Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Thomas Spence a prisoner at HMP Wakefield on 1 February 2018

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 Thomas Spence died on 1 February 2018 of organ failure while a prisoner at HMP Wakefield. He was 77 years old. I offer my condolences to Mr Spence's family and friends.

Mr Spence received a good standard of clinical care at Wakefield. Staff treated him with respect and agreed an appropriate end of life care plan. I am satisfied that Mr Spence received care equivalent to that which he could have expected to receive in the community.

Although Mr Spence's behaviour posed some challenges, I question whether the use of restraints during hospital visits was necessary or proportionate given that Mr Spence was using a wheelchair and he was already being escorted by three officers.

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 **June 2018**

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Summary

Events

1. On 6 April 2011, Mr Spence was sentenced to 16 years imprisonment for sexual offences and was sent to HMP Durham. He was transferred to HMP Wakefield on 28 June 2011.

2. Mr Spence had several significant physical health issues including cardiovascular disease, hypertension, glaucoma and peripheral vascular disease. Mr Spence had also had surgery to repair his abdominal aorta. In view of his physical health history and needs, healthcare staff reviewed Mr Spence frequently and prison staff facilitated his hospital appointments.

3. On 27 January 2018, Mr Spence was admitted to hospital with suspected sepsis (blood poisoning) following an infected abdominal aortic graft (a repair to the main blood vessel that runs from the heart to the stomach). Mr Spence did not respond to treatment and the hospital began palliative care when his condition deteriorated. Mr Spence was discharged from hospital to receive end of life care in the palliative care suite at Wakefield on 30 January.

4. On 1 February 2018, at 5.10pm a nurse completing clinical observations noted that Mr Spence had stopped breathing and did not have a pulse. A GP confirmed at 6.10pm that Mr Spence had died.

Findings

5. The clinical reviewer found that Mr Spence received a good standard of clinical care at Wakefield. There were regular reviews of his mobility, nutrition, skin, clinical observations and ongoing support. There was a timely referral to gastroenterology and vascular teams and his attendance at outpatient appointments was properly facilitated. Holistic care was further demonstrated when it became evident that Mr Spence required palliative care. Consideration was given to his preferred place of care, spirituality, family and symptom control with relevant referral to the specialist palliative care nurse.

6. Healthcare staff followed specialist advice, reviewed Mr Spence frequently and treated his condition appropriately. Palliative and end of life care was good. We are satisfied that the care Mr Spence received was equivalent to that which he could have expected to receive in the community.

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7. We are, however, concerned that risk assessments lacked meaningful healthcare input and that restraints were used in addition to Mr Spence being escorted by three officers when taken to hospital for treatment. We question whether this was appropriate given Mr Spence was 77 years old, in poor physical health and condition and used a wheelchair. We are unclear why restraints were considered necessary and proportionate to the risks he posed, over and above the control already available through the escorting officers.

Recommendations

- The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital fully understand the legal position and that risk assessments show clear justification for the use of restraints.

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The Investigation Process

8. The investigator, issued notices to staff and prisoners at HMP Wakefield 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 Spence's prison and medical records.

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

11. We informed HM Coroner for Wakefield of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

12. The investigator wrote to Mr Spence's friend 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.

13. The investigation has assessed the key issues involved in Mr Spence'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.

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Background Information

HM Prison Wakefield

14. HMP Wakefield is a high security prison and holds up to 750 men. There are four main residential wings, a healthcare centre, a segregation unit and a close supervision centre (a small unit aiming to provide a supportive, safe, structured and consistent environment for some of the most challenging offenders).

15. Care UK provides healthcare provision at Wakefield. There is a dedicated palliative care suite in the healthcare unit.

HM Inspectorate of Prisons

16. The last inspection of HMP Wakefield was in July 2014. Inspectors found that health services were good overall but some parts of the healthcare environment, including the inpatient unit, were poor. Primary care services were very good and had an appropriate emphasis on the care of patients with long-term conditions.

Independent Monitoring Board

17. 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 their latest annual report, for the year to April 2016, the IMB reported that weekly visits to the healthcare departments found the care and treatment of prisoners to be of a very high quality, and they continued to be impressed by the professionalism of the staff.

