Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Brian Tuson a prisoner at HMP Chelmsford on 28 October 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 Brian Tuson died of bilateral pneumonia caused by chronic obstructive pulmonary disease (COPD, a lung disease) at HMP Chelmsford on 28 October 2018. Mr Tuson also had lymphoma (a blood cancer) which contributed to, but did not cause his death. He was 81 years old. I offer my condolences to his family and friends.

The investigation found that Mr Tuson received very good, compassionate care at Chelmsford, with appropriate and timely referrals to hospital services, when necessary. We make no recommendations.

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
Deputy Prisons and Probation Ombudsman **April 2019**

Contents

Summary

Events

1. On 27 October 2017, Mr Brian Tuson was sentenced to seven years and six months in prison for sexual offences. He was sent to HMP Chelmsford.

2. He had a complex medical history of follicular lymphoma (a blood cancer) which had been diagnosed in 2016, chronic obstructive pulmonary disease (COPD, a lung disease), high blood pressure, a hernia and an enlarged prostate. He had had chemotherapy and cardiac surgery. He required medication and monitoring, and was frequently admitted to hospital. Due to his complex medical conditions, healthcare staff at Chelmsford saw him frequently.

3. In April 2018, tests showed that his lymphoma had continued to spread and he was given a prognosis of less than twelve months to live. Healthcare and hospital staff continued to care for Mr Tuson. Good care plans were implemented and regularly reviewed.

4. Mr Tuson spent several periods in hospital as hospital staff stabilised his condition. On 18 May, he was admitted to the prison's healthcare inpatient unit.

5. On 18 October 2018, Mr Tuson's condition deteriorated. He was taken to hospital and diagnosed with pneumonia. He received several courses of antibiotics and was on oxygen therapy.

6. He returned to Chelmsford on 23 October, where healthcare staff monitored him daily.

7. Mr Tuson's condition continued to decline and he died at Chelmsford at 1.00pm on 28 October.

Findings

8. The clinical reviewer concluded that Mr Tuson's care was well managed, responsive and compassionate. He regularly received treatment for his cancer and lung disease.

9. We are satisfied that the standard of care that Mr Tuson received was equivalent to that which he could have expected to receive in the community. We make no recommendations.

The Investigation Process

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

11. The investigator obtained copies of relevant extracts from Mr Tuson's prison and medical records

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

13. We informed HM Coroner for Essex and Thurrock of the investigation who gave us the results of the post-mortem examination. We have sent the Coroner a copy of this report.

14. The investigator wrote to Mr Tuson's wife to explain the investigation and to ask if she had any matters that she wanted us to consider. She did not respond to our letter.

15. We assessed the main issues involved in Mr Tuson'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.

16. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies.

Background Information

HMP Chelmsford

17. HMP Chelmsford is a local prison that takes prisoners directly from the courts. It holds nearly 730 men over the age of 18 years. Essex Partnership University NHS Foundation Trust (EPUT) was commissioned to provide 24-hour healthcare, which includes a range of primary care and secondary mental health services. The prison has a twelve-bed inpatient unit.

18. Since 1 June 2018, Chelmsford has been under special measures. This means that HM Prisons and Probation Service has determined that it needs additional, specialist support to improve its performance.

HM Inspectorate of Prisons

19. The most recent inspection of Chelmsford was in June 2018. Inspectors found that there had been some improvement since their last inspection in 2016 but there were still some important aspects of healthcare provision which needed attention. They found that leadership needed to be stronger, permanent staffing levels required improvement and complaints management was poor. Inspectors noted that waiting times for some aspects of primary care were too long and mental health services were stretched. However, they found that inpatient care had improved considerably, the needs of those with acute problems were well met and substance misuse support was generally good.

20. Inspectors said that they had significant concerns about the unacceptably poor living conditions at Chelmsford and considered invoking special measures. However, after the inspection, inspectors were confident that prison staff could complete changes for improvement.

Independent Monitoring Board

21. 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 31 August 2018, the IMB reported that EPUT provided Chelmsford with a healthcare service that was equivalent to the community.

22. The IMB noted that the demand for inpatient services far exceeded supply. They noted that there was provision for only twelve inpatient beds to serve a population of 750 men. The Board said that there were significant staff shortages in all sections of healthcare which adversely affected the level of services provided and caused delays in dealing with prisoners' health issues, which in turn had led to a high level of complaints.

