Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Frederick Dells a prisoner at HMP Stafford on 16 July 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 Frederick Dells died on 16 July 2017 of chest sepsis caused by a malignant mesothelioma while a prisoner at HMP Stafford. He was 79 years old. We offer our condolences to Mr Dells' family and friends.

Mr Dells was diagnosed with a terminal illness while he was in prison. The investigation found that Mr Dells received good care at Stafford, which was equivalent to that which he could have expected to receive in the community.

However, we consider that the prison should have been more proactive in contacting Mr Dells' family once his terminal diagnosis was made. We are also concerned that an application to release Mr Dells on compassionate grounds was not treated with sufficient urgency.

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 **January 2018**

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Summary

Events

1. On 4 August 2014, Mr Frederick Dells was sentenced to 16 years imprisonment for sexual and violent offences. He was initially sent to HMP Birmingham but was transferred to HMP Stafford on 24 July 2015.

2. Mr Dells' initial health screen revealed that he had had a stroke in 2013 but was otherwise deemed fit for work and for housing on a normal prison location. On 6 August, a prison GP reviewed Mr Dells and noted that he had been diagnosed with bladder cancer while at Birmingham. Mr Dells was referred to a urologist and was then reviewed and managed by a hospital. Mr Dells' bladder cancer continued to be managed but subsequently played a secondary role to his lung condition following its diagnosis.

3. On 29 October 2016, Mr Dells was taken to the hospital following chest complaints. He was transferred to hospital and remained there for treatment and investigations until 16 November. His discharge letter stated that consultants suspected that Mr Dells might have cancer but were awaiting test results to confirm this.

4. On 28 November, a consultant saw Mr Dells in clinic and informed him that he had a malignant mesothelioma. (This is a type of cancer infecting the walls of the lungs and other internal organs.) On 14 December, an oncologist at the hospital told Mr Dells that his disease was incurable

5. Mr Dells was placed on the palliative care register at Stafford, and reviewed at monthly multi-disciplinary team meetings. He was also placed on a number of care plans, and reviewed fortnightly by a Macmillan nurse.

6. In January, a family liaison officer was appointed for Mr Dells, and his solicitor was named as next of kin. On 23 March, Mr Dells told staff that he wanted his family to be informed about his condition if that was possible. A little over a week later, the nurse noted that there was a restriction on family contact due to the nature of Mr Dells' offence.

7. Over the next few months, Mr Dells' condition remained stable, and he was kept under regular review. Towards the end of June, his condition deteriorated markedly. On 5 July, Mr Dells stated that he did not want to die in prison.

8. On 14 July, Mr Dells was found on the floor of his cell and taken to the hospital. His solicitors were informed about the deterioration in his condition. Later that day, the Head of Offender Management instructed staff to begin the paperwork for Mr Dells to be considered for release on compassionate grounds.

9. On 16 July, at 1.35pm, Mr Dells was pronounced dead in hospital.

10. On 19 July, Mr Dells' family made contact with the prison. They were told that they could not be listed as next of kin because Mr Dells' solicitors had already been named as such. On 21 July, the prison contacted Mr Dells' son and maintained contact with him.

Findings

Mr Dells' clinical care

11. We agree with the clinical reviewer that the care Mr Dells received at Stafford was equivalent to that which he could have expected to receive in the community. Mr Dells was diagnosed promptly with his terminal illness, and then appropriately located and managed by healthcare staff at Stafford.

Liaison with Mr Dells' family

12. We are concerned that the prison did not contact Mr Dells' family to inform them about his condition, and that the family did not find out about his death until several days afterwards. While we accept that the prison did not have contact details for Mr Dells' family, and genuinely believed that family members did not want anything to do with him, they neglected to act on an express request from Mr Dells in March 2017 that his family be informed. The fact that Mr Dells' family contacted the prison shortly after his death, and remained in contact, suggests that they would have welcomed being informed earlier about his illness.

13. We are concerned that because the prison failed to inform Mr Dells' family of his illness, an opportunity was missed for them to renew contact before he died.

Compassionate release

14. We are concerned that Mr Dells was not properly considered for compassionate release. While we accept that he deteriorated very quickly in the weeks before he died, the instruction to start an application came only two days before his death. Given that Mr Dells' disease was terminal, we would have expected the application to have been started much sooner, and kept under review as his prognosis became clearer.