Previous deaths at HMP Wakefield

18. Mr Spence was the twelfth prisoner to die from natural causes at Wakefield since January 2016. There were no significant similarities with the other deaths. However, we have previously made recommendations to Wakefield regards appropriate risk assessment when considering the use of restraints.

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Findings

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

19. On 6 April 2011, Mr Spence was sentenced to 16 years imprisonment for sexual offences and was sent to HMP Durham. He was transferred to Wakefield on 28 June 2011.

20. On 27 January 2018, Mr Spence was admitted to hospital with suspected sepsis (blood poisoning) following an infected abdominal aortic graft (a repair to the main blood vessel that runs from the heart to the stomach). Mr Spence did not respond to treatment and the hospital began palliative care when his condition deteriorated. Mr Spence was discharged from hospital to receive end of life care in the palliative care suite at Wakefield on 30 January.

Mr Spence's clinical care

21. During an initial reception screen at HMP Durham on 6 April 2011, a nurse recorded that Mr Spence was receiving treatment for hypertension (high blood pressure) and had peripheral vascular disease (narrowing of the blood vessels) and was in receipt of medication. He had also had an abdominal aortic graft although it is not clear when this surgery took place. She recorded that Mr Spence mobilised with the aid of crutches, following the amputation of his big toe due to gangrene, a consequence of his poor circulation. She arranged a GP appointment and assessed him as suitable for in-possession medication. While at Durham, Mr Spence was seen regularly by nursing staff and GPs.

22. On 28 June 2011, Mr Spence was transferred to HMP Wakefield. On arrival, during a reception screen, a nurse reviewed Mr Spence's records from Durham and noted his current medications and physical health needs. Mr Spence told her that, despite his mobility issues, he could carry out daily activities independently. She arranged for a follow up appointment with the GP and Mr Spence raised no other concerns. Between 2011 and end of 2016, Mr Spence was seen by nursing staff and GPs for minor ailments, regular reviews of his blood pressure and as part of the over 65 care plan, with no significant concerns being raised.

23. On 19 January 2017, Mr Spence attended a routine blood clinic with a nurse. She recorded that Mr Spence appeared to have visibly lost weight. Mr Spence told her that he had not been eating as much recently, because he was waiting for his false teeth to be fitted by the dentist, but he was eating small amounts. Mr

Spence declined to be weighed but she made an appointment for him be weighed by nursing staff.

24. On 7 February, a nurse discussed Mr Spence's weight loss with the nursing sister and it was agreed that build-up drinks would be prescribed. Mr Spence agreed to take these in the mornings when he collected medication.

25. Mr Spence was seen by a nurse on 14 March, as part of his hypertension disease management. Mr Spence told the nurse he was waiting to see a GP about his weight loss but was receiving build-up drinks, and was due to see a dentist about his teeth. Mr Spence said that he had no other concerns and felt well in himself.

26. On 28 March, a prison GP reviewed Mr Spence. Due to his continued weight loss and medical history the prison GP referred Mr Spence to the colorectal department at hospital under the NHS pathway, which requires patients with suspected cancer to be seen by a specialist within two weeks.

27. A nurse visited Mr Spence on the residential wing on 2 April because he had not attended for his medication. She recorded that he was generally unwell, and that she planned for him to be moved to the healthcare inpatients for monitoring and support. Over the next two weeks nursing staff monitored Mr Spence closely and he appeared to improve. Mr Spence attended an appointment in the gastroenterology department at hospital on 13 April. Further appointments were planned for Mr Spence to have a gastroscopy, colonoscopy and MRI scan.

28. On 20 April, a prison GP assessed Mr Spence and recorded that he was eating well and had gained some weight. He noted that Mr Spence could return to a residential wing if he continued with regular weight measurements. He also noted that Mr Spence was awaiting a colonoscopy but was aware that he should continue with the investigations, despite his weight gain. Mr Spence returned to the residential wing the following day.

29. The hospital cancelled several outpatient appointments (due to hospital pressures) for Mr Spence to have his colonoscopy during May. He attended hospital for a CT scan on 5 June, with the colonoscopy being completed on 26 June.

