

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Colin Stubbs a prisoner at HMP Full Sutton on 18 January 2019

A report by the Prisons and Probation Ombudsman

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*



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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 Colin Stubbs died of pneumonia, caused by bladder cancer, on 18 January 2019 while a prisoner at HMP Full Sutton. He was 66 years old. I offer my condolences to Mr Stubbs' family and friends.

I am satisfied that prison healthcare staff appropriately investigated Mr Stubbs' symptoms and that they fully involved him in his care-planning. I agree with the clinical reviewer that the care Mr Stubbs received was equivalent to that which he could have expected to receive in the community. I am disappointed, however, that the prison did not complete an application to release Mr Stubbs on compassionate grounds even though healthcare staff recognised from mid-December 2018 that he was approaching the end of his life.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Sue McAllister CB
Prisons and Probation Ombudsman

July 2019

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Summary

Events

1. In 2017, Mr Colin Stubbs was convicted of a number of sexual offences and was sentenced to 21 years imprisonment. Mr Stubbs was transferred to HMP Full Sutton on 8 December.
2. In late December 2017, Mr Stubbs found blood in his urine so a prison GP made an urgent referral to urology specialists. Hospital doctors performed various tests on Mr Stubbs' bladder and found two tumours. In February, a urology consultant diagnosed Mr Stubbs with bladder cancer and, in April, surgeons removed the bladder.
3. From early October, Mr Stubbs told various healthcare staff that he had been feeling increasingly unwell, with pain on breathing and a reduced appetite. A prison GP reviewed Mr Stubbs' blood test results and noted that it was likely that Mr Stubbs' cancer had spread to his bones.
4. Mr Stubbs was taken to hospital for a CT scan and an MRI scan, which confirmed that his cancer had spread to his spine. While in hospital, he received palliative radiotherapy to control his pain.
5. In November and December, Mr Stubbs told a nurse and a prison GP, respectively, that he did not want to visit hospital for treatment and wanted prison healthcare staff to treat him.
6. In January 2019, a nurse set up a syringe-driver (a device that delivers pain relief steadily over a 24-hour period) for Mr Stubbs and noted that he appeared to have entered the last phase of his life.
7. Mr Stubbs' condition continued to deteriorate and he died at 9.27am on 18 January. A post-mortem report confirmed that Mr Stubbs died from pneumonia caused by bladder cancer that had spread to other parts of the body.

Findings

8. We agree with the clinical reviewer that the care Mr Stubbs received was of a good standard and equivalent to that which he could have expected to receive in the community. We are satisfied that prison healthcare staff appropriately investigated Mr Stubbs' symptoms and that they made prompt referrals to specialists. They also reviewed Mr Stubbs' pain relief and his mobility regularly, and fully involved him in his care planning.
9. We are disappointed that the prison did not complete an application to release Mr Stubbs on compassionate grounds despite healthcare staff having recognised from mid-December 2018 that he was approaching the end of his life.

Recommendation

- The Governor should ensure that compassionate release applications for terminally ill prisoners are started without delay.

The Investigation Process

10. The investigator issued notices to staff and prisoners at HMP Full Sutton informing them of the investigation and asking anyone with relevant information to contact her.
11. The investigator obtained copies of relevant extracts from Mr Stubbs' prison and medical records.
12. NHS England commissioned an independent clinical reviewer to review Mr Stubbs' clinical care at the prison.
13. We informed HM Coroner for East Riding and Kingston upon Hull of the investigation. The coroner gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.
14. One of the Ombudsman's family liaison officers contacted Mr Stubbs' sister to explain the investigation and to ask whether she had any matters she wanted the investigation to consider. She did not have any questions or concerns but asked to receive a copy of our report.
15. The investigation has assessed the main issues involved in Mr Stubbs' 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 and their action plan is annexed to this report.
17. Mr Stubbs' sister received a copy of the initial report. She pointed out a factual inaccuracy and/or omission. This report has been amended accordingly.

Background Information

HMP Full Sutton

18. HMP Full Sutton is a high security prison near York, which holds up to 626 men. Spectrum Community Health CIC provides a range of integrated health services. Healthcare staff are on duty for 24 hours a day. An inpatient healthcare unit, with six beds, provides full nursing care for patients, including a palliative care suite.

HM Inspectorate of Prisons

19. The most recent inspection of HMP Full Sutton was an unannounced inspection carried out in January 2016. Inspectors found that healthcare provision was reasonable overall and that all prisoners had full access to an appropriate range of services. Chronic disease management was reasonable but social care arrangements were underdeveloped. The healthcare unit provided a calm and decent service, and contained a palliative care suite that had been used appropriately in the previous 12 months.