Previous deaths at HMP Chelmsford

23. Mr Tuson's death was the fifteenth death at Chelmsford since October 2015. Of those deaths, three were from natural causes. There are no similarities between Mr Tuson's death and the previous deaths at Chelmsford.

Findings

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

24. On 27 October 2017, Mr Tuson was convicted of sexual offences and sentenced to seven years and six months in prison. He was sent to HMP Chelmsford.

25. He had had poor health for a number of years and had been diagnosed with follicular lymphoma (a blood cancer) in 2016, chronic obstructive pulmonary disease (COPD), high blood pressure, a hernia and an enlarged prostate. He had had chemotherapy, cardiac surgery and an intravenous immunoglobin infusion (to treat his immunodeficiency). He required medication and monitoring, and was frequently admitted to hospital.

26. Prison GPs and the oncology team at a hospital regularly reviewed Mr Tuson. On 26 February 2018, he began another course of chemotherapy.

27. On 23 April, he had a blood test during one of his chemotherapy appointments. The results were abnormal and hospital staff suspected kidney failure. The hospital admitted him and treated him for kidney failure.

28. His kidney condition improved, but his cancer continued. At the hospital, he was told that he had less than one year to live. On 29 April, the hospital formally recorded that Mr Tuson did not want anyone to try to resuscitate him if his heart or breathing stopped.

29. We are satisfied that prison GPs appropriately referred Mr Tuson to hospital specialists.

Mr Tuson's clinical care

30. On 8 May 2018, the hospital discharged Mr Tuson back to prison. The hospital's palliative care team arranged to support prison healthcare staff in caring for Mr Tuson. Healthcare staff at the prison created a COPD care plan, and arranged for his chemotherapy care to continue, which included a nurse visiting Mr Tuson every day to administer chemotherapy injections.

31. Mr Tuson had a discussion with a locum prison GP, about the decision not to resuscitate him if his heart or breathing stopped. He said that a hospital consultant had completed the form without his consent and that he was considering pursuing a legal challenge. Mr Tuson said that he wanted someone to resuscitate him if his heart or breathing stopped and signed an order to that effect.

32. In June, Mr Tuson attended several hospital appointments at the lymphoma clinic. On 5 July, he was unable to attend a hospital appointment as he had a high temperature and healthcare staff had been unable to obtain a blood sample which was needed for the hospital appointment. Hospital staff rescheduled the appointment and said that prison healthcare staff should take his observations each day and two blood samples until his rescheduled appointment. On 10 July, a blood sample was taken and made available for his hospital appointment on 12 July.

33. After this hospital appointment, Mr Tuson and his wife met a locum prison GP and a nurse to discuss his resuscitation decision. Mr Tuson asked questions about the process and concluded that he would not want to be resuscitated, but did want all other appropriate treatment and care to continue. The nurse updated his medical record to reflect this.

34. On 17 July, Mr Tuson told a nurse that he felt unwell. The nurse checked his observations and arranged for a prison paramedic, to review him. The prison paramedic noted that Mr Tuson was short of breath, slightly confused and unable to sit upright. After speaking to the Chemotherapy Unit at a hospital, healthcare staff arranged for an ambulance to take Mr Tuson to hospital. He was diagnosed with pneumonia and admitted to hospital.

35. He was discharged back to Chelmsford on 24 July and was admitted to the prison's healthcare inpatient unit. Prison healthcare staff created a COPD care plan and staff assessed him regularly to ensure that he remained comfortable. His records show that he was frail and nurses checked him frequently.

36. On 15 August, a nurse checked Mr Tuson's observations and noted that his temperature was high. The Chemotherapy Department at a hospital said that he should be taken to the hospital emergency department, but, when paramedics arrived to take him, he told them that he did not want to go. They rechecked his observations and as they were in the normal range, they said that it was not necessary for him to do so.

37. On 23 August, nurses found that Mr Tuson's temperature was again high. A prison GP, diagnosed possible septicaemia and arranged for Mr Tuson to go to hospital. Hospital staff diagnosed a chest infection and prescribed antibiotics. Mr Tuson returned to Chelmsford that day.