30. On 21 July, a prison GP recorded that a letter received from the gastroenterology clinic indicated no cancer had been identified, but there was inflammation around Mr Spence's aorta and suggested pulmonary fibrosis (scarring of the lungs). He

recorded that the inflammation would explain Mr Spence's weight loss and that he would task a GP to refer him for a review by a vascular surgeon.

31. On 20 August, a nurse visited Mr Spence in his cell at the request of wing staff. She recorded that there was a strong odour in the cell and Mr Spence appeared generally unwell. She asked him if he would like to be moved to the inpatients department for a period of respite and Mr Spence agreed. He was moved to the inpatient unit later that afternoon.

32. On 23 August, Mr Spence's health deteriorated further and he was taken to hospital. Following an examination, he was transferred to another hospital for treatment. A CT scan identified that Mr Spence had an infected aortic graft and he was placed on intravenous antibiotics. He remained in hospital until 1 September, when he was transferred to the inpatients unit at Wakefield.

33. On his return, it was noted that Mr Spence still needed intravenous antibiotics every other day and that he had had a catheter inserted at hospital for this purpose. A nurse assessed Mr Spence on his return to Wakefield and noted that he appeared weak and frail on his feet but was making use of his wheelchair. Mr Spence expressed no immediate concerns and she told him to alert the nursing staff if he had any concerns during the night.

34. Mr Spence continued to be monitored closely in healthcare and over the following three weeks his health continued to improve. On 22 September, he attended hospital to have his catheter re-inserted. He returned to hospital again on 28 September for a CT scan.

35. On 29 September, Mr Spence's blood pressure was noted to be high and due to concerns with his presentation, he was taken to the accident and emergency department at hospital. He was seen by a consultant who concluded that in his opinion, the machine used to measure Mr Spence's blood pressure was faulty. Mr Spence was discharged from hospital.

36. On 4 October, Mr Spence was again transferred by emergency ambulance to hospital after having a suspected stroke. He had a CT scan and chest x-ray, both of which indicated no abnormalities. He was returned to Wakefield the same day.

37. Nurses continued to monitor Mr Spence closely and recorded that he had become confused, was displaying strange behaviour and becoming aggressive. On 5 October, a prison GP was asked to see Mr Spence and recorded that Mr Spence had had a fall in his cell and hit his head. He believed that this was

connected to the change in his behaviour, and said that Mr Spence should be taken to hospital for further investigation.

38. Mr Spence refused to attend hospital but the prison GP recorded that Mr Spence did not have capacity to make such a decision and it was in his best interests to attend. A governor, spoke to Mr Spence and he agreed to comply and was taken to hospital. Mr Spence was discharged from hospital the following day. He continued to be supported and monitored in the inpatient unit.

39. The healthcare team at Wakefield remained in contact with the vascular team at hospital about Mr Spence's care and treatment. The recent CT scan had indicated 'kinks' in Mr Spence's aortic graft that might have been responsible for his recent ill health. Staff at the hospital indicated that his ongoing treatment would be discussed and the prison would be informed as soon as a decision had been made.

40. Despite Mr Spence stating that he wished to return to a residential wing, he remained in the inpatient unit. He was monitored closely and was recorded as having periods of confusion and shortness of breath but was also in good spirits and interacting with other patients.

41. On 14 December, Mr Spence had a fall in his cell, fracturing his hip, and was taken to hospital. He remained in hospital until 20 December. When he returned to Wakefield, it was recorded that he was confused and disorientated and continued to be supported by nursing staff. Due to his hospital admission he missed his appointment for his infected aortic graft and the prison attempted to reschedule it as priority.

42. Over the next few days, Mr Spence improved slightly, with nursing staff recording that he no longer appeared confused and was engaging well. Nursing staff continued daily care as part of the care plans in place for him. Mr Spence continued to be compliant with treatment but he was generally unwell and frail. This resulted in several out-patient appointments being cancelled because he was too ill to attend.

43. On 27 January, Mr Spence was again recorded as being confused and as his health had deteriorated he was transferred to hospital for further treatment. Mr Spence underwent further tests and the hospital informed Wakefield that a Do Not Resuscitate (DNR) instruction had been put in place for him.

