

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Roger Benson a prisoner at HMP Moorland on 19 July 2016

**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*



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

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 Roger Benson died on 19 July 2016 of cancer of the adrenal gland while a prisoner at HMP Moorland. He was 77 years old. I offer my condolences to Mr Benson's family and friends.

The investigation found that the clinical care Mr Benson received at HMP Leeds and Moorland was equivalent to that he could have expected to receive in the community. However, I am disappointed at the way in which Mr Benson's transfer from Leeds to Moorland was managed and that both prisons should have implemented more detailed end of life care plans.

I am also concerned that Mr Benson's deteriorating health was not taken into consideration when making the decision to restrain him upon his final admission to hospital.

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

February 2017

Contents

Summary	1
The Investigation Process	3
Background Information	4
Findings	6

Summary

Events

1. On 21 October 2015, Mr Roger Benson was convicted of sexual offences and sent to HMP Leeds. He was later sentenced to five years imprisonment.
2. When he arrived at Leeds, Mr Benson told healthcare staff that he had several existing medical conditions, including coronary heart disease, diabetes, and hypertension (high blood pressure); and, in 2011, he had been diagnosed with cancer in his adrenal glands and bones, for which he was receiving palliative treatment. Doctors prescribed medication and healthcare staff regularly monitored him for all these conditions.
3. On 7 January 2016, an oncology consultant saw Mr Benson and informed him that the cancer had spread to his liver, and spine.
4. Mr Benson asked to be moved to HMP Moorland to complete certain offending behaviour courses and, on 13 May, he was transferred from Leeds to Moorland. However, in arranging this move, Leeds overlooked a clinical hold and failed to provide Moorland with a comprehensive summary of Mr Benson's healthcare needs. An initial health screen at Moorland, Mr Benson indicated that he could walk independently and was able to care for himself. He was prescribed his medication and scheduled for fortnightly reviews.
5. From 10 June, Mr Benson began to spend extended periods in bed. On 17 July, a nurse noted that Mr Benson's health had quickly deteriorated and arranged for him to be admitted to hospital. He died in hospital on 19 July.

Findings

6. Overall, we are satisfied that Mr Benson's care at Leeds and Moorland was equivalent to that he could have expected to receive in the community, though the clinical reviewer noted that while Mr Benson was not given a formal prognosis, his cancer was incurable and there was no evidence that either prison implemented an end of life care plan.
7. We found that the way Mr Benson's transfer from Leeds to Moorland was managed was poor. Healthcare staff at Leeds did not communicate his needs to Moorland, and therefore they were not prepared for his arrival.
8. We found that there was no medical input in the decision to restrain Mr Benson when he was transferred to hospital on 17 July.

Recommendations

- The Heads of Healthcare at HMP Leeds and HMP Moorland should ensure that end of life and palliative care plans are initiated at an appropriate stage, for prisoners who are diagnosed with a terminal illness. They should include all aspects of a patient's care, including effective pain relief and psychological and emotional support. Plans should be discussed with the patient and their family and regularly reviewed.

- The Head of Healthcare at HMP Leeds should ensure that, in line with PSO 3050, there are comprehensive and well recorded handovers to ensure continuity of care when prisoners with significant health issues transfer to other prisons.
- The Governor and Head of Healthcare at HMP Moorland should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

The Investigation Process

9. The investigator issued notices to staff and prisoners at HMP Moorland 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 Benson's prison and medical records.
11. NHS England commissioned a clinical reviewer to review Mr Benson's clinical care at the prison.
12. We informed HM Coroner for South Yorkshire East District 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 investigation has assessed the main issues involved in Mr Benson'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.
14. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies and their action plan is annexed to this report.

Background Information

HMP Moorland

15. HMP Moorland holds up to 1,000 men. Nottinghamshire Healthcare NHS Trust runs healthcare services at the prison, including primary care, mental health and substance misuse services. The prison does not have an inpatient facility or full time nursing cover.

HM Inspectorate of Prisons

16. The most recent inspection of HMP Moorland was in February 2016. Inspectors reported that healthcare staffing levels and the skill mix were appropriate, but high demand and continuing vacancies had placed significant pressure on frontline staff. A dedicated lead for older people had recently been identified, but prisoner needs had not been fully assessed.

Independent Monitoring Board HMP Moorland

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 its latest annual report, for the year to February 2016, they reported that they were concerned about the number of external hospital appointments cancelled due to staff shortages. They were also concerned about the number of internal appointments cancelled due to lack of notification and staff shortages.

Previous deaths at HMP Moorland

18. Mr Benson was the third person to die of natural causes at Moorland since January 2015. There are no significant similarities with the circumstances of previous deaths.

HMP Leeds

19. HMP Leeds is a local prison holding up to 1,219 men. Care UK runs primary healthcare services. The prison has an inpatient facility with 24-hour nursing care.

HM Inspectorate of Prisons Leeds

20. The most recent inspection of HMP Leeds was in December 2015. Inspectors commented that the health provision had declined since their last inspection but outcomes for prisoners remained reasonable overall. Waiting times for most clinics were acceptable except for the optician. Chronic disease management arrangements were impressive. Primary mental health services were limited and focused on crisis management but specialist secondary mental health services were generally effective.

