

**Prisons &  
Probation**

**Ombudsman**  
Independent Investigations

# Independent investigation into the death of Mr Anthony Fox a prisoner at HMP Lindholme on 27 December 2017

**A report by the Prisons and Probation Ombudsman**

PO Box 70769  
London, SE1P 4XY

Email: [mail@ppo.gsi.gov.uk](mailto:mail@ppo.gsi.gov.uk)  
Web: [www.ppo.gov.uk](http://www.ppo.gov.uk)

T | 020 7633 4100  
F | 020 7633 4141

## 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 2017

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](http://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](mailto: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 I oversee can improve their work in the future.

Mr Anthony Fox died in hospital of stomach cancer on 27 December 2017, while a prisoner at HMP Lindholme. He was 58 years old. I offer my condolences to Mr Fox's family and friends.

I am satisfied that the healthcare Mr Fox received at HMP Lindholme was good and equivalent to that which he could have expected to receive in the community.

However, I am concerned that restraints were inappropriately used on Mr Fox during his visits to hospital for treatment and when he was admitted to hospital a week before his death.

I am also concerned that Mr Fox's family did not receive continuous support from the prison's family liaison team from the point of his terminal diagnosis until his death.

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**

**August 2018**

## **Contents**

Summary .....	1
The Investigation Process .....	2
Background Information .....	3
Findings .....	4

# Summary

## Events

1. Mr Anthony Fox was serving an eight-year prison sentence for drug offences. He had been at HMP Lindholme since 22 March 2016.
2. On 1 October 2017, Mr Fox collapsed and was attended to by a nurse. He said that he was having difficulties breathing, and was given oxygen. As a precaution he was transferred to Doncaster Royal Infirmary.
3. On 4 October, Mr Fox was discharged from hospital, where he had been diagnosed with stomach cancer. On 12 October, at a follow-up hospital appointment, he was notified that the cancer was incurable and inoperable and he was given a prognosis of six to 12 months to live.
4. Between 1 November and 14 November, Mr Fox underwent five courses of radiotherapy at Doncaster Royal Infirmary.
5. On 20 December, Mr Fox's condition deteriorated and healthcare staff sent him to hospital by ambulance. Mr Fox's health continued to deteriorate and, on 27 December, he died.

## Findings

6. The clinical care Mr Fox received was equivalent to that which he could have expected to receive in the community. The clinical reviewer considered that Mr Fox's clinical care was of a high standard.
7. We are concerned that, despite Mr Fox's poor health, restraints were used both when he went to hospital for radiotherapy, and when he was admitted to hospital on 20 October, when they were not removed until the following day. We are not satisfied that the use of restraints was justified by a fully considered risk assessment.
8. We are also concerned that Mr Fox's family were not updated or offered support by the prison's family liaison officer for the two months before his death.

## Recommendations

- The Governor and Head of Healthcare 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 Governor should ensure that the next of kin are continuously supported and regularly updated by the appointed prison liaison officer until support is no longer required.

## The Investigation Process

9. The investigator issued notices to staff and prisoners at HMP Lindholme 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 Fox's prison and medical records.
11. NHS England commissioned a clinical reviewer to review Mr Fox's clinical care at the prison.
12. We informed HM Coroner for South Yorkshire of the investigation. She gave us the results of the post-mortem examination and we have sent the coroner a copy of this report.
13. The investigator wrote to Mr Fox's daughter to explain the investigation and to ask whether she had any matters she wanted the investigation to consider. She responded to our initial letter; however, we have not had any further contact. Mr Fox's family received a copy of the initial report. They did not raise any issues, or comment on any factual accuracies of the report.
14. The investigation has assessed the main issues involved in Mr Fox'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.
15. 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. The action plan has been annexed to this report.

# Background Information

## HMP Lindholme

16. HMP Lindholme is a medium security prison near Doncaster, which holds 1,015 men. Care UK provides healthcare services and healthcare staff are on duty between 7.30am and 7.30pm every day.

## HM Inspectorate of Prisons

17. The most recent inspection of HMP Lindholme was conducted in October 2017. NHS England had commissioned Care UK Health and Rehabilitation Services Ltd (Care UK) to provide all health services since 1 September 2017. Inspectors reported that the level of engagement of health services supervision staff was excellent. Clinical records were mostly good. Good interactions between health services staff and patients were observed. The monitoring and management of external hospital appointments had improved but remained problematic. Delayed GP access affected the timeliness of referrals. Care UK was providing more regular GP sessions than the previous provider but a large backlog had resulted in excessive waiting times, of around five weeks, for routine appointments. The identification and management of prisoners with complex health needs were generally good. Inspectors reported that the Care Quality Commission (CQC) had identified a number of areas that required improvement, and that the CQC had requested further information from the provider and would be monitoring progress.