44. On 29 January, the healthcare team at the prison were informed by the specialist at hospital that Mr Spence needed a CT scan of his abdomen. However, it was

felt that his kidneys would not be able to cope with invasive treatment and he would continue to be treated with intravenous antibiotics. The specialist indicated that if Mr Spence did not respond to treatment after 48 hours, he would be treated as palliative.

45. Mr Spence did not respond to treatment and on 30 January he was transferred back to Wakefield and was located in the palliative care suite. Mr Spence was recorded as being very unwell and nearing the end of his life. Nursing staff continued to monitor him and made him as comfortable as possible in line with the end of life care plan that had been put in place.

46. At 5.10pm on 1 February, staff making a routine check on Mr Spence, found him in bed and not breathing. Nursing staff confirmed that he had no pulse and in line with the DNR instruction, no attempts at resuscitation were made. On 1 February, at 6.10pm, a prison GP confirmed that Mr Spence had died.

47. The clinical reviewer found that Mr Spence received a high standard of care at Wakefield, equivalent to that which he could have expected to receive in the community.

Mr Spence's location

48. Despite his desire at times to return to a residential wing, after his condition deteriorated, Mr Spence remained in the inpatient unit as the most appropriate place for care to be delivered. When his condition deteriorated further, his admission to the prison's palliative care suite was arranged. We are satisfied that Mr Spence was appropriately located while at Wakefield.

Restraints, security and escorts

49. When prisoners have to travel outside 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.

50. A High Court judgement in 2007 highlighted a number of factors that prisons should consider when deciding upon the use of restraints. These included addressing the risk of escape (and the risk to the public in the event of an escape) posed by a prisoner when fit, and those risks posed by the same prisoner when suffering from a serious medical condition. Medical opinion

regarding the prisoner's ability to escape must therefore be considered as part of the assessment process.

51. When Mr Spence attended outpatient appointments, three staff escorted him using an escort chain (an escort chain is a long chain with a handcuff at each end, one of which is attached to a prison officer). A full risk assessment which stated that it had taken into account the High Court judgement indicated that he presented a high risk to the public and a medium risk to hospital staff based on his offending history and failure to his accept his offence. There were no medical objections to the use of restraints, although a full explanation was not provided. The restraints were removed during treatment.

52. It is the Governor's responsibility to ensure that the risk assessment process is managed properly, that there is meaningful input from healthcare staff and that there is a clear justification for any use of restraints. We do not take issue with the risk associated with his index offence or previous behaviour, but we are not clear that the requirements of the High Court judgement were fully met, in particular that there was proper consideration of the impact of Mr Spence's physical condition on his risk to the public or of escape.

53. We query whether the use of restraints was appropriate given Mr Spence was a 77-year-old man who used a wheelchair and was showing signs of deterioration, and we question why restraints were considered necessary and proportionate over and above the control already available through the escorting officers.

54. When Mr Spence broke his hip on 14 December, and during his later admission to hospital, appropriately, restraints were not used. Healthcare staff indicated that restraints were not suitable or required due to his condition. We are satisfied that the prison's risk assessments on these occasions fully considered the medical implications for use of restraints.

55. We make the following recommendation:

The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital fully understand the legal position and that risk assessments show clear justification for the use of restraints.

Liaison with Mr Spence's family

56. An officer was appointed as the prison family liaison officer (FLO), contacted Mr Spence's friend who was nominated as his next of kin on 31 January, to inform her of his condition and prognosis. Mr Spence's friend said that she was fully aware of the situation. She decided that she did not wish to visit but agreed the prison would keep her updated by telephone. Due to the nature of Mr Spence's offences, the police contacted other family members to make them aware of his condition. On 1 February 2018, the prison appointed another member of staff as the family liaison officer (FLO).

57. On 1 February, the prison telephoned Mr Spence's friend to inform her that he had died. On 8 February, the FLO visited her to offer support and advice and to assist with funeral arrangements. The prison paid for Mr Spence's funeral in line with national policy.

58. We are satisfied that the prison's liaison with Mr Spence's next of kin was satisfactory.

Compassionate release

59. 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.

60. Due to Mr Spence's end of life needs and quick deterioration, release on compassionate grounds would not have been achievable in the limited amount of time available.