Independent Monitoring Board HMP Leeds

21. In its latest report for the year to December 2015, the IMB reported that while not perfect, the health and social care provision within the prison had improved in the last twelve months despite the increased workload.

Previous deaths at HMP Leeds

22. Four people have died of natural causes at Leeds since January 2015. There are no significant similarities with the circumstances of previous deaths.

Findings

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

23. On 21 October 2015, Mr Roger Benson was convicted of sexual offences and sent to HMP Leeds. On 13 November, Mr Benson was sentenced to five years and was returned to HMP Leeds.
24. On admission to Leeds, Mr Benson told a nurse that he had suffered poor health for many years, with a history of coronary heart disease, diabetes, hypertension (high blood pressure) and a large central abdominal scar that was at risk of rupture. He also confirmed that in 2011, doctors had diagnosed him with malignant metastatic phaeochromocytoma (an incurable cancer that mainly develops in the adrenal gland). A healthcare professional measured his weight at 97.9kg. Taking into consideration his varying health concerns, a doctor added Mr Benson to the complex care review meetings.
25. Mr Benson was not on any medication aimed at treating his cancer, as it was incurable. However, he was prescribed pain relief.
26. On 27 October, a clinical support worker reviewed Mr Benson's hospital appointments for cancer. He was due an annual review in the department of oncology at a hospital in April 2016. This appointment was brought forward to 7 January.
27. On 5 November, a prison doctor asked Mr Benson about his resuscitation wishes and Mr Benson said that he wanted to be resuscitated if his heart or breathing stopped.
28. The next significant entry in Mr Benson's medical record was on 21 December when a nurse examined Mr Benson and recorded that he had lost 6.9kg since he was weighed two months previously.
29. On 7 January 2016, Mr Benson attended an oncology appointment in hospital. During the appointment, an oncology consultant told Mr Benson that tests from May 2015 showed that the cancer had spread to his liver and possibly his bones. The oncology consultant confirmed this in a letter, received at the prison on 19 January, and suggested a conservative approach to treatment, aimed at the relief of his symptoms and pain. The consultant planned to review Mr Benson again in six months time.
30. Mr Benson arrived in prison with an incurable form of cancer and the clinical reviewer felt that healthcare staff provided him with appropriate medication and pain relief when required. They also managed Mr Benson's hospital appointments well and allowed him to attend as required.

Mr Benson's clinical care

31. On 19 January, a prisoner told a healthcare professional that Mr Benson had been in bed all day and that other prisoners were worried about him. The healthcare professional asked for social care to assess Mr Benson and for a copy of his latest clinic letter to be obtained from the hospital.

32. Two days later, a multidisciplinary team meeting discussed Mr Benson and recorded that he was well. The meeting decided to wait on confirmation from the hospital about future treatment. There was no record that further multidisciplinary team meetings took place after this date.
33. On the same date, a nurse discussed his recent hospital appointment with Mr Benson. He said that he was in good spirits and that he could wash and dress himself without any assistance. The nurse told Mr Benson that he should talk to prison officers if he needed any help.
34. On 17 February, a nurse measured Mr Benson's weight at 86.0kg.
35. On 2 May, Mr Benson complained of a 'bony' pain in his arm to a nurse. He said that he had taken paracetamol but wanted stronger pain relief. The nurse arranged for a GP appointment but Mr Benson did not have the appointment before being moved to HMP Moorland on 13 May.
36. Two days after his transfer, a nurse undertook a comprehensive health assessment. Mr Benson could walk independently, and she recorded that he was fully independent with all activities of daily living. Mr Benson told the nurse that he had lost approximately three stone over the last six months, his appetite had reduced and he was complaining of pain in his hip. The nurse planned for a prison GP to review Mr Benson and for healthcare staff to perform fortnightly complex case reviews to assess his weight and food intake. A prison doctor reviewed Mr Benson, on 20 May, and prescribed an ibuprofen gel.
37. Mr Benson's weight continued to drop and, on 26 May, he told a nurse that he had stomach pain and trouble eating. She measured his weight at 76.4kg and noted that he was due to see a GP about his weight. On 10 June, a prison doctor prescribed a fortisip drink (an oral nutritional supplement).
38. On the same day, a nurse saw Mr Benson because a prison officer said that he was spending a lot of time in bed. She checked for pressure sores and noted that his mobility was slightly limited. On 1 July, a tissue viability nurse implemented a skin care plan to prevent pressure sores, which healthcare staff checked weekly.
39. A prison doctor met Mr Benson on 5 July and reviewed his nutritional intake as he continued to lose weight. The doctor increased his fortisip prescription to three per day and placed him on a high energy and protein diet. The doctor also contacted Mr Benson's oncology consultant and asked him to review him.
40. On 14 July, a nurse saw Mr Benson because he was moving to a larger cell, with a cellmate who was willing to act as a carer. She recorded that he walked occasionally and that his mobility was slightly limited.
41. Three days later, a nurse saw Mr Benson but noted that he seemed very unwell. She spoke to his cellmate who said that Mr Benson's health and appetite had declined in the last 24 hours. Due to the rapid decline in his health, the nurse sent Mr Benson to hospital.
42. Mr Benson remained in hospital until his death on 19 July.