Independent Monitoring Board

20. 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 December 2018, the IMB found that the delivery of certain healthcare aspects, including programmes for older prisoners, had been affected by staff shortages and that healthcare needed to be more proactively overseen in 2019. The IMB found that the quality of palliative care and the care for seriously ill prisoners in the healthcare unit was very good.

Previous deaths at HMP Full Sutton

21. Mr Stubbs was the fifth prisoner to die at Full Sutton since January 2017. Of the previous deaths, three were due to natural causes and one was self-inflicted. There has been one subsequent death also due to natural causes. There are no similarities between Mr Stubbs' death and these earlier deaths at the prison.

Findings

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

22. On 15 November 2017, Mr Colin Stubbs was convicted of a number of sexual offences and was sentenced to 21 years imprisonment. Mr Stubbs spent a short time at HMP Leeds before he was transferred to HMP Full Sutton on 8 December.
23. Mr Stubbs had a history of asthma and hypothyroidism (where the thyroid gland does not produce enough hormones). These were treated with prescribed medication. Mr Stubbs also had limited mobility as he had had a lumbar spine laminectomy (an operation to remove bone from a vertebrae), and needed a walking stick to move around. Due to his limited mobility, healthcare staff at Leeds and Full Sutton created care plans that offered him help with his social care needs.
24. On 29 December, Mr Stubbs told a nurse that he had blood in his urine and had experienced a “dragging” feeling in his lower back and kidney area when passing urine. The nurse referred Mr Stubbs to a prison GP.
25. On 2 January 2018, a prison GP saw Mr Stubbs and noted that a urinalysis indicated that the blood in his urine was not caused by an infection. The GP made an urgent referral to urology specialists under the NHS pathway, which requires patients with suspected cancer to be seen by a specialist within two weeks. The GP also referred Mr Stubbs for a blood test.
26. On 30 January, Mr Stubbs went to a urology appointment at Castle Hill Hospital, Cottingham. Hospital doctors performed a flexible cystoscopy (a procedure to look inside the bladder using a thin camera) and found a tumour. A specialist registrar referred Mr Stubbs for a CT urogram (a test that examines the kidney and bladder) and told him that it was likely he had bladder cancer. Hospital doctors performed the CT urogram on 13 February which disclosed a second tumour.
27. On 21 February, surgeons performed a transurethral resection of bladder tumour (or TURBT – an operation to remove bladder tumours through the urethra). They took samples for a biopsy. The following day, a urology consultant diagnosed Mr Stubbs with bladder cancer. The consultant arranged a multidisciplinary meeting to discuss Mr Stubbs' care once his biopsy results became available.
28. We agree with the clinical reviewer that prison healthcare staff appropriately investigated Mr Stubbs' symptoms and they made prompt referrals to specialists. We agree that the care Mr Stubbs received at Full Sutton was of a good standard and equivalent to that which he could have expected to receive in the community.

Mr Stubbs' clinical care

29. On 14 March, a nurse saw Mr Stubbs to discuss his symptoms and his cancer diagnosis. Mr Stubbs confirmed that he was expecting the diagnosis but was optimistic, as the hospital had told him that various treatments were available. Two days later, the nurse created a bladder cancer care plan, which encouraged

Mr Stubbs to contact healthcare if he felt unwell. The nurse planned monthly support visits.

