that he missed meals when he was not hungry. She encouraged good eating habits and recorded weight loss which might be due to those factors.

23. On 5 February, a nurse recorded that Mr Dennis had been suffering from vomiting and diarrhoea. She recorded that he was pale and shaky and had not been able to eat. She admitted him to the inpatient department for monitoring. On 7 February, a prison GP saw Mr Dennis to discuss his weight loss, vomiting and loose stools. She made an urgent referral to gastroenterologist specialist under the NHS pathway, which requires patients with suspected cancer to be seen by a specialist within two weeks.

24. On 13 March, a prison GP saw Mr Dennis. He told her that he had not had any further instances of vomiting or diarrhoea. She noted that he was awaiting a CT scan (computerised tomography scan which creates detailed images of the inside of the body). She recorded that a prison GP should review him again within six weeks.

25. On 3 April, a hospital consultant sent Bullingdon a letter with the findings from Mr Dennis' CT scan. The letter said that the scan had identified evidence of liver cirrhosis. The consultant planned to undertake a gastroscopy and screen Mr Dennis for chronic liver failure in a month.

26. On 16 April, a healthcare assistant recorded that she had received a call from the hospital. She noted that they were expecting to see Mr Dennis following his urgent referral. The hospital had not informed Bullingdon of the appointment and the hospital rebooked it.

27. Mr Dennis went to hospital on 19 May for his gastroscopy. The scan required patients not to eat any food before, but Mr Dennis told the doctor on arrival that he had eaten. The doctor said that he could have the procedure done later in the day, but Mr Dennis refused.

28. On 15 September, a prison GP saw Mr Dennis. They discussed his anaemia and his refusal to undergo a gastroscopy. He recorded that Mr Dennis had cirrhosis. He referred him to the haematologist and reduced his dose of furosemide (a diuretic used to treat heart failure and liver cirrhosis). The consultant haematologist thought Mr Dennis' liver cirrhosis caused his anaemia and recommended treatment with iron supplements as he had declined further investigation. Healthcare reviewed Mr Dennis' cirrhosis through regular blood tests, which showed minor abnormalities.

29. On 11 June 2015, a prison GP saw Mr Dennis after he suffered from incontinence. On examination, Mr Dennis was alert and comfortable, his chest

was clear and his abdomen was not tender. Mr Dennis told the GP that he wanted to stay on the wing instead of the inpatient department. The GP agreed as he had a carer on the wing.

30. On 8 October a prison GP saw Mr Dennis, who said that he had been getting progressively short of breath and that he was generally tired and cold. The GP noted Mr Dennis had a chest infection, prescribed antibiotics and recorded that he needed a chest x-ray.

31. On 14 October, a nurse recorded that Mr Dennis had been admitted to the inpatients department after complaining about issues with his chest. A prison GP reviewed him the next day and noted that his cough was still chesty. He diagnosed him with an infection of the lower respiratory tract. He recorded that Mr Dennis needed an urgent chest x-ray. There is no record of the x-ray taking place of or any results.

32. On 21 January 2016, a wing healthcare representative requested healthcare assistance for Mr Dennis because Mr Dennis was unwell in his cell. A nurse attended and Mr Dennis told him that he was fine but tired. The nurse took Mr Dennis' observations which were within the normal range. He reviewed Mr Dennis the following day. He said that he was short of breath and deteriorating physically due to his age. He referred him to a prison GP. There is no record of a prison GP reviewing Mr Dennis.

33. On 8 February, a nurse saw Mr Dennis after he complained of chesty cough and flu like symptoms. She recorded that he looked unwell and had difficulty breathing. She admitted him to the inpatient department for observation. A prison GP reviewed him that afternoon and prescribed antibiotics. He planned to review Mr Dennis the next morning but would review him earlier if his condition deteriorated.

34. On 12 February, a prison GP discharged Mr Dennis from the inpatient department after he said he wanted to go back to his cell on the wing. Healthcare assistant told Mr Dennis he must attend to have his observations taken the next morning. A nurse took his observations on 13 February as arranged.

35. On 10 March, a prison GP recorded that Mr Dennis had been suffering from chronic shortness of breath and recurrent chest infections. Mr Dennis was still awaiting a chest infection appointment as several appointments had been cancelled. He recorded that a chest infection appointment was booked for that month.

36. On 22 March, a nurse saw Mr Dennis after wing officers had become concerned that he was unwell. She recorded that he was suffering from shortness of breath. She asked Mr Dennis if he would attend the inpatient department but he declined. A prison GP reviewed Mr Dennis the next day and decided to send him to hospital for assessment.

37. Mr Dennis had a chest x-ray on 29 March. The chest x-ray indicated possible cancer. The hospital informed Mr Dennis that he might have lung cancer. He returned to Bullingdon on 2 April.

38. On 8 April, a nurse spoke to the healthcare manager about Mr Dennis' support needs. She asked Mr Dennis if he wanted support from the hospice team. He agreed and she organised a referral to the hospice.

39. On 22 April, a prison GP recorded that Bullingdon had not received any more information from the hospital about Mr Dennis' suspected lung cancer. He asked staff to chase the information. On 25 April Bullingdon received a pathology report that showed Mr Dennis had a build up of fluid between the lung and chest cavity. A CT scan also showed a nodule in the lower right lung consistent with lung cancer.

40. On 9 May, officers on E wing contacted healthcare and raised concerns about Mr Dennis' deterioration. Healthcare staff admitted Mr Dennis to the inpatient department.

41. On 18 May, Mr Dennis said he did not with anyone to resuscitate him if he stopped breathing and signed a 'do not attempt resuscitation' order.

