Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Robert Korb a prisoner at HMP Dartmoor on 19 October 2016

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.

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 Robert Korb died on 19 October 2016 of oesophageal cancer while a prisoner at HMP Dartmoor. He was 68 years old. I offer my condolences to Mr Korb's family and friends.

Although it is unlikely to have affected the outcome, it is a concern that a prison GP did not refer Mr Korb to a hospital specialist when he first complained of a cough and weight loss. However, I consider that following his diagnosis, Mr Korb received a good standard of care at Dartmoor.

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 **May 2017**

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Summary

Events

1. On 12 May 2015, Mr Robert Korb was sentenced to five years and eight months in prison for sexual offences. Eight days later, he was sent to HMP Dartmoor.

2. Mr Korb had a history of chronic obstructive pulmonary disease (COPD – lung disease) and had suffered a collapsed lung in 2009.

3. On 23 September 2015, Mr Korb complained to a nurse that he had experienced coughing spasms since the end of May, had lost weight and had coughed up a small amount of blood. The following day a prison GP prescribed an inhaler, but did not record if he examined Mr Korb or had referred him to a specialist for further investigation.

4. On 28 January 2016, a prison GP examined Mr Korb after he had complained of having a cough for the past six months. A chest x-ray revealed abnormalities in Mr Korb's right lung. The GP made an urgent referral to a hospital chest specialist and a CT scan revealed a mass on his oesophagus. Hospital doctors diagnosed Mr Korb with oesophageal cancer.

5. Mr Korb's condition was suitable for palliative care only and healthcare staff concentrated on managing his pain and his appetite. Mr Korb's condition continued to decline and healthcare staff regularly reviewed him. Mr Korb said that he wanted to remain in Dartmoor and he died at 5.40am on 10 October.

Findings

6. When Mr Korb complained of a cough, weight loss and an episode of unexplained haemoptysis (coughing up blood), a prison GP did not refer him for further investigation into his symptoms in accordance with National Institute for Health and Care Excellence (NICE) guidelines, which requires patients with suspected cancer to be seen within two weeks. We note, however, that the clinical reviewer did not consider than an earlier diagnosis would have affected the outcome for Mr Korb.

7. Overall, the investigation found that Mr Korb 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 after his diagnosis was of a good standard.

8. We are also pleased that officers did not restrain Mr Korb when he went to hospital for appointments and during his short stay in May and June 2016.

Recommendation

- The Head of Healthcare should ensure that clinicians manage and review prisoners with persistent coughs, weight loss and haemoptysis in line with NICE guidelines, including appropriate referral to specialists.

The Investigation Process

9. The investigator issued notices to staff and prisoners at HMP Dartmoor informing them of the investigation and asking anyone with relevant information to contact her. No one responded.

10. The investigator obtained copies of relevant extracts from Mr Korb's prison and medical records.

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

12. We informed HM Coroner for Exeter and Greater Devon District of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

13. The investigator wrote to Mr Korb's wife to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She did not respond to our letter.

14. The investigation has assessed the main issues involved in Mr Korb'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.

15. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

Background Information

HMP Dartmoor

16. HMP Dartmoor holds up to 642 adult male prisoners. The prison comprises six residential wings. Dorset Healthcare Unit Foundation Trust provides the prison's healthcare. Healthcare staff are on duty between 7.45am and 5.30pm on weekdays and between 8.15am and 5.15pm at weekends.

HM Inspectorate of Prisons

17. The most recent inspection of HMP Dartmoor was in December 2013. Inspectors found the delivery of health services had improved with a small but well qualified team of healthcare staff delivering a wide range of clinics. Palliative care and end-of-life policies and protocols were available in healthcare.

Independent Monitoring Board

18. 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 September 2016, the IMB reported that the requirements of an ageing prison population increased the interventions needed by healthcare. The IMB remained concerned about the provision of appropriate end of life care.

Previous deaths at HMP Dartmoor

19. Mr Korb was the fourth prisoner to die from natural causes at Dartmoor since January 2015. There has been one other natural cause death since Mr Korb died. There were no significant similarities with the circumstances of the previous deaths.

Findings

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

20. On 12 May 2015, Mr Robert Korb was sentenced to five years and eight months in prison for sexual offences and was sent to HMP Bristol. On 20 May, he moved to HMP Dartmoor.

21. Mr Korb had a history of chronic obstructive pulmonary disease (COPD – the name for a collection of lung diseases such as chronic bronchitis and emphysema), pneumonia and pulmonary emboli (blood clots on the lungs). In 2009, hospital doctors treated Mr Korb for a collapsed lung and he gave up smoking the same year.

22. Between May and September 2015, Mr Korb attended healthcare to collect his prescribed medication. There was nothing else of significance in the records over this period.

23. On 23 September, Mr Korb told a nurse he had suffered from coughing spasms since the end of May. He felt he had lost weight and had recently coughed up a small amount of blood (haemoptysis). She referred Mr Korb to a prison GP. On 24 September, a prison GP prescribed a salbutamol inhaler. There was no record that he examined Mr Korb or considered making a referral to a specialist. Mr Korb did not speak to any healthcare staff about his cough again until January 2016.

24. On 24 January 2016, a nurse saw Mr Korb, who complained of having had a cough since June. She referred Mr Korb to a prison GP.

25. On 28 January, a prison GP examined Mr Korb and arranged a full set of blood tests and a chest x-ray. The blood test results were normal. On 2 February, the chest x-ray results revealed abnormalities in Mr Korb's right lung. The same day he made an urgent referral to a chest specialist at the hospital under the NHS pathway, which requires patients with suspected cancer to be seen by a specialist within two weeks.

26. On 9 February, Mr Korb had a CT scan, which showed a mass on his oesophagus. On 11 February, a chest specialist made an urgent referral to a gastroenterologist.

