Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Dennis Thompson a prisoner at HMP Durham on 26 March 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 Dennis Thompson died on 26 March 2017 of lung cancer. He was 62 years old. I offer my condolences to Mr Thompson's family and friends.

I consider that Mr Thompson received a good standard of care at HMP Durham. In particular, the approach of prison healthcare staff was caring and compassionate.

However, I am concerned that on one occasion officers escorting Mr Thompson to hospital for treatment ignored the authorising officer's decision not to use restraints, handcuffed a very unwell man and used an escort chain on Mr Thompson even during his chemotherapy session.

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 **August 2017**

Contents

Summary

Events

1. On 14 October 2016, Mr Dennis Thompson was sentenced to 60 weeks in prison for grievous bodily harm with intent and failing to comply with the reporting conditions of the sexual offences register. Mr Thompson was sent to HMP Durham.

2. Mr Thompson had a significant medical history. He suffered from arthritis and, in 2011, had been diagnosed with osteoporosis and diabetes. At the initial health screening, healthcare staff recognised Mr Thompson's medical needs and prescribed him appropriate medication.

3. On 13 December 2016, a prison nurse treated Mr Thompson for a chest complaint and referred him for an X-ray. The X-ray was taken on 5 January 2017 and Mr Thompson then had further investigations in hospital. On 10 February, he was diagnosed with terminal lung cancer.

4. The hospital treated Mr Thompson with palliative chemotherapy. Officers used an escort chain to restrain Mr Thompson during these procedures. Healthcare staff developed palliative care treatment plans and treated Mr Thompson, focusing on managing his pain. On 16 March, Mr Thompson agreed to move to the prison's inpatient unit for full nursing care. His health deteriorated and he died on 26 March.

Findings

5. The investigation found that Mr Thompson received a standard of care that was equivalent to that which he could have expected to receive in the community. The clinical reviewer considered that the care provided was of a good standard, with healthcare staff treating Mr Thompson with dignity and compassion.

6. Mr Thompson received appropriate palliative care and pain management and healthcare staff ensured he was able to maintain his independence. Nurses created and implemented care plans to manage his chemotherapy treatment and pain relief. Mr Thompson was able to remain on the wing with his friends as long as possible before a move to the inpatient unit for full time care.

7. Officers restrained Mr Thompson during chemotherapy treatment, although the Head of Security had authorised a risk assessment which considered the circumstances and concluded that he should not be restrained.

Recommendations

- The Governor should urgently review escort procedures to ensure that staff are fully aware of their responsibilities and comply with decisions on the use of restraints.

The Investigation Process

8. The investigator issued notices to staff and prisoners at HMP Durham 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 Thompson's prison and medical records.

10. NHS England commissioned a clinical reviewer to review Mr Thompson's clinical care at the prison

11. We informed HM Coroner for County Durham and Darlington of the investigation and he notified us of Mr Thompson's cause of death. We have sent the coroner a copy of this report.

12. The investigator wrote to Mr Thompson's next of kin, his sister, to explain the investigation and to ask whether she had any matters she wanted the investigation to consider. We did not receive a response to our letter.

13. The investigation has assessed the main issues involved in Mr Thompson'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.

14. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS pointed out some factual inaccuracies and this report has been amended accordingly.

Background Information

HMP Durham

15. HMP Durham is a local prison, serving the courts of Tyneside, Durham and Cumbria. It holds approximately 1,000 men. G4S provides primary healthcare. The prison's inpatient unit has six beds with 24-hour healthcare, and provides a regional service for HMP Durham, HMP Northumberland and HMYOI Deerbolt.

HM Inspectorate of Prisons

16. The most recent inspection of HMP Durham was conducted in October 2016. Inspectors reported that the provision of healthcare was reasonable, with some excellent mental health intervention. Primary care was assessed as reasonably good and secondary care as very good. Inspectors found that the inpatient unit provided compassionate care in a good environment. Interactions between healthcare staff and prisoners were observed as being very good. Nurse-led clinics for lifelong conditions, such as asthma, diabetes and heart disease, did not take place due to staff shortages, although a senior nurse ensured that physical checks and referrals were made where necessary. External health appointments were well managed.

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 October 2016, the IMB reported that the recruitment of nurses to the healthcare unit continued to be a significant issue, with agency nurses and overtime used to cover this. Despite the staff shortages, primary care services were noted to be of a good standard. The IMB noted that the unit was very busy, causing a shortage of inpatient beds.

Previous deaths at HMP Durham

18. Mr Thompson was the fifth prisoner to die of natural causes at Durham since January 2015. We have previously made a recommendation in October 2015, about the use of restraints.

