Prisons & Probation
Ombudsman
Independent Investigations

Independent investigation into the death of Mr Kenneth Francis a prisoner at HMP Dartmoor on 3 October 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 Kenneth Francis died on 3 October 2017 of pneumonia resulting from lung cancer while a prisoner at HMP Dartmoor. He was 83 years old. We offer our condolences to Mr Francis' family and friends.

Mr Francis received a good standard of care while at Dartmoor equivalent to that which he could have expected to receive in the community. The day to day management of his conditions was of a good standard and comprehensive care plans were in place for longer term management of his conditions.

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 **February 2018**

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Summary

Events

1. On 10 December 2007, Mr Kenneth Francis was sentenced to 15 years in prison for sexual offences. He was sent to HMP Exeter. On 18 July 2016, he was released from custody on licence. Mr Francis breached his licence conditions and was recalled to prison on 18 November 2016. He was sent to HMP Exeter and was later transferred to HMP Dartmoor.

2. Mr Francis had a history of chronic obstructive pulmonary disease and was a heavy smoker. He had poor mobility because of multiple joint pain and used a walking frame and wheelchair.

3. On 3 March 2016, Mr Francis complained of pains in his chest. After a review by paramedics, he was taken to hospital by emergency ambulance. Mr Francis was diagnosed with a malignant tumour in the upper part of his left lung. He received radiotherapy and heat treatment but they were unsuccessful. Hospital staff considered he was not suitable for any further treatment and palliative care was the only option left for him.

4. On 2 October 2017, healthcare staff noted Mr Francis was extremely short of breath. A prison GP diagnosed him as having pneumonia. He was taken to hospital where hospital staff attempted to treat his symptoms. Mr Francis' condition continued to deteriorate and he died on 3 October.

Findings

5. We are satisfied that Mr Francis received a standard of care that was equivalent to that which he could have expected to receive in the community.

6. Mr Francis' medical records show comprehensive care plans were in place to manage his long-term conditions. Links were made with external bodies, which advised and assisted healthcare staff who ensured that Mr Francis' care requirements were met.

7. We make no recommendations.

The Investigation Process

8. The investigator issued notices to staff and prisoners at HMP Dartmoor 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 Francis' prison and medical records.

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

11. We informed HM Coroner for Torbay and South West Devon District of the investigation. We have sent the coroner a copy of this report.

12. The investigator wrote to Mr Francis' next of kin 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.

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

15. HMP Dartmoor holds up to 640 adult male prisoners. It has six residential wings known as 'tors'. Healthcare services are provided by Care UK and mental healthcare is provided by Devon Partnership Trust.

HM Inspectorate of Prisons

16. The last inspection at HMP Dartmoor was in August 2017. Inspectors reported that while the availability of primary care assessment was reasonable, it had been affected by staff shortages. It noted that nurses' clinics were often interrupted or cancelled with nurses having to cover alternative tasks.

17. Inspectors also noted that the standard of monitoring of some patients with long term conditions had deteriorated in comparison to their previous inspection and found cases in which diagnostic tests had not been ordered.

18. However, as in their previous inspection they noted there was particularly good support for older prisoners and those with disabilities.

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 annual report, for the year to 2016, the IMB reported that there were good staff-prisoner relationships, even though staff often worked under extremely difficult and challenging circumstances.

20. The IMB welcomed the introduction of a Macmillan nurse clinic for those prisoners diagnosed with cancer and the close working relationship that had been developed with St Luke's Clinic, which provided both advice and end of life care and care for life limiting conditions.

Previous deaths at HMP Dartmoor

21. Mr Francis was the fifth prisoner to die from natural causes at Dartmoor since January 2016. There were no significant similarities with those previous deaths.

Findings

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

22. On 10 December 2007, Mr Kenneth Francis was sentenced to 15 years in prison for sexual offences and was sent to HMP Exeter.

23. Mr Francis had a history of chronic obstructive pulmonary disease (COPD - a collection of lung diseases such as chronic bronchitis and emphysema) and was a heavy smoker. He had poor mobility because of multiple joint pain and used a walking frame and wheelchair. Healthcare staff offered Mr Francis smoking cessation advice on a number of occasions, but he refused any offers of help. Healthcare staff regularly reviewed Mr Francis and monitored his COPD.

24. On 20 March 2014, Mr Francis was transferred to HMP Littlehey. A prison GP reviewed him on 15 May after he complained of a lump behind his left ear. She made a two week wait referral. Mr Francis was reviewed by an ear nose and throat consultant at a hospital, on 1 June. A computerised tomography (CT) scan showed Mr Francis had squamous carcinoma (skin cancer).

