

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Anthony Whittle a prisoner at HMP Exeter on 9 January 2017

**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 Anthony Whittle died on 9 January 2017 of ischaemic heart disease while a prisoner at HMP Exeter. He had lung cancer, which was a contributory factor. He was 78 years old. I offer my condolences to Mr Whittle's family and friends.

Mr Whittle arrived at HMP Exeter with a number of health conditions and, during his short time in prison, healthcare staff provided appropriate care. I am satisfied that Mr Whittle received a standard of care in prison equivalent to that which 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

August 2017

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Summary

Events

1. On 31 May 2012, Mr Anthony Whittle was sentenced to seven years in prison for sexual offences. He was released on licence on 3 November 2015 but was recalled on 31 December 2016 and sent to HMP Exeter.
2. Mr Whittle had a history of chronic obstructive pulmonary disease (COPD – lung disease), poor mobility and ischaemic heart disease. On 8 May 2014 at HMP Ashfield, a prison GP made an urgent referral to a respiratory specialist after Mr Whittle complained of coughing up blood. A CT scan and bronchoscopy (an examination of the throat, larynx, trachea and lower airways) revealed a chest infection. In December 2014, Mr Whittle saw an ear, nose and throat (ENT) specialist which did not reveal any abnormalities.
3. Shortly after his release on licence on 3 November 2015, Mr Whittle was admitted to hospital with a high temperature. On 9 December, a hospital consultant diagnosed lung cancer in Mr Whittle's lower left lung.
4. Following his return to HMP Exeter on 31 December, prison GPs reviewed Mr Whittle's community medical records and noted he had had cardiac surgery in December 2015 and January 2016. There was no information about his lung cancer diagnosis or if he had received treatment.
5. At 10.42am on 9 January 2017, Mr Whittle collapsed on the wing and staff requested an emergency ambulance. Mr Whittle continued to deteriorate and he died at 11.50am.

Findings

6. When Mr Whittle complained of coughing up blood a prison GP referred him for further investigation of 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.
7. Mr Whittle arrived at HMP Exeter with a diagnosis of lung cancer but with no firm prognosis. There was limited information about his condition or proposed treatment plans. Mr Whittle died suddenly before GPs could investigate further.
8. Overall, the investigation found that Mr Whittle received a standard of care equivalent to that which he could have expected to receive in the community.

The Investigation Process

9. The investigator issued notices to staff and prisoners at HMP Exeter 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 Whittle's prison and medical records.
11. NHS England commissioned a clinical reviewer to review Mr Whittle's clinical care at the prison.
12. We informed HM Coroner for Exeter 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 Whittle's 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.
14. The investigation has assessed the main issues involved in Mr Whittle'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 HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies

Background Information

HMP Exeter

16. HMP Exeter is a local prison holding a maximum of 560 men either on remand, convicted or sentenced. The prison serves the courts of the South West. Dorset NHS University Foundation Trust provides health services, including mental health services. The prison has 24 hours healthcare cover. The prison also has a palliative care suite for terminally ill prisoners.

HM Inspectorate of Prisons

17. The most recent inspection of HMP Exeter was in August 2016. Inspectors reported that when a prisoner needed a cell with special adjustments, they had to wait for a cell on the social care unit. They also reported that the palliative care service was inconsistent, as prisoners did not always receive care and medication in a timely way owing to the lack of staff. They also noted that there were not enough social care staff to meet prisoners' needs.

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 most recently published annual report, for the year to December 2015, the IMB reported that it believed that Exeter was a well-run and generally safe establishment and staff made a genuine effort to treat prisoners with dignity and respect. The IMB made special mention of the work of healthcare staff but considered that healthcare resources were inadequate and did not reflect community provision.

Previous deaths at HMP Exeter

19. Mr Whittle was the tenth prisoner to die from natural causes at Exeter since January 2014. There have been two other natural cause death since Mr Whittle died. There were no significant similarities with the circumstances of the previous deaths.