30. On 12 March, the hospital multidisciplinary team discussed Mr Stubbs and confirmed that the cancer was confined to his bladder and had not spread to nearby lymph nodes or other parts of his body. The attendees suggested a cystectomy (an operation to remove the bladder) or radiotherapy to cure Mr Stubbs' cancer. A letter from a consultant clinical oncologist, dated 19 March, stated that he had discussed these procedures with Mr Stubbs, together with adjuvant chemotherapy (the use of drugs to reduce the size of tumours). Three days later, a consultant urological surgeon referred Mr Stubbs for a cystectomy after advising him that it was a better option than radiotherapy. Mr Stubbs told the consultant that he did not want to pursue adjuvant chemotherapy.
31. On 24 April, hospital surgeons performed the cystectomy on Mr Stubbs and created a new opening to allow him to pass urine into a stoma bag. After returning to Full Sutton, healthcare staff regularly saw Mr Stubbs to check on his bag.
32. On 14 June, the hospital multidisciplinary team discussed Mr Stubbs and referred him for adjuvant chemotherapy.
33. On 1 August, a prison GP saw Mr Stubbs, who complained of pain in his lower back, buttocks, hips and left leg. The GP referred Mr Stubbs for a hip X-ray. This was performed the following day, and found nothing of note.
34. On 13 August, a consultant medical oncologist saw Mr Stubbs. She said she was concerned that his persistent lower back and hip pain was caused by his cancer spreading. She felt that adjuvant chemotherapy was not suitable for Mr Stubbs due to his health, and the time that had passed since his cystectomy. She confirmed that Mr Stubbs would be suitable for palliative chemotherapy if the cancer had spread, though Mr Stubbs was not sure that he wanted this.
35. On 29 August, the consultant oncologist reviewed an image of Mr Stubbs' CT scan of his pelvis that had been performed on 9 August. She noted that there was no evidence that Mr Stubbs' cancer had spread. She confirmed Mr Stubbs' back pain was likely due to osteoporosis (a condition that weakens bones). Prison healthcare staff treated Mr Stubbs' osteoporosis with vitamin D, calcium and alendronic acid supplements.
36. From 4 October, Mr Stubbs told various healthcare staff that he had been feeling increasingly unwell, with pain on breathing and a reduced appetite. On 11 October, a prison GP referred Mr Stubbs for a blood test.
37. On 15 October, a prison GP reviewed Mr Stubbs' blood test results and noted that his alkaline phosphatase level was raised. (This is a test used to detect diseases of the liver or bones.) The GP told Mr Stubbs that it was likely that his cancer had spread to his bones and suggested that Mr Stubbs move to the healthcare unit. This move took place on 17 October.
38. On 16 and 18 October, a GP and nurse, respectively, prescribed Mr Stubbs morphine for his pain and nutritional milkshake for his weight loss. The nurse also arranged for Mr Stubbs' friends and family to visit him.

39. On 20 October, a prison GP saw Mr Stubbs, as nurses were concerned about his deterioration. Mr Stubbs said that he was in constant pain and that he did not want to receive any further active treatment but would consider palliative chemotherapy. Mr Stubbs also agreed with the GP that he did not want anyone to resuscitate him if his heart or breathing stopped and signed an order to that effect.
40. Two days later, a prison GP saw Mr Stubbs and they discussed the implications of his cancer spreading. Mr Stubbs said that he wanted to remain in the healthcare unit. The GP increased Mr Stubbs' pain relief prescription.
41. On 27 October, a nurse created a cancer care plan for Mr Stubbs. This was in order to support him emotionally and physically by ensuring that he received appropriate pain relief, regular social care visits and daily observations. From that date, healthcare staff saw Mr Stubbs on multiple occasions every day.
42. On 1 November, a specialist practitioner saw Mr Stubbs, who said that his mobility had deteriorated. The practitioner examined Mr Stubbs and decided that he did not need a Zimmer frame as he could still walk.
43. On 9 November, Mr Stubbs went to Castle Hill Hospital for a CT scan and an MRI scan. Hospital doctors admitted Mr Stubbs and gave him palliative radiotherapy to control his pain. On 15 November, hospital staff contacted a prison GP and told her that Mr Stubbs' cancer had spread to his spine. The following day, Mr Stubbs returned to Full Sutton.
44. On 19 November, a prison GP saw Mr Stubbs, who said that his mobility had improved and his pain had reduced slightly since his palliative radiotherapy. The GP said that Mr Stubbs might need more radiotherapy but Mr Stubbs was not keen on this and said he was ready to die in prison.
45. On 28 November, a nurse saw Mr Stubbs to discuss his future care. Mr Stubbs said that he did not want to visit a hospital consultant oncologist, as he was happy to be treated by prison healthcare staff. Mr Stubbs signed a form to confirm this.
46. On 9 December, Mr Stubbs fell in his cell. Healthcare staff treated him appropriately and found that his mobility had deteriorated significantly, as Mr Stubbs could not stand unaided. Two days later, a healthcare assistant completed a falls assessment for Mr Stubbs and, the following day, staff moved him to the palliative care suite.
47. On 17 December, a prison GP saw Mr Stubbs to discuss his end of life care plans. Mr Stubbs confirmed that he did not want to go to hospital for any treatment, including radiotherapy, and that he did not want to receive oxygen or artificial feeding.
48. On 14 January 2019, a prison GP saw Mr Stubbs and noticed that he had deteriorated over the past week. The GP arranged for Mr Stubbs to use a syringe-driver (a device that delivers pain relief steadily over a 24-hour period), as he was concerned about taking too much pain relief during the day then going to sleep and not waking up. The following day, a nurse set up his syringe-driver and arranged for a family visit. She also noted that Mr Stubbs appeared to have

entered the final phase of his life so she arranged for healthcare staff to monitor him closely.