25. On 18 July 2016, Mr Francis was released from prison under licence. The treatment for his skin cancer was provided by his local hospital following his release.

26. On 18 November, Mr Francis breached his licence conditions and was recalled to HMP Exeter to serve the remainder of his sentence. A prison nurse reviewed him and noted his pre-existing medical conditions. A prison GP noted his ongoing treatment for skin cancer and arranged for his care to be transferred to a hospital. On 28 November, Mr Francis was transferred to HMP Dartmoor.

27. On 12 December, a consultant from the oncology department at a hospital reviewed Mr Francis. He decided a four week course of radiotherapy would be the most appropriate treatment for his symptoms. Following the treatment, hospital staff regularly reviewed and monitored his condition.

28. Following a review on 25 August 2015, by a consultant from the joint head and neck clinic at a hospital, Mr Francis was told his skin cancer was in remission. Both healthcare staff and secondary care providers continued to review him regularly.

29. On 3 March 2016, prison staff asked a nurse to review Mr Francis. He told her he was experiencing chest pain and shortness of breath. She checked his oxygen saturation level and recorded it as 78% (below the normal range), she noted his saturation level increased to 95% (within normal range) when administering oxygen via a face mask. She asked a prison GP to review Mr Francis. He carried out an electrocardiogram test (ECG) which showed an abnormal heartbeat. An emergency ambulance was called and paramedics took Mr Francis to hospital where he remained as an inpatient. Hospital staff reviewed Mr Francis and diagnosed him as having a malignant tumour in his upper left lung (lung cancer).

30. On 5 October, hospital staff treated Mr Francis' cancer by carrying out lung ablation (a procedure where a needle is inserted into the tumour and radio waves are produced, the heat from which is used to try to reduce the size of the tumour). Mr Francis was discharged from hospital back to Dartmoor the following day. Healthcare staff regularly reviewed him and carried out blood tests to monitor his condition.

31. On 2 November, a Macmillan nurse reviewed Mr Francis. She noted that he appeared well and had no concerns. She also noted he was due a follow up appointment at hospital on 13 December. She continued to review him on a monthly basis. The same day, Mr Francis was assigned a 'buddy prisoner' (a prisoner who volunteers to help those less able to care for themselves) to assist him with daily tasks.

32. A consultant ear nose and throat surgeon reviewed Mr Francis as planned on 13 December. He noted the cancer had not spread and planned to review him again in April 2017.

33. On 6 January 2017, a prison GP reviewed Mr Francis after he noted a black spot on his right forearm. Given his medical history, she referred him to the dermatology department at a hospital. A prison GP also noted that Mr Francis appeared confused and referred him to the Mental Health In-reach Team.

34. A mental health nurse reviewed Mr Francis the next day. She carried out an ACE 111 test (a cognitive examination testing attention, memory, verbal fluency, language and visio-spatial awareness). Mr Francis scored 55 out of 100 indicating likely dementia. She referred him for a review by, a visiting psychiatrist.

35. On 20 February, a prison GP reviewed Mr Francis. He diagnosed him with dementia and referred him to hospital for a magnetic resonance imaging scan of his brain (MRI) to ensure his cancer had not spread. He also referred him to the prison's dementia care clinic where he was reviewed regularly.

36. The following day, Mr Francis attended hospital to be reviewed by a consultant chest physician. A CT scan showed the lymph nodes in his chest had increased in size (often an indicator of the spread of an existing cancer). The consultant noted Mr Francis had stage 3 cancer (stage 3 indicates that the cancer is larger than previously and is likely to have spread into surrounding tissues particularly the lymph nodes). Mr Francis was to have another CT scan and be reviewed in three months to monitor the progress of the cancer.

37. On 4 April, Mr Francis attended hospital for the MRI scan. The results did not show any sign that the cancer had spread to his brain.

38. On 27 April, a prison GP reviewed Mr Francis. He told the prison GP he did not wish to be resuscitated in the event of a cardiopulmonary arrest, or to receive artificial feeding as his condition deteriorated. The prison GP noted Mr Francis had the capacity to make those decisions about his care and treatment options. Mr Francis signed a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) order (which means that, in the event of cardiac or respiratory arrest, no attempt at resuscitation will be made, all other appropriate treatment and care would continue to be provided). Staff were made aware of Mr Francis' decision.

39. On 15 June, a consultant chest physician at a hospital reviewed Mr Francis. He noted there had been an increase in the size of the tumour in his lung. He took samples of the tumour and sent them for testing. The results showed the cancer had spread to his thyroid glands. He decided Mr Francis was unsuitable for any further treatment.