Findings

Mr Thompson's diagnosis and informing him of his condition

19. On 14 October 2016, Mr Dennis Thompson was sentenced to 60 weeks imprisonment for causing grievous bodily harm with intent and failing to comply with reporting conditions in line with the sex offenders register. He was sent to Durham Prison. Mr Thompson had suffered from osteoporosis and diabetes since 2011, and also suffered from arthritis. On reception, at an initial health screening, Mr Thompson saw a nurse and a prison GP, who noted his past medical record. Mr Thompson was taking medication to treat his longstanding conditions, risedronate and calcium tablets to treat his osteoporosis, atorvastatin for his arthritis and omeprazole to prevent stomach irritation. Mr Thompson controlled his diabetes through his diet.

20. On 13 December 2016, Mr Thompson saw a nurse, as he had been coughing for two weeks, producing green sputum, and was suffering from breathlessness. The nurse prescribed antibiotics and an inhaler, and arranged for an x-ray. On 20 December, Mr Thompson saw the nurse for a check-up. Mr Thompson stated that his chest had greatly improved, that he felt well and was back at work. The nurse discussed smoking cessation with Mr Thompson and noted his cough had improved.

21. On 5 January, Mr Thompson had a chest x-ray in Durham. He saw the nurse on 10 January to discuss the results. The nurse told him that an urgent referral would take place under the NHS pathway, which requires patients with suspected cancer to see a specialist within two weeks.

22. Mr Thompson attended the Chest Clinic at hospital on 19 January, where he saw a consultant respiratory physician. The consultant examined Mr Thompson and requested an urgent CT scan of his chest and neck.

23. On 27 January, Mr Thompson underwent the CT scan. On 2 February the consultant respiratory physician told Mr Thompson that it was likely that he had lung cancer, but needed further biopsies of the lymph nodes. The prison's Macmillan specialist nurse accompanied Mr Thompson.

24. Mr Thompson attended a further appointment with the consultant respiratory physician on 10 February, prior to an appointment with the oncology department. Again, Mr Thompson was accompanied by the prison's Macmillan specialist nurse. The consultant explained to Mr Thompson that he had lung cancer, that it had spread and that it was terminal but chemotherapy treatment might extend his life expectancy.

25. We are satisfied that clinical staff made immediate interventions which allowed Mr Thompson's condition to be identified quickly. The fact that Mr Thompson was referred for a chest x-ray as a precaution even after his health had improved shows that he received a good level of support throughout.

Mr Thompson's clinical care

26. From February 2017, Macmillan specialist nurse created a care plan to manage Mr Thompson's palliative chemotherapy treatment and pain relief. Mr Thompson received chemotherapy in three weekly cycles. On 20 February, Mr Thompson underwent his first cycle of chemotherapy treatment at hospital. He had a further cycle of chemotherapy on the 20 March.

27. On 3 March, Mr Thompson complained to nurses that he had persistent and increasing abdominal pain and was struggling to walk. After examination, a prison GP thought that Mr Thompson could be suffering from a peptic ulcer and prescribed omeprazole to reduce stomach irritation. To help with Mr Thompson's mobility he was given a walking stick. After referral to a palliative physiotherapist, Mr Thompson also received a zimmer frame. Mr Thompson also used a wheelchair to help him move around the wing.

28. On 6 March, the Macmillan specialist nurse discussed with Mr Thompson his preferred place of care and whether he would like to be resuscitated in the event of his heart or breathing stopping. Mr Thompson indicated that he wanted resuscitation. As Mr Thompson's health deteriorated, doctors discussed this with him further and, on 22 March, he decided he did not want anyone to resuscitate him if his heart or breathing stopped. He signed an order to that effect.

29. As Mr Thompson's health deteriorated, he received diet supplements. Mr Thompson also had access to ice cream, yoghurt and rice pudding from the kitchens as he struggled to eat solid food. Mr Thompson died on 26 March.

30. Mr Thompson's clinical care needs were supported throughout by both hospital and prison healthcare staff. Mr Thompson was kept informed of his condition and when he was informed that he was suitable for palliative care only, the prison family liaison officer and the Macmillan specialist nurse discussed this with Mr Thompson and supported him. Throughout the period of end of life care, Mr Thompson received additional services to help improve his quality of life. The palliative physiotherapist arranged for mobility aids and a wheelchair as he struggled to walk. Supplement drinks were provided as Mr Thompson was rapidly losing weight and struggled to eat solid food due to the side effects of chemotherapy.

31. We agree with the clinical reviewer that Mr Thompson received a good standard of care at Durham that was at least equivalent to that which he could have expected to receive in the community. Mr Thompson received appropriate, responsive and compassionate nursing care. The clinical reviewer concluded that Mr Thompson's needs were met, comfort maintained and he appeared free from pain.

Mr Thompson's location

32. Mr Thompson lived in a double cell on a main wing in the prison. Nurses regularly encouraged Mr Thompson 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. When Mr Thompson's mobility deteriorated he moved to a cell with a bathroom on the ground floor on the main

wing. When his health deteriorated more significantly, Mr Thompson agreed to move to the inpatient unit on 16 March, where nurses could monitor him more closely.

33. We are satisfied that Mr Thompson's wishes regarding his location were met and he was appropriately located throughout his illness.