Findings

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

20. On 31 May 2012, Mr Anthony Whittle was sentenced to seven years in prison for sexual offences and sent to HMP Bristol. He spent time in HMP Dartmoor before moving to HMP Ashfield on 13 January 2014. On 3 November 2015, Mr Whittle was released from prison on licence. On 31 December 2016, Mr Whittle was recalled to prison after breaching the conditions of his licence and sent to HMP Exeter
21. Mr Whittle had a history of poor health which included chronic obstructive pulmonary disease (COPD - the name for a collection of lung diseases including chronic bronchitis and emphysema), an umbilical hernia and reduced mobility caused by osteoarthritis and leg ulcers. Mr Whittle also suffered from ischaemic heart disease.
22. On 8 May 2014 at HMP Ashfield, Mr Whittle complained of coughing up blood (haemoptysis). A prison GP made an urgent referral to a respiratory specialist at the hospital under the NHS pathway that requires patients with suspected cancer to be seen by a specialist within two weeks. A CT scan and bronchoscopy (an examination of the throat, larynx, trachea and lower airways) revealed an infection in Mr Whittle's left lung. Hospital doctors prescribed antibiotics.
23. On 29 October 2014, a prison GP made a routine referral to an ear, nose and throat (ENT) specialist at the hospital after he complained of coughing up a small amount of blood in the morning. An appointment took place on 30 December and investigations did not reveal any abnormalities in Mr Whittle's nose or throat. A follow-up appointment took place on 7 May 2015. Mr Whittle told the ENT specialist he had not experienced any further episodes of haemoptysis (coughing up blood). There is nothing else of significance in his medical records.
24. On 3 November, Mr Whittle was released on licence. His community medical records showed that, on 12 November, he was admitted to hospital with a high temperature. On 9 December, a hospital consultant diagnosed lung cancer in Mr Whittle's left lower lung.
25. We are satisfied that appropriate referrals were made by prison medical staff when Mr Whittle suffered episodes of coughing up blood in 2014. Mr Whittle had been diagnosed with lung cancer before he arrived at Exeter on 31 December 2016.

Mr Whittle's clinical care

26. On 31 December 2016, Mr Whittle was recalled to prison from hospital. The discharge summary said that Mr Whittle was treated in hospital for a chest infection and included his prescribed medication and lung cancer diagnosis. There was no information about a treatment plan. Healthcare staff requested Mr Whittle's medical records from his community GP and contacted Social Services to obtain information about his community care.

27. Prison nurses created care plans to manage Mr Whittle's mobility, skin care and incontinence.
28. On 5 January 2017, a prison GP reviewed Mr Whittle's community medical records. She noted that Mr Whittle suffered from ischaemic heart disease and had cardiac surgery in December 2015 and January 2016. There was no information about Mr Whittle's lung cancer diagnosis or if he had received treatment. The same day, a healthcare administration assistant wrote to the hospital to obtain detailed information about Mr Whittle's hospital treatment while he was in the community.
29. On 7 January, a prison GP assessed Mr Whittle. He noted that his mobility was deteriorating and it was becoming increasingly difficult to accommodate his needs in the prison.
30. At 10.42 am on 9 January, Mr Whittle collapsed while walking with a zimmer frame with two healthcare assistants. A nurse immediately attended and arranged for an emergency ambulance. Mr Whittle was semi-conscious and unresponsive. His temperature and pulse rate were normal but his blood pressure could not be recorded. She gave Mr Whittle oxygen via a face mask. At 11.18am, paramedics arrived and took control of Mr Whittle's care. His condition continued to deteriorate and he died at 11.50am.
31. The clinical reviewer has commented that while prison GPs were aware of Mr Whittle's lung cancer diagnosis, there was limited information about his prognosis or proposed treatment plans. Mr Whittle died suddenly before GPs had the opportunity to investigate this further.
32. We agree with the clinical reviewer that Mr Whittle received a standard of care that was at least equivalent to that he could have expected to receive in the community.

Mr Whittle's location

33. On 31 December, shortly after arriving at Exeter, Mr Whittle moved to a ground floor cell where his mobility and medical issues could be better supported. Mr Whittle also received help from Exeter's 'Buddy Scheme' (prisoner trained to support the needs of less able men).
34. On 1 January 2017, Mr Whittle moved to the social care unit, a wing that caters for men with social care needs and includes a palliative care unit. On 4 January, the prison agreed to re-configure a cell on the social care unit to accommodate a hospital bed. This was not completed before Mr Whittle died.
35. We are satisfied that Mr Whittle was appropriately located during his short time at Exeter.

Restraints, security and escorts

36. Mr Whittle did not travel outside the prison during his short time at Exeter.

Liaison with Mr Whittle's family

37. On 9 January 2017, the prison appointed a prison manager as family liaison officer. At 3.20pm, she and a governor visited Mr Whittle's brother at home and told him Mr Whittle had died. They offered condolences and support.
38. The family liaison officer remained in contact with Mr Whittle's brother until his funeral on 31 January 2017. The prison paid for the funeral in line with national policy.
39. We are satisfied there was good supportive liaison with Mr Whittle's brother.

Compassionate release

40. 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.
41. When Mr Whittle was recalled to prison on 31 December 2016 after breaching the conditions of his licence, he had a diagnosis of lung cancer without a clear prognosis of his life expectancy. This information had been disclosed to the Prison Service's Public Protection Casework Section when his licence was revoked.
42. Mr Whittle died before the Parole Board had the opportunity to consider if he could be re-released on licence. We consider that it was acceptable for the prison not to start a compassionate release application before the decision of the Parole Board was known.

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