42. On 17 July, Mr Dennis had a positron emission tomography (PET scans are used to produce detailed three-dimensional images of the inside of the body) which confirmed that he had lung cancer.

43. The clinical reviewer concluded that the diagnosis of Mr Dennis' liver cirrhosis was a chance finding. There is no record that healthcare staff at Bullingdon counselled him on his liver cirrhosis. The clinical reviewer said that there was a delay to Mr Dennis' lung cancer diagnosis because the chest x-ray that the GP requested in October 2015 did not take place. The hospital did not investigate his lung abnormalities until March 2016. However, the clinical reviewer concluded, and we agree, that an earlier diagnosis would not have changed the outcome for Mr Dennis.

Mr Dennis' clinical care

44. Healthcare staff attended Mr Dennis' cell in the inpatient department daily. They observed and assisted him with his personal care and hygiene needs.

45. On 5 September, a prison GP saw Mr Dennis to discuss his diagnosis. He asked Mr Dennis if he wanted to start treatment for his cancer, he implied that he did not. He told Mr Dennis that it was important that he attended his respiratory physician appointment on 8 September to hear what they had to say.

46. On 11 October, a senior manager and a prison GP attended a multi disciplinary team meeting. It was noted that Healthcare had been treating him as palliative and his oncologists indicated that they wanted to treat his cancer because he might recover. On 6 November, Mr Dennis confirmed that he did not want any treatment or to be resuscitated.

47. A nurse recorded that the end of life nurse from the hospice visited Mr Dennis on 6 December. He told healthcare staff to contact him if they needed any more support with Mr Dennis' care as his condition was deteriorating, and gave staff guidance on administering morphine (an opium based pain relief). Healthcare staff continued to follow a palliative care plan, provided him with regular drinks, and monitored his pressure areas every two to four hours.

48. On 26 January 2017, a prison GP and the end of life nurse from the palliative care team reviewed Mr Dennis. They noted that his condition had deteriorated; he was frail, bed bound and was finding it hard to swallow. They provided healthcare staff with further information about caring for Mr Dennis and noted that he was nearing death.

49. Mr Dennis' health continued to deteriorate and, on 6 February, he died at 6.00pm.

50. The clinical reviewer concluded that healthcare staff generally managed Mr Dennis' conditions appropriately. Staff at Bullingdon provided Mr Dennis with compassionate clinical care throughout his time in custody and offered appropriate support as his condition declined. We agree with the clinical reviewer that the care Mr Dennis received was the equivalent to that which he could have expected to receive in the community.

Mr Dennis' location

51. Mr Dennis was located in a cell on normal location where his peers cared for him. He also spent time in the inpatient unit during periods of ill health. After 9 May 2016, Bullingdon relocated Mr Dennis to a cell in healthcare where nurses could monitor and care for him more easily. Bullingdon provided Mr Dennis with support from healthcare assistants and nurses who helped him with his daily activities.

52. We are satisfied that Mr Dennis was appropriately accommodated while at Bullingdon and when his poor health dictated, he was appropriately relocated to the inpatient department.

Restraints, security and escorts

53. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility. A judgment in the High Court in 2007 made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. The judgment indicated that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change.

54. On 9 June, a prison officer completed the escort risk assessment for Mr Dennis to attend hospital for a radiology appointment. She indicated that two officers should escort Mr Dennis while restrained. The risk assessment indicated Mr Dennis was an enhanced prisoner but was considered high risk to children. A prison manager authorised Mr Dennis to be restrained using a double cuff. Double cuffing is when the prisoner's hands are handcuffed in front of him and one wrist is attached to a prison officer by an additional set of handcuffs. The healthcare section of the risk assessment showed that Mr Dennis was wheelchair bound. Bullingdon restrained Mr Dennis again on 27 June.

55. Security measures must be proportionate to a prisoner's circumstances, and must be fully considered, and balanced against the actual risk they pose. We are concerned that staff restrained Mr Dennis during his transfer to hospital despite his immobility and consequent reduction in his escape risk. We make the following recommendation:

The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

Liaison with Mr Dennis' family

56. HMP Bullingdon appointed a family liaison officer. On 1 April 2016, she contacted Mr Dennis' brother in law to inform him that Mr Dennis' health was deteriorating. She told him that she would inform him of any updates and he should contact the prison if he needed anything. Mr Dennis' brother in law told her to contact his brother, as he would act as next of kin. Regular contact continued over the next 10 months.

57. The family liaison officer left HMP Bullingdon in December and Bullingdon appointed an offender manager as the family liaison officer. She contacted Mr Dennis' brother on 5 January 2017, and told him that Mr Dennis had deteriorated and asked him if he wanted to visit Mr Dennis.

58. On 6 February, prison manager called Mr Dennis' brother at 7.15pm to inform him of Mr Dennis' death. The next day, she contacted Mr Dennis' brother to provide further support. She told him she would assist him in arranging the funeral and would provide him with details of the post mortem. Mr Dennis' funeral was held on 15 March, and the prison contributed to the costs in line with prison instruction.

Compassionate release

59. Prisoners can be released from custody 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.

60. On 19 May, a prison GP saw Mr Dennis in relation to his possible cancer diagnosis. Mr Dennis told him that should his diagnosis be terminal he would like to be considered for compassionate release in order to be closer to his family.

61. On 6 November, Mr Dennis told a prison GP that he would like to die at a hospice or nursing home near his brother. He later told healthcare staff that he knew he was dying and wanted to stay at Bullingdon until his death. We are satisfied that the prison discussed compassionate release with Mr Dennis and acted in line with his wishes.

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