43. A post-mortem examination found that the cause of Mr Benson's death was cancer of the adrenal gland, which had progressed and spread to a large part of the liver.
44. We agree with the clinical reviewer that, overall, Mr Benson's condition was well managed at Leeds and Moorland and equivalent to that he could have expected to receive in the community. However, as Mr Benson suffered with incurable cancer, which had spread to his liver and bones, the clinical reviewer felt that both prisons missed several opportunities to implement the Gold Standard Framework (a model of good practice that enables a 'gold standard' of care for all people who are nearing the end of their life). The clinical reviewer felt that healthcare staff should have supported Mr Benson through a change in diagnosis and engage in holistic end of life planning. We make the following recommendation:

The Heads of Healthcare at HMP Leeds and HMP Moorland should ensure that end of life and palliative care plans are initiated at an appropriate stage, for prisoners who are diagnosed with a terminal illness. They should include all aspects of a patient's care, including effective pain relief and psychological and emotional support. Plans should be discussed with the patient and their family and regularly reviewed.

Mr Benson's location

45. Mr Benson served the first part of his sentence in Leeds, and requested a transfer to Moorland to complete certain offending behaviour courses. He was moved on 13 May 2016, despite having been on a medical hold since 18 January. (A medical hold means being withheld from transfer for a period of time for clinical reasons.)
46. Upon his arrival at Moorland, a prison manager questioned Mr Benson's transfer. She told the investigator that Moorland were unaware that Mr Benson was coming, and received no medical information prior to his arrival. As the prison does not have an inpatient facility, the prison manager wanted to transfer Mr Benson back to Leeds but he asked to remain because he had found the journey to the prison distressing and painful, and he was happy with the care he was receiving there.
47. Prison Service Order (PSO) 3050 'Continuity of Healthcare for Prisoners' states that continuity of care is essential to patient care and central to good practice. It states that patients with more complex healthcare needs may require more detailed planning such as communicating directly with the receiving healthcare team in advance of transfer.
48. While it was Mr Benson's choice to be transferred to Moorland, we are concerned that there was no evidence that healthcare staff at Leeds discussed the medical hold issue with Mr Benson or that they gave healthcare staff at Moorland information about his complex healthcare needs. In doing so, they ignored the provision from PSO 3050. We make the following recommendation:

The Head of Healthcare at HMP Leeds should ensure that, in line with PSO 3050, there are comprehensive and well recorded handovers to ensure

continuity of care when prisoners with significant health issues transfer to other prisons.

Restraints, security and escorts

49. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility. A judgment in the High Court in 2007 made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. The judgment indicated that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change.
50. On 17 July, Mr Benson went to hospital as a non-emergency following a clear deterioration in his health. An escort risk assessment showed that Mr Benson was assessed as low risk of escape, hostage taking, likelihood of outside assistance and medium risk to the public. In the medical section of the risk assessment, an unidentified person confirmed that there were no objections to the use of restraints but that Mr Benson had medical conditions that would influence the risk of escape. As a result of this assessment, a prison manager authorised two officers to accompany Mr Benson and restrain him with handcuffs for the journey to hospital and an escort chain once in hospital. (An escort chain is a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer.)
51. The following day, a prison manager authorised the removal of restraints because Mr Benson had terminal cancer and there were no immediate indications that he presented a risk of escape or to the public. Officers did not use restraints again.
52. Although the Prison Service has responsibility to protect the public, security must be balanced with humanity. We are not satisfied that the use of restraints was justified by risk assessments that fully considered Mr Benson's diminished health and mobility. While the prison quickly removed the restraints, we are disappointed that they were used on 17 July. Healthcare staff noted a clear decline in Mr Benson's condition and mobility and we, therefore, are not satisfied that the prison had appropriately distinguished his risk of escape in light of his significant medical conditions. We make the following recommendation:

The Governor and Head of Healthcare at HMP Moorland should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

Liaison with Mr Benson's family

53. When Mr Benson first arrived at Moorland, a prison manager asked whether he wanted her to contact his family to discuss his move, and current state of health. She told the investigator that he was insistent that he did not want his illness discussed with his family, as although they were aware of his illness he did not want them to worry.
54. On 17 July, when he was admitted to hospital, the prison manager was appointed as the family liaison officer and made contact with Mr Benson's family. At his daughter's request, the prison manager arranged for the chaplaincy team to make contact with her.
55. At 7.05pm on 19 July, following Mr Benson's death, the prison manager visited Mr Benson's daughter at the hospital to offer her condolences and support. The prison manager remained in contact with Mr Benson's family, offering both practical and emotional support.
56. Mr Benson's funeral took place on 2 August, and the prison contributed towards funeral costs in line with national policy.

Compassionate release

57. 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.
58. Despite suffering from incurable cancer, Mr Benson was not given a prognosis and Moorland did not start an application for release on compassionate grounds. We consider that this was reasonable in these circumstances.

**Prisons &
Probation**

Ombudsman
Independent Investigations