

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr John Nixon a prisoner at HMP Frankland on 16 November 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*



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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.

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 John Nixon died of pneumonia due to oesophageal cancer on 16 November 2017 at HMP Frankland. He was 60 years old. I offer my condolences to those who knew him.

The investigation found that the care that Mr Nixon received at Frankland was of a good standard and 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.

Elizabeth Moody
Acting Prisons and Probation Ombudsman

April 2018

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Summary

Events

1. On 8 August 2005, Mr John Nixon was sentenced to life in prison for murder. On 5 January 2006, he was transferred to HMP Frankland.
2. Mr Nixon had several long-term conditions. He had a history of hepatitis C, chronic obstructive pulmonary disease (COPD), type 2 diabetes, psychosis and anxiety.
3. Mr Nixon had severe anxiety attacks when he was seen by the healthcare department. His engagement with healthcare staff fluctuated. Despite staff trying to support him to access the prison's services, he frequently refused to have tests or treatments.
4. In April 2017, a doctor examined Mr Nixon, and was concerned about swellings in the left side of his neck and behind one knee. The doctor referred him urgently to hospital with suspected cancer. In June, hospital doctors diagnosed oesophageal cancer and liver metastases.
5. From July 2017, Mr Nixon told staff that he did not want any treatment. Healthcare staff treated Mr Nixon palliatively, focusing on his symptoms and pain management. When Mr Nixon's condition deteriorated, he moved to the healthcare unit at HMP Frankland, where he died on 16 November 2017.

Findings

6. The clinical reviewer acknowledged that staff at Frankland provided a high standard of care to Mr Nixon. She said Mr Nixon's care was responsive and equivalent to that which he could have expected to receive in the community. We agree and make no recommendations.

The Investigation Process

7. The investigator issued notices to staff and prisoners at HMP Frankland informing them of the investigation and asking anyone with relevant information to contact her. No one responded.
8. The investigator obtained copies of relevant extracts from Mr Nixon's prison and medical records.
9. NHS England commissioned a clinical reviewer to review Mr Nixon's clinical care at the prison.
10. We informed HM Coroner for Durham of the investigation who told us the cause of death. We have sent the Coroner a copy of this report.
11. We were unable to contact Mr Nixon's family to inform them of the investigation. They had no contact with him.
12. The investigation assessed the main issues involved in Mr Nixon'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.
13. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies.

Background Information

HMP Frankland

14. HMP Frankland is one of eight high security prisons in England and Wales. It holds up to 844 men. There is 24-hour inpatient care. G4S Forensic & Medical Services provide general nursing services and substance misuse services. Spectrum Healthcare provides GP and pharmacy services.

HM Inspectorate of Prisons

15. The most recent inspection of HMP Frankland was in February and March 2016. Inspectors reported that, although health provision was reasonably good, staffing issues were impacting on care delivery. However, prisoners had access to a range of primary care services and visiting specialists. Prisoners with long-term conditions received regular reviews by appropriately trained staff.

Independent Monitoring Board

16. 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 30 November 2016, the IMB noted that there had been considerable capital expenditure on healthcare. They found that there had been a significant increase in the number of prisoners taking part in the smoking cessation initiative after the appointment of a dedicated lead nurse.

Previous deaths at HMP Frankland

17. Mr Nixon was the sixth person to die from natural causes at Frankland since January 2016. There were no significant similarities with the circumstances of the previous deaths.

Findings

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

18. Mr John Nixon was serving a life sentence for murder and had been at HMP Frankland since 5 January 2006. He had suffered poor health for several years and had a history of hepatitis C, chronic obstructive pulmonary disease (COPD), type 2 diabetes, psychosis and anxiety.
19. Mr Nixon frequently told healthcare staff that he did not want any treatment for his medical conditions. He found attending the healthcare department triggered severe anxiety for him and he frequently opted out of treatment, despite healthcare staff telling him the possible consequences. In February 2016, Mr Nixon wrote to the healthcare department and said that he did not want any further appointments. He voluntarily stopped his diabetes treatment.
20. On 19 April, Mr Nixon complained he had swellings on his neck and behind one knee. A prison GP arranged for the investigations to be at the prison rather than in hospital. Mr Nixon had a chest x-ray, liver ultrasound and blood tests, although these were inconclusive.
21. The prison GP reviewed Mr Nixon on 24 May. She noted he had more lumps on his neck and had lost weight. She made an urgent referral to haematology specialists under the NHS pathway, which requires patients with suspected cancer to be seen by a specialist within two weeks.
22. On 30 May, a hospital consultant haematologist confirmed that there was significant swelling in Mr Nixon's neck and he arranged for a CT scan. Mr Nixon had the scan on 19 June, and the consultant confirmed oesophageal cancer with metastases of the liver.
23. We are satisfied that the prison GP referred him quickly and he was appropriately diagnosed. We are satisfied that Mr Nixon was fully informed of his condition and healthcare staff supported him.