38. In September, a healthcare assistant was assigned to Mr Tuson to help make him drinks (as he appeared dehydrated) and assist with daily living tasks. As his mobility decreased, a nurse created a falls care plan on 12 September. However, Mr Tuson slipped in his cell on the night of 14 September. The next morning, a prison GP referred him back to hospital to check his head injury. Hospital staff diagnosed probable pneumonia and prescribed antibiotics, and Mr Tuson returned to Chelmsford.

39. During a multidisciplinary meeting on 17 September, a locum prison GP said that Mr Tuson's health was deteriorating, that he needed 24-hour care and that options for palliative and end-of-life care should be considered. Prison managers arranged for his cell door to remain open for constant healthcare monitoring during the day. At night, the cell door was locked but nurses observed him at fifteen-minute intervals through the cell door observation panel.

40. On 18 October, a locum prison GP examined Mr Tuson as his blood pressure was falling and his oxygen saturation level was low. Healthcare staff called paramedics who took Mr Tuson to hospital. Hospital staff diagnosed him with pneumonia and treated him with antibiotics, steroids and oxygen therapy.

41. Mr Tuson returned to Chelmsford on 23 October, and a prison GP completed a review and prescribed him antibiotics and oxygen therapy. Nurses made sure that he was comfortable.

42. At approximately 1.10am on 28 October, a nurse went to Mr Tuson's cell to administer his pain relief. Mr Tuson was lying on his bed, not breathing. His body was cold to the touch. An out-of-hours GP certified Mr Tuson's death at 3.50am on 28 October.

43. The coroner confirmed that Mr Tuson died of bilateral pneumonia caused by COPD. He established that Mr Tuson's lymphoma contributed to but did not cause his death.

44. The clinical reviewer concluded that Mr Tuson's care was well managed, responsive and compassionate. Regular GP reviews and good collaborative working between the prison healthcare, secondary care and specialist palliative care teams addressed his physical and emotional needs and he was well supported.

45. We are satisfied that the standard of care that Mr Tuson received was equivalent to that which he could have expected in the community.

Mr Tuson's location

46. Mr Tuson lived on a standard prison wing initially, in line with his wishes. On 18 May 2018, in consultation with Mr Tuson, prison staff arranged to transfer him to the inpatient unit so that healthcare staff could provide 24-hour nursing care.

47. We are satisfied that staff took account of Mr Tuson's views about his location and transferred him to the inpatient unit at an appropriate point when his condition deteriorated.

Restraints, security and escorts

48. When prisoners travel outside 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 a prisoner's security risk, taking into account factors such as the prisoner's health and mobility.

49. Mr Tuson appropriately went to hospital unrestrained, escorted by two officers.

Liaison with Mr Tuson's family

50. On 29 April, the prison appointed a Supervising Officer (SO) as Mr Tuson's family liaison officer (FLO). From that date, the FLO visited Mr Tuson several times to offer support. Mr Tuson had named his wife as his next of kin. When Mr Tuson was in hospital and an inpatient in the prison healthcare unit, the FLO contacted his wife and arranged for her to visit him. He also arranged for Mr Tuson's wife to attend palliative care meetings.

51. On the morning of 28 October, as previously agreed with Mr Tuson's wife, the FLO telephoned her to inform her that Mr Tuson had died. Later that morning, the FLO and an officer visited her to offer their condolences and support.

52. Mr Tuson's funeral was held on 7 November. The prison contributed to his funeral expenses in line with national instructions.

53. We consider that Mr Tuson's wife was well supported by staff throughout his illness and after his death.

Compassionate release

54. Prisoners can be released from custody before their sentence has expired on compassionate grounds for medical reasons. This is usually when they have a terminal illness and a life expectancy of less than three months.

55. On 23 May 2018, a prison GP completed an application form for compassionate release. He reported that Mr Tuson was at the end stage of follicular lymphoma and his condition was rapidly deteriorating. A hospice agreed to admit him, but only for the final two weeks his life. Prison staff made enquiries with nursing homes as Mr Tuson's prognosis was unclear. Further meetings were held but the application was not progressed as suitable accommodation had not been found and he had no clear prognosis. While Mr Tuson did not therefore meet the criteria for compassionate release, we are satisfied that the prison appropriately considered it.

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