Restraints, security and escort

15. Mr Dells was never restrained following his terminal diagnosis.

Recommendations

- The Governor at HMP Stafford should ensure that when a prisoner is diagnosed with a terminal illness, his next of kin details are kept up to date and that his family are informed of his condition, especially when the prisoner requests this.
- The Governor should ensure that appropriate priority is given to dealing with applications for compassionate release for terminally ill prisoners and that they are submitted without delay.

The Investigation Process

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

17. The investigator obtained copies of relevant extracts from Mr Dells' prison and medical records.

18. NHS England commissioned a clinical reviewer to review Mr Dells' clinical care at the prison.

19. We informed HM Coroner for Staffordshire South of the investigation. The coroner confirmed Mr Dells' cause of death, and we have sent the coroner a copy of this report.

20. The investigator wrote to Mr Dells' son to explain the investigation and to ask whether he had any matters he wanted the investigation to consider. He did not respond to our letter.

21. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS pointed out a factual inaccuracy and this report has been amended accordingly.

Background Information

HM Stafford

22. HMP Stafford is a medium security prison for adult sex offenders, which holds more than 700 prisoners across seven wings. Care UK has provided healthcare services since April 2016. There are no inpatient facilities. Nurses are on duty daily between 7.30am and 5.30pm and there is a weekday GP service, with on-call GPs outside these hours.

HM Inspectorate of Prisons

23. The most recent inspection of HMP Stafford was conducted in February 2016. Inspectors considered that the range of primary care services was reasonable, with good access to nurses and GPs available. Wing-based nurses provided consistent care, treatment and review. However, there were some weaknesses in the provision for older prisoners and those with mental health needs. In particular, there were no healthcare staff with specialist dementia skills, but prison staff took a balanced and reasonable approach to assessing the need for disciplinary action for poor behaviour due to dementia.

24. Inspectors reported that the arrangements to support men with palliative, or end of life, needs were informed by joint prison and healthcare staff decisions. A palliative care project, with a dedicated specialist nurse, was developing end of life pathways and this had already improved men's experiences.

Independent Monitoring Board

25. 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 April 2017, the IMB reported that healthcare had improved substantially since its last report, with a reduction in waiting lists for internal services, and fewer cancelled escorts for external appointments. The Board acknowledged the exceptional care shown by staff and prisoner carers towards very frail and terminally ill prisoners, and of the support provided to prisoners by a specialist Macmillan nurse. The IMB was pleased that the prison had been successful in its bid for a palliative care suite, but was sceptical as to whether Stafford was the right place to care for very elderly and frail prisoners.

Previous deaths at HMP Stafford

26. Mr Dells was the seventh prisoner to die at Stafford since January 2016. There were no similarities between Mr Dells' death and these earlier deaths.

Findings

Diagnosis of Mr Dells' terminal illness and informing him of his condition

27. On 4 August 2014, Mr Frederick Dells was sentenced to 16 years imprisonment for offences of a sexual and violent nature. He initially spent time at HMP Birmingham, where he was diagnosed with bladder cancer in April 2015.

28. On 24 July 2015, Mr Dells was transferred to HMP Stafford. On arrival, a healthcare assistant reviewed Mr Dells at a health screen in reception. She noted that he had had a stroke in 2013, but was deemed fit for work, and for housing on a standard location, although a bottom bunk was requested.

29. On 6 August 2015, a prison GP noted Mr Dells' history of bladder cancer and referred him to a urologist. Following this appointment, Mr Dells was reviewed regularly by the hospital. In October 2016, the urologist planned a course of treatment to flush out Mr Dells' bladder. This procedure was never performed in the light of subsequent health concerns but his condition was kept under review.

30. On 29 October 2016, a prison GP saw Mr Dells after he complained of having a dry cough for two days. He noted that Mr Dells was not a smoker and had no previous chest complaints, so kept him under observation. Mr Dells' condition deteriorated further so he was taken to hospital the same day for investigations into his lungs.

31. On 16 November, Mr Dells returned to Stafford. The hospital discharge letter stated that he had: "Probable malignant pleural infiltration leading to pleural effusion". (This a cancerous invasion of the lung walls leading to liquid in the lung.) The letter added that anticipated test results would confirm any diagnosis. Mr Dells was relocated to a ground floor cell, and allocated a peer carer. (This is a fellow prisoner who has been assigned to assist with basic care duties.)

32. On 28 November, a consultant cardiothoracic surgeon saw Mr Dells at hospital. He confirmed that Mr Dells had a malignant mesothelioma. (This is a type of cancer located in the thin layer of tissue covering many of the internal organs, most commonly the lining of the lungs and chest wall.) He noted that a chest X-ray was satisfactory, and a physical examination unremarkable. He planned to review Mr Dells again a month later.