## Independent Monitoring Board

18. 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 January 2017, the IMB reported major concerns with prison staffing at senior and junior levels. Senior nursing, managerial and medical staff had left or were currently leaving their posts. This was affecting the planning and resilience of the services provided.

## Previous deaths at HMP Lindholme

19. Mr Fox was the second person to die of natural causes at HMP Lindholme since January 2016. There are no similarities between the two deaths.

# Findings

## Diagnosis of Mr Fox's terminal illness and informing him of his condition

20. Mr Anthony Fox had been in custody since 2015 and was serving an eight-year prison sentence for drug offences. He had been at HMP Lindholme since 22 March 2016. Mr Fox had suffered poor health since 2012. He had had a heart attack in 2012 and had been diagnosed with heart disease in 2013. Mr Fox also required medication for other illnesses, including peripheral vascular disease (a circulation disorder that affects the supply of blood to the arms and legs) and high blood pressure.
21. On 1 October 2017, Nurse A responded to a code blue emergency (indicating that a prisoner was unconscious or having difficulties breathing). She found Mr Fox on the floor in the recovery position, assessed him and, although he was pale and clammy, found that his vital signs were within normal limits. Mr Fox said that he was having difficulty breathing. He was given oxygen and transferred to hospital.
22. On 4 October, Mr Fox was discharged from hospital, where he had been diagnosed with stomach cancer which had spread to his liver and a local lymph node. Following an Upper Gastro Intestinal Multi-Disciplinary Team (MDT) meeting, which was attended by medical specialists to discuss the management of Mr Fox's type of cancer, it was agreed that Mr Fox should be seen by a prison GP, his prison named nurse, and that he would have a further outpatient appointment following the meeting.
23. On 12 October, Mr Fox attended a hospital appointment with Nurse B from prison healthcare as support. At the appointment he was told that his cancer was incurable and inoperable. He was given a prognosis of six to twelve months to live. Mr Fox was referred to the oncology team to consider palliative treatments to help relieve symptoms and improve his quality of life.
24. Because of Mr Fox's shock at his diagnosis, it was decided later that afternoon that Mr Fox should be managed under Assessment, Care in Custody, Teamwork (ACCT) procedures. This is a prison-centred care planning system which is designed to reduce the risk of self-harm and suicide. Healthcare staff decided to close the ACCT later the same day as they considered it unnecessary.
25. Mr Fox was given the contact details of a Macmillan Nurse Specialist, who would be able to support him and his family. He was also seen on a weekly basis by various prison GPs for ongoing assessments of his needs, and continued to be supported by Nurse A.
26. On 20 December, Mr Fox's condition deteriorated and he began experiencing nausea, vomiting, swelling to his legs, uncontrolled pain and general feelings of illness. Nurse B spoke to a prison GP and it was agreed that Mr Fox should be sent to hospital. An ambulance was called and he was taken to hospital.
27. On 27 December, Mr Fox died in hospital.

28. We are satisfied that healthcare staff at Lindholme responded promptly and appropriately to Mr Fox's presenting symptoms and supported him after his diagnosis.

### **Mr Fox's clinical care**

29. After Mr Fox's diagnosis, healthcare staff implemented a care plan and reviewed his care regularly. Healthcare staff regularly checked Mr Fox and were able to provide holistic care and support. Healthcare staff managed his pain and symptoms as well as they could, given that Lindholme does not have 24-hour healthcare facilities.
30. Between 1 November and 14 November, Mr Fox attended hospital and underwent a course of five sessions of radiotherapy.
31. On 19 December, an MDT meeting was attended by senior prison and healthcare staff. A social worker from social services also attended and discussed a social care assessment that she had carried out on Mr Fox. The social worker stated that she would apply for funding from NHS England for care support for Mr Fox. During that meeting, a potential move to HMP Nottingham was discussed as the prison has a 24-healthcare facility.
32. The following day, Mr Fox was admitted into hospital and continued to be supported by healthcare staff with visits and continued discussions about his care when he left hospital.
33. We agree with the clinical reviewer, who concluded that the clinical care Mr Fox received while at Lindholme was of a good quality following his diagnosis. The prison GPs and nursing staff supported Mr Fox emotionally and his physical health needs were met.