Mr Nixon's clinical care

24. After his diagnosis, Mr Nixon told a nurse he needed time to consider his options. On 4 July, Mr Nixon wrote to the prison GP and said that he had decided he did not want any treatment. On 25 July, Mr Nixon discussed his decision with specialist palliative care staff and they told him that without treatment his prognosis was three to twelve months. Mr Nixon wrote again on 4 August to the healthcare department and said that he had decided to refuse treatment. Mr Nixon said he did not want anyone to resuscitate him if his heart or breathing stopped and signed an order to that effect.
25. Mr Nixon received pain relief and other palliative medication. Records show nurses looked after him well. Staff managed his pain well and in his final days nurses remained with him continuously. He died at 7pm on 16 November.

26. The Coroner noted that Mr Nixon had died from bronchopneumonia, with underlying metastatic oesophageal cancer, and he also had diabetes mellitus, COPD (lung disease) and chronic hepatitis C infection.
27. We agree with the clinical reviewer that Mr Nixon's care and treatment in prison was equivalent to that which he could have expected to receive in the community. Healthcare staff liaised effectively with the hospital about his care and there were good, clear holistic care plans, which were well communicated to healthcare staff and discussed with Mr Nixon. Staff looked after Mr Nixon well and maintained his dignity throughout his decline. We are satisfied that he received excellent support and treatment from prison healthcare staff throughout his illness.

Mr Nixon's location

28. After his diagnosis, Mr Nixon told staff that he wanted to remain on his wing. He said that he only needed help to carry heavy loads. To help with his eating, managers arranged for him to use a food blender on his wing. He said that at the right time, he would move to the healthcare unit.
29. Mr Nixon remained on his wing until 2 October 2017 when staff arranged for him to be admitted to the healthcare unit to manage his pain and for frequent nurse observations. We are satisfied that Mr Nixon's location was appropriate throughout his illness.

Restraints, security and escorts

30. 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.
31. Mr Nixon was a Category A prisoner and a full and extensive risk assessment was conducted for his hospital appointments, with individual aspects of Mr Nixon's risk being noted in the assessments. Mr Nixon's risk assessments considered his history of violence, and he was assessed as being a high risk to the public and a medium risk of escape. Healthcare staff did not raise any objections to the use of restraints. A prison manager and two officers escorted Mr Nixon. He wore high visibility clothing and getting into the prison van he was restrained using a double handcuff (where a prisoner's hands are cuffed in front of him, and one wrist is attached to a prison officer by an additional set of cuffs). Double handcuffs are usually required for moving Category A or Category B prisoners in good health. For the journey in the prison van, single handcuffs were used and once inside the hospital, an escort chain was used for treatment.
32. We are satisfied that the prison appropriately reviewed and adjusted the restraints when Mr Nixon went to hospital.

Liaison with Mr Nixon's family

33. After Mr Nixon's diagnosis, the prison appointed a prison manager as the family liaison officer. She spoke to Mr Nixon on 18 August and he told her that he did not have any contact with his next of kin. Prison staff found that his family had severed all contact with him.
34. The prison arranged and paid for Mr Nixon's funeral in line with national instructions, which was held on 7 December 2017.

Compassionate release

35. Prisoners can be released from custody before their sentence has expired on compassionate grounds for medical reasons. This is usually when they have a terminal illness and a life expectancy of less than three months. Prison staff discussed the possibility of compassionate release with Mr Nixon. He said that he wanted to die in prison. We are satisfied that the prison appropriately informed Mr Nixon that compassionate release was a potential option.

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