33. On 14 December, consultant clinical oncologist saw Mr Dells and explained that his disease was not curable. He discussed treatment options with Mr Dells and they agreed to a course of palliative care to control the disease and improve symptoms.

34. We are satisfied that Mr Dells' diagnosis was appropriately recorded and acted upon by the prison.

Mr Dells' clinical care

35. Following his terminal diagnosis, Mr Dells was placed on the palliative care register at Stafford. This records the details of all prisoners with a life-limiting condition. Mr Dells' care and condition was discussed by a range of

representatives at monthly multi-disciplinary team meetings. A Macmillan nurse was assigned to oversee Mr Dells' care, and to offer support. He was also referred to an occupational therapist and for a social care assessment. Palliative chemotherapy was offered but declined by Mr Dells.

36. On 15 December, the nurse introduced herself to Mr Dells in the presence of his peer carer. She noted that he was reluctant to discuss his condition. Mr Dells said he felt fine and had no respiratory or other health concerns, but was happy for her to discuss his care with prison staff.

37. On the initiative of the hospital, given the nature of Mr Dells' diagnosis, discussions took place with Mr Dells as to whether he wished to consider a claim for asbestos-related illness. These discussions were ultimately inconclusive.

38. On 11 January, Mr Dells was given a chest X-ray. The consultant stated that he was happy with the results and planned a review six months later. On 27 January, the nurse observed that Mr Dells was largely caring for himself, but was being assisted by his peer carer. She noted that he was eating well, suffered no pain or breathlessness and had no evidence of a cough.

39. Mr Dells' condition remained relatively stable for the next few months. He had several care plans in place and was monitored regularly by healthcare staff. Mr Dells was reviewed fortnightly by the Macmillan nurse, and at monthly multi-disciplinary team meetings.

40. On 26 June, Mr Dells was taken to hospital after complaining of acute back pain. On 29 June, he returned to Stafford but his condition had noticeably deteriorated. The same day, Mr Dells expressed his wish not to be resuscitated if his heart or breathing stopped, and he signed a Do Not Resuscitate order to that effect. On 1 July, professional carers were employed to care for Mr Dells at the prison on a twice-daily basis.

41. On 14 July, healthcare assistant found Mr Dells on the floor of his cell. She noted that he was ashen in colour, intermittently responsive, struggling to breathe, and had urinated. Ms McGregor started oxygen therapy immediately, and Mr Dells was taken to the hospital.

42. On 15 July, Mr Dells' treatment was stopped due to the deterioration in his condition. He was kept comfortable using pain killing medication, and palliative care was sought. Fluids were withdrawn later that day.

43. On 16 July, at 1.35pm, Mr Dells was pronounced dead.

44. We are satisfied that Mr Dells was well looked after in prison. He was subject to a number of care plans and regularly reviewed by staff, with palliative support provided by a specialist Macmillan nurse. We agree with the clinical reviewer that the care he received was equivalent to that he could have expected to receive in the community.

Mr Dells' location

45. From leaving hospital on 16 November 2016, Mr Dells was located in a ground floor cell, due to his limited mobility.

46. On 23 March 2017, the nurse discussed Mr Dells' ongoing care with him. She noted that he preferred to remain on his current wing among his peers and established social network. She noted that this location was appropriate to manage his health concerns at that stage.

47. On 11 July, Mr Dells was relocated to a double cell so he could share with his peer carer. He remained there until he was taken to hospital on 14 July.

48. We are satisfied that Mr Dells was appropriately located during his time at Stafford.

Restraints, security and escorts

49. 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 proportionate, and decisions should be based on the security risk, taking into account factors such as the prisoner's health and mobility.

50. Mr Dells travelled to hospital on several occasions during 2017, and was risk assessed each time he went. He was not restrained at all during this time due to his age and limited mobility.

51. We find that the prison acted appropriately in deciding not to restrain Mr Dells.

Liaison with Mr Dells' family

52. When Mr Dells was diagnosed with a terminal disease, his designated next of kin was his solicitor. On 7 January 2017, a prison officer introduced herself to Mr Dells as his family liaison officer.

53. On 23 March, the nurse asked Mr Dells about his family. She noted that he had not had any contact with them since entering prison. Mr Dells said that he wanted his family to be informed of his condition, if that were possible. An entry in his prison record made that day stated: "Further enquiries as to who his next of kin is to be made by offender supervisor". On 3 April, she noted that "there is a restriction on contact with family due to nature of Mr Dells' offending. This has apparently been explained to Mr Dells by offender supervisor previously".