40. On 2 August, a prison GP reviewed Mr Francis. He told him there were no curative treatment options open to him and the only treatment available was palliative care. He noted Mr Francis appeared relaxed about the news and asked how long he had left to live. He explained to him he was unable to give him a definitive prognosis.

41. On 7 September, a nurse from a hospice reviewed Mr Francis (the Hospice provides end of life care at hospital). The nurse noted a decline in his condition. She asked about his wishes as his condition worsened. Mr Francis said he wanted to stay at the prison and be cared for by healthcare staff. The nurse continued to liaise with healthcare staff giving them advice about pain relief and dietary supplements.

42. On 29 September, a prison GP noted a marked deterioration in Mr Francis' condition. She considered he needed an increasing level of input from healthcare staff, and it was the preferred option to admit him to hospital when appropriate.

43. On 2 October, a nurse asked a prison GP to review Mr Francis as she had noted he was extremely short of breath. The nurse noted his vital observations and the prison GP diagnosed Mr Francis as possibly having pneumonia. He telephoned for an emergency ambulance and Mr Francis was taken to hospital. Two prison officers accompanied him and he was unrestrained.

44. The hospital confirmed Mr Francis had pneumonia and he remained in hospital as an inpatient.

45. Mr Francis' condition continued to deteriorate and at 11.05pm on 3 October, he died. A hospital doctor confirmed his death at 12.05am on 4 October.

Mr Francis' clinical care

46. We agree with the clinical reviewer that the clinical care Mr Francis received at Dartmoor was of a good standard and equivalent to that which he could have expected to receive in the community. Healthcare staff promptly reviewed Mr Francis on the occasions he became unwell and appropriately referred him to secondary care providers.

47. Following the diagnosis of cancer in August 2017, Mr Francis was well supported by both healthcare staff and a Macmillan Nurse. All treatment was provided in a timely and appropriate manner and there is evidence of good care plans in place to manage his conditions.

48. The clinical reviewer also found healthcare staff had made links with local care providers, enabling them to access specialist advice about end of life care, pain relief and dietary supplements. There was good involvement by the mental

health team and as Mr Francis' cognitive function diminished, efforts were made to check that the cancer had not spread to his brain.

49. Although Mr Francis' medical records show he received a good standard of care, the clinical reviewer has made a number of recommendations which we do not repeat in this report but which the Head of Healthcare will wish to address.

Mr Francis' location

50. Mr Francis lived in a single cell on a house block. He felt supported by his friends and had assistance from his buddy. Nurses reviewed him regularly to ensure he was coping, taking his medication and managing his pain.

51. As Mr Francis' condition deteriorated, healthcare staff liaised with social care services in the community to provided him with specialist equipment including a pressure sore relieving mattress, mobility aids and a personal wrist alarm to enable him to attract the attention of staff should he need it.

52. Mr Francis expressed a wish to remain at the prison as his condition worsened. Healthcare staff respected his wishes until clinical need dictated his final admission to hospital.

53. We are satisfied that Mr Francis was appropriately located throughout his illness and his needs were met in line with his wishes.

Restraints, security and escorts

54. 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.

55. When Mr Francis was admitted to hospital on 2 October, he was escorted by two prison officers and was unrestrained. While he remained in hospital as an inpatient until his death, no restraints were applied. We consider the decisions on restraint were appropriate.

Contact with Mr Francis' family

56. Following his admission to hospital on 23 August 2017, the prison appointed Reverend P and Reverend Q as Family Liaison Officers.

57. Reverend P contacted Mr Francis' friend, who he had nominated as his next of kin, to inform him of Mr Francis' condition and admission to hospital. He thanked Reverend P and told him he wished to be kept updated with Mr Francis' condition.

58. Following his final admission to hospital on 2 October, Reverend P telephoned Mr Francis' next of kin to inform him of his condition. He asked to be notified by telephone should anything happen to Mr Francis. Reverend P visited Mr Francis in hospital the following day.

59. At 11.30pm on 3 October, the prison control room contacted Reverend P to inform him Mr Francis had died.

60. Reverend P contacted Mr Francis' next of kin the following morning at 8.35am to inform him of Mr Francis' death and to offer him support. He told Reverend P that Mr Francis had asked that his body be offered for medical research, and that if that was not possible, that his body be disposed of without a funeral taking place. A body disposal took place on 19 October.

61. We are satisfied there was good, supportive liaison with Mr Francis' next of kin.

Compassionate release

62. 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.

63. Mr Francis expressed a wish to remain at the prison for as long as his condition would allow and that he did not wish to apply for compassionate release. We are satisfied that the prison appropriately discussed compassionate release with Mr Francis and that his wishes were considered.

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