27. On 18 February, Mr Korb had an endoscopy (where a thin tube is used to look inside the oesophagus, stomach and small intestine). The results revealed a tumour on Mr Korb's oesophagus. Hospital doctors told Mr Korb the results.

28. On 29 February, a gastroenterologist and a cancer nurse specialist saw Mr Korb and told him that he was suffering from oesophageal cancer. The gastroenterologist also told Mr Korb that surgery was not possible and his condition was only suitable for palliative care.

29. The National Institute for Health and Care Excellence (NICE) guidelines for lung and pleural cancers states that doctors should make a referral under the NHS pathway which requires patients with suspected cancer to be seen by a specialist

within two weeks if they are aged over 40 with specific symptoms which include unexplained haemoptysis (coughing up blood). Without the haemoptysis, the guidance states that a doctor should perform an urgent chest x-ray if the patient had unexplained symptoms, which include weight loss and a cough.

30. When Mr Korb saw a nurse on 23 September 2015, he reported coughing spasms for four months, an episode of haemoptysis and weight loss. The next day, a prison GP prescribed an inhaler but did not record if he examined Mr Korb and did not make a referral to a specialist or for chest x-ray.

31. While the clinical reviewer did not consider that an earlier diagnosis would have affected the outcome for Mr Korb, we are concerned that the prison GP did not refer him under the 'two week rule' in accordance with NICE guidelines. We make the following recommendation:

The Head of Healthcare should ensure that clinicians manage and review prisoners with persistent coughs, weight loss and haemoptysis in line with NICE guidelines, including appropriate referral to specialists.

Mr Korb's clinical care

32. From March 2016, a nurse developed care plans to manage Mr Korb's pain relief and nutrition. Nurses controlled Mr Korb's pain with paracetamol and co-codamol. Prison managers asked another prisoner to support Mr Korb on the wing with his personal care and collecting his meals.

33. On 13 April, Mr Korb decided he did not want anyone to resuscitate him if his heart or breathing stopped and signed an order to that effect.

34. On 27 April, Mr Korb complained of increased pain and anxiety. A prison GP prescribed diamorphine (for pain), midazolam (for anxiety) and levomepromazine injections (for nausea). He contacted the community palliative care team, who advised that oramorph should be prescribed if Mr Korb's pain increased.

35. On 21 May, Mr Korb complained of breathlessness and was sent to hospital. A hospital doctor diagnosed aspiration pneumonia and treated Mr Korb with oxygen therapy and antibiotics. Mr Korb said he had difficulty swallowing and doctors inserted an oesophageal stent (a small tube) to relieve his symptoms.

36. When Mr Korb returned to Dartmoor on 14 June, a prison GP prescribed fentanyl patches to control his pain. Nurses reviewed Mr Korb daily to ensure he remained comfortable and pain free.

37. On 21 July, healthcare employed an agency nurse to support Mr Korb during the night. Mr Korb said he felt settled and pain free. Records show that nurses frequently asked Mr Korb if he was in any pain or discomfort and increased his pain relief when necessary.

38. On 13 October, prison staff expressed concern that Mr Korb had deteriorated. Nurses assessed Mr Korb in his cell and gave him oramorph to reduce his pain. Mr Korb's condition continued to deteriorate and he died at 5.40am on 19 October

39. We agree with the clinical reviewer that, following his diagnosis, Mr Korb received a good standard of care at Dartmoor that was at least equivalent to that he could have expected to receive in the community.

Mr Korb's location

40. Mr Korb lived in a single cell on the vulnerable prisoners' wing. On 16 July 2016, Mr Korb told a nurse he did not want to move to HMP Exeter for end of life care. Mr Korb wished to remain in Dartmoor where he felt supported by his friends and was able to receive regular visits from his family. Nurses went to see him every day to ensure he was coping, taking his medication and was not in pain.

41. We are satisfied that Mr Korb was appropriately located throughout his illness.

Restraints, security and escorts

42. 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.

43. When Mr Korb travelled outside of the prison, two officers escorted him and did not restrain him at any time.

44. We are pleased that the managers at Dartmoor decided not to restrain Mr Korb at any time and took appropriate account of how his health affected his risk to the public and of escape.

Liaison with Mr Korb's family

45. On 29 February 2016, the prison appointed a prison chaplain as a family liaison officer. He visited Mr Korb on the wing and offered support. Mr Korb asked him to contact his son, his nominated next of kin, to tell him about his diagnosis. He arranged for Mr Korb's son and wife to visit him.

46. When Mr Korb went to hospital on 21 May, the prison chaplain arranged for his wife and son to visit him. He remained in contact with Mr Korb's wife and son and provided regular updates on his condition.

47. When Mr Korb returned to Dartmoor on 14 June, the prison chaplain continued to provide him with support and arranged regular visits from Mr Korb's wife and son. Prison managers allowed Mr Korb's wife and son to visit him in his cell when his condition deteriorated. At his request, the prison chaplain phoned Mr Korb's son to let him know when he died.

48. The prison chaplain remained in contact with Mr Korb's wife and son until his funeral on 14 November. The prison arranged and paid for the funeral in line with national instructions.

49. We are satisfied there was good, supportive liaison with Mr Korb's wife and son.

Compassionate release

50. 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.

51. When hospital doctors diagnosed Mr Korb with oesophageal cancer in March 2016, prison and healthcare staff spoke to Mr Korb about the possibility of compassionate release. Mr Korb said he did not want to leave prison and said he felt comfortable there. When his condition deteriorated in July, prison and healthcare staff discussed compassionate relief with Mr Korb again. He said he did not want to apply and was happy that his wife and son were visiting him regularly in prison.

52. We are satisfied that the prison appropriately discussed compassionate release with Mr Korb.

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