54. On 14 July, the prison informed Mr Dells' solicitors that his condition had deteriorated and that he had been taken to hospital. The prison continued to update his solicitors, and informed them of Mr Dells' death on 16 July.

55. On 19 July, the victim liaison officer emailed the prison to inform them that he had spoken to Mr Dells' daughter, who asked to be listed as next of kin. Later that day, Mr Dells' granddaughter called the family liaison contact and said that her father (Mr Dells' son) was his next of kin. The family liaison contact told her

that Mr Dells' solicitors had been named as his next of kin and this could not be changed. She nevertheless took Mr Dells' son's phone number for future contact.

56. On 21 July, the family liaison contact spoke to Mr Dells' son and introduced herself as his family liaison contact. She continued to liaise with Mr Dells' son, and assisted him with the arrangements for his father's funeral.

57. Mr Dells' funeral took place on 31 July, and the prison contributed towards the costs in line with national policy.

58. The prison have since confirmed that they did not have any contact details for Mr Dells' family, and that he was aware they wanted nothing to do with him. They only obtained contact details following Mr Dells' death through victim liaison.

59. At the time of his conviction, Mr Dells' family stated that they wanted no further contact with him. While we accept he believed that they wanted nothing to do with him, we consider that the prison should have done more to establish contact through the victim liaison officer, given Mr Dells' request they be informed of his condition. It appears from events following Mr Dells' death that his family did want to be involved, and an opportunity may therefore have been missed.

The Governor at HMP Stafford should ensure that when a prisoner is diagnosed with a terminal illness, his next of kin details are kept up to date and that his family are informed of his condition, especially when the prisoner requests this.

Compassionate release

60. Release on compassionate grounds is a means by which prisoners who are seriously ill, usually with a life expectancy of less than three months, can be permanently released from custody before their sentence has expired. A clear medical opinion of life expectancy is required. The criteria for early release for determinate sentenced prisoners are set out in Prison Service Order (PSO) 6000. Among the criteria is an expectation that any risk of re-offending is minimal, further imprisonment would reduce life expectancy, adequate arrangements for the prisoner's care and treatment outside prison are in place, and release would benefit the prisoner and his family. An application for early release on compassionate grounds must be submitted to the Public Protection Casework Section (PPCS) of the Her Majesty's Prisons and Probation Service (HMPPS).

61. On 5 July, a nurse discussed end of life care with Mr Dells, who expressed his wish not to die in prison. Mr Dells stated his preference was to be located in either a hospital or hospice.

62. On 14 July, the Head of Offender Management, emailed the OMU Hub Manager instructing her to start the compassionate release application for Mr Dells. Unfortunately, Mr Dells died before the application could be submitted.

63. While we acknowledge that Mr Dells' condition remained relatively stable in the period immediately following his terminal diagnosis, we consider that the process of making his compassionate release application should have been started sooner. We are concerned that the prison did not take any pro-active steps to prepare the application in advance, or to discuss it with Mr Dells before the

noticeable deterioration in his condition either at the time of his terminal diagnosis or towards the end of June. We are also concerned that despite this deterioration, the instruction to start this paperwork was not given for a further two weeks.

The Governor should ensure that appropriate priority is given to dealing with applications for compassionate release for terminally ill prisoners and that they are submitted without delay.

Mr Dells' industrial injuries referral

64. On 16 December 2016, the hospital called the nurse and explained that anyone with an asbestos-related illness would normally be referred to Asbestos Support West Midlands. This was in respect of any possible industrial injuries compensation claim. At a multi-disciplinary team meeting held on 21 December, it was agreed that Mr Dells should be referred. On 6 January 2017, she discussed this with Mr Dells who said he was happy to be referred, but that he had mostly worked on farms and denied any occupational exposure to asbestos. On 2 March, Mr Dells declined an invitation to meet with someone from Asbestos Support.

65. On 13 July, a nurse recorded that someone from the hospital had called to check whether Mr Dells wanted to make a claim in respect of asbestos-related illness. It was intended that this question would be followed up by Mr Dells' offender supervisor, but unfortunately Mr Dells fell ill before this could be done.

66. The prison initiated this referral process and obtained Mr Dells' consent in a timely manner. When Mr Dells declined to pursue a claim, the prison suspended the process but planned to review this decision at a later date. We consider that the prison acted appropriately.

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