### **Mr Fox's location**

34. Mr Fox was housed on a normal wing at Lindholme. As his health declined, it became clear that Mr Fox required 24-hour healthcare to support his needs.
35. On 19 December, during an MDT meeting, plans were discussed to move Mr Fox to HMP Nottingham, which has a 24-hour healthcare facility. HMP Leeds and HMP Doncaster were also considered as options. An operational support grade officer was tasked with liaising with the prisons to facilitate a potential move.
36. The next day, Mr Fox was admitted to hospital. On 22 December, after visiting Mr Fox, the operational support grade officer again discussed a potential move to a hospice or prison with 24-healthcare during an MDT meeting with the Governor. Mr Fox died in hospital less than a week later.
37. We are satisfied that although HMP Lindholme was not the best location for Mr Fox as his health deteriorated, it is clear that plans were being developed to ensure that his needs could be met at a more suitable establishment.

### **Restraints, security and escorts**

38. 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.

39. 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. The judgement found that the use of handcuffs or other restraints on terminally or seriously ill prisoners was inhumane, unless justified by security considerations.
40. On 1 October, when Mr Fox was taken to hospital after collapsing on the wing, he was taken under single cuff restraints. He was considered a low risk to the public, of hostage taking, potential escape and a low likelihood of outside assistance. In addition, he posed a low risk to the public including females. At the time, he had not been diagnosed with a terminal illness. While in hospital, Mr Fox received a terminal diagnosis.
41. On 28 October, after his terminal diagnosis, an entry was made in his security file stating that he had become abusive towards an officer and was trying to incite other prisoners to join in. However, it is not recorded that this incident occurred during escort, and no changes were made to his level of risk.
42. Mr Fox attended hospital for radiotherapy treatment on five subsequent occasions and was restrained with single cuffs each time. The risk assessment continued to state that he posed a low risk in all areas previously mentioned. We appreciate that when Mr Fox had his radiotherapy, the restraints were removed completely, following input from healthcare staff on his risk assessment. However, healthcare provide advice on the impact of his condition on the risk that he posed in line with the High Court judgement.
43. On 20 December, Mr Fox was restrained on his final admission to hospital, although his medical notes state that he had oedema (a build-up of fluid) from his knees to his ankles, and was experiencing nausea, vomiting and uncontrolled pain. The risk assessment should have reflected Mr Fox's decline in health and, although healthcare staff recorded on his risk assessment that handcuffs might need to be removed for treatment due to the nature of his illness, they made no reference to the change in his physical health and how this affected his risk. Public protection is fundamental but security measures must be proportionate to a prisoner's individual circumstances. We make the following recommendation:

**The Governor and Head of Healthcare 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 Fox's family

44. On 31 October, the prison appointed a custodial manager as the prison's family liaison officer. We consider that the prison should have appointed a liaison officer when Mr Fox received his terminal diagnosis on 12 October.
45. The family liaison officer spoke to Mr Fox about his health and family. Mr Fox said that his next of kin were his daughter and a friend. Two days later, the family liaison officer contacted Mr Fox's daughter to update her, and let her know that he would provide her with weekly updates on her father, should anything change.
46. We are concerned that between 2 November and 27 December, the family liaison officer did not contact Mr Fox's daughter with any updates on his progress. Nor did he offer any support when Mr Fox was admitted to hospital on 20 December. Although the family liaison officer could be contacted by the family, it would have been helpful if he had contacted the next of kin or made visits to the hospital during the week that Mr Fox was there, to ensure that Mr Fox and his family were fully supported.
47. On 27 December, the Head of Safer Custody contacted Mr Fox's daughter to offer condolences on her father's death and offered to visit her. Mr Fox's daughter, who was present at the hospital when her father died, confirmed that the prison could visit the following day. However, Mr Fox's daughter was unable to accommodate this visit and, after being unable to get in contact with her for several days, the family liaison officer made contact again on 2 January 2018.
48. Mr Fox's funeral was held on 26 January 2018 and was attended by the family liaison officer. The prison contributed to the funeral in line with national instructions.
49. We make the following recommendation:

**The Governor should ensure that the next of kin of terminally ill prisoners are continuously supported and regularly updated by a prison liaison officer until support is no longer required.**

## Compassionate release

50. 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 to live.
51. On 12 October, at a hospital appointment, Mr Fox's prognosis was given as six to 12 months to live. It was therefore inappropriate to start the compassionate release process at that time. Although Mr Fox died less than three months later, we are satisfied that the prison considered his compassionate release appropriately.

**Prisons &  
Probation**

**Ombudsman**  
Independent Investigations