Restraints, security and escorts

34. 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. The judgment of the High Court in Graham (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 found that the use of handcuffs or other restraints on terminally or seriously ill prisoners was inhumane, unless justified by security considerations. Restraining a prisoner receiving chemotherapy (and, by implication, other life saving treatment) was considered degrading.

35. Mr Thompson went to hospital on 19 January, 27 January and 2 February 2017 for X-rays, CT scans and to see the consultant respiratory physician. On all three hospital visits, a prison manager approved the use of double handcuffs on the way to hospital and, if requested by medical staff, an escort chain while Mr Thompson was undergoing treatment. (An escort chain is a long chain with a hand cuff at each end, one of which is attached to the prisoner and the other to an officer.) The risk assessment showed that the prison considered Mr Thompson as a medium risk to the public and a low risk of escape. Healthcare staff did not raise any objections to the use of restraints but gave no further details of Mr Thompson's condition or its impact on his risk levels.

36. On 10 February, Mr Thompson attended a hospital appointment where he was to see the consultant respiratory physician to be told his diagnosis. Prison healthcare staff knew that this was likely to be a terminal diagnosis. After a conversation with the Governor by the Macmillan specialist nurse, a decision was made by the authorising officer not to use restraints. Mr Thompson was therefore, appropriately, unrestrained on this visit.

37. On 21 February, Mr Thompson attended his first chemotherapy session at hospital. In his risk assessment, the authorising officer recorded: "no cuffs given treatment for cancer, due to health of the prisoner handcuffs not necessary" as Mr Thompson was going to receive chemotherapy and that his health and mobility had deteriorated. The officers accompanying Mr Thompson failed to note the risk assessment and double handcuffed Mr Thompson for the visit to hospital. When requested by medical staff to remove the hand cuffs (as they would interfere with Mr Thompson's chemotherapy treatment), the officers called the prison to seek authorisation for the use of an escort chain. The authorising officer spoken to gave permission to use an escort chain, despite the risk

assessment. Throughout Mr Thompson's chemotherapy session an escort chain was used. Mr Thompson was double handcuffed to return back to Durham.

38. Mr Thompson attended hospital on three further occasions, 9 March, 15 March and 20 March. For all three appointments a senior prison manager authorised officers not to restrain Mr Thompson as he was on the palliative care register and his mobility was limited. Officers did not use restraints on these visits.

39. While the Prison Service has a fundamental responsibility to protect the public, security has to be legally justified and balanced with humanity. In the case of Mr Thompson, we are not satisfied that restraining him on 20 February was justified. Officers escorting Mr Thompson to hospital for treatment on 20 February ignored the authorising officer's risk assessment and inappropriately hand cuffed a very unwell man. They then, inappropriately, applied an escort chain to Mr Thompson during his chemotherapy session. We make the following recommendation:

The Governor should urgently review escort procedures to ensure that staff are fully aware of their responsibilities and comply with decisions on the use of restraints.

Liaison with Mr Thompson's family

40. On 14 February, the prison appointed a prison chaplain as family liaison officer. He visited Mr Thompson on the wing and offered support. Mr Thompson had regular contact with his partner as his next of kin. Two days before Mr Thompson died he appointed his sister as nominated next of kin instead.

41. The chaplain arranged for Mr Thompson's partner to visit him on 27 February. Mr Thompson was supported by the chaplain and his offender supervisor while he told his partner that he had terminal cancer. Both remained in regular contact with Mr Thompson and his family. The chaplain arranged a further visit to the inpatient unit on 24 March to allow Mr Thompson to see his sister and two of his daughters.

42. When Mr Thompson died, the prison appointed two further family liaison officers. The officer visited Mr Thompson's sister at home and told her that Mr Thompson had died. The chaplain remained in contact with Mr Thompson's sister and also responded to queries from Mr Thompson's partner. The chaplain attended Mr Thompson's funeral on 12 April and arranged to return Mr Thompson's belongings to his sister on the 7 May.

43. The prison contributed towards the cost of the funeral in line with national policy.

44. We are satisfied there was good, supportive liaison with Mr Thompson's partner and sister.

Compassionate release

45. 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.

46. The prison offender management unit first considered an application for compassionate release after the specialist respiratory physician indicated that Mr Thompson had lung cancer on 2 February. The Governor was emailed and the application commenced. However, on 6 February, the application was stopped as the prognosis of Mr Thompson's cancer was unclear. After receiving a clear prognosis on 11 February, the offender management unit restarted the application on 16 February. The Governor supported the application and it was submitted on 6 March 2017.

47. Mr Thompson was advised that the application had been rejected on 17 March. The offender supervisor and a nurse outlined the circumstances of the rejection for Mr Thompson. The Probation Service had concerns about his release address. Mr Thompson's offender supervisor continued to work with the Probation Service in seeking an appropriate address but Mr Thompson died before the application could be resubmitted.

48. We are satisfied that the prison appropriately considered compassionate release for Mr Thompson.

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