49. Mr Stubbs' condition continued to deteriorate and he died at 9.27am on 18 January. A nurse was with Mr Stubbs when he died. A post-mortem report confirmed that Mr Stubbs died from bilateral pneumonia caused by a malignant bladder tumour with metastases (cancer that had spread to other parts of the body).
50. We agree with the clinical reviewer that, following Mr Stubbs' diagnosis, there were many examples of good practice, including regular reviews of his pain relief, his mobility and his food intake. Prison healthcare staff fully involved Mr Stubbs in his care planning and we agree that the care he received was equivalent to that which he could have expected to receive in the community.

Mr Stubbs' location

51. Shortly after arrival at Full Sutton, the prison moved Mr Stubbs to a cell that had hand rails near the bed, which allowed him to move around his cell easily, and a toilet.
52. As Mr Stubbs' condition deteriorated, a prison GP suggested that he move to the healthcare unit, so that healthcare staff could care for him more easily. Mr Stubbs moved to the healthcare unit on 17 October.
53. As Mr Stubbs' health deteriorated, and following a fall on 9 December, healthcare staff moved him to the palliative care suite on 12 December. The palliative care suite was equipped with a hoist that allowed healthcare staff to move Mr Stubbs in and out of bed.
54. We are satisfied that the prison located Mr Stubbs appropriately as his health and mobility deteriorated.

Restraints, security and escorts

55. 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.
56. We note that when Mr Stubbs went to hospital for the final time, on 9 November, a prison manager recorded that he was ageing and was experiencing failing health. A senior prison manager considered this information and decided that the escorting officers should not use any restraints throughout Mr Stubbs' time in hospital.
57. We are pleased that prison staff considered how Mr Stubbs' health impacted on the security risk that he presented and that they decided not to use any restraints.

Liaison with Mr Stubbs' family

58. On 30 October 2018, the prison appointed a prison manager as a family liaison officer (FLO), and an officer as a deputy family liaison officer. The FLO and his deputy visited Mr Stubbs in the healthcare unit and offered him support. Mr Stubbs said that one of his sisters was planning his funeral but was worried about the cost of transporting his body from the prison. The deputy FLO explained that the prison would contribute £3,000 towards the costs of his funeral.
59. The FLO and his deputy continued to provide Mr Stubbs with support and they arranged for Mr Stubbs' sisters to visit him regularly in the palliative care suite.
60. Following Mr Stubbs' death, at 11.00am on 18 January 2019, the FLO and his deputy visited the home of one of Mr Stubbs' sister and offered their condolences and support. They continued to support Mr Stubbs' sisters until their brother's funeral, which was held on 4 February. The prison paid for the costs of the funeral in line with national instructions.
61. We are satisfied that there was good, supportive liaison with Mr Stubbs' sisters.

Compassionate release

62. 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 that the risk of re-offending is expected to be minimal, further imprisonment would reduce life expectancy, there are adequate arrangements for the prisoner's care and treatment outside prison, 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 Her Majesty's Prison and Probation Service (HMPPS).
63. Release on temporary licence (ROTL) can be granted for precisely defined and specific activities which cannot be provided in the prison. A risk assessment is completed to ensure that the prisoner's temporary release does not present unacceptable risks. The governor of the prison is able to grant the temporary licence and will decide on whether the prisoner is to be accompanied by staff.
64. On 30 October, the deputy FLO asked a prison manager and the manager of the Offender Management Unit (OMU) to consider an application to release Mr Stubbs on ROTL. On 2 November, the OMU manager confirmed that because Mr Stubbs had committed a sexual offence, he could only be released on restricted ROTL terms, which could only be accommodated by an open prison. On that basis, the prison could not release Mr Stubbs on ROTL.
65. Following this decision, there is no record that the prison considered releasing Mr Stubbs on compassionate grounds, though Mr Stubbs' sister told the investigator that she believed that he would not have wanted to be released. Regardless, we are concerned that the prison did not discuss this with Mr Stubbs or start an application to release him on compassionate grounds, despite healthcare staff

recognising that he needed end of life care in December 2018 and that he had entered the final phase of his life on 15 January 2019. We make the following recommendation:

The Governor should ensure that compassionate release applications for terminally ill prisoners are started without delay.

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