Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Brian Deacon a prisoner at HMP Exeter on 5 May 2016

A report by the Prisons and Probation Ombudsman
Nigel Newcomen CBE

PO Box 70769
London, SE1P 4XY
Email: mail@ppo.gsi.gov.uk
Web: 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*

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 Deacon died at HMP Exeter on 5 May 2016 of severely narrowed coronary arteries and a blood clot, contributed to by pancreatic cancer. He was 72 years old. I offer my condolences to Mr Deacon's family and friends.

Mr Deacon had a history of heart disease which was managed with medication. Doctors diagnosed Mr Deacon with pancreatic cancer in March 2016, although he first presented with symptoms in July 2015 while at HMP Dartmoor. Doctors at Dartmoor did not investigate these symptoms or abnormal blood tests in line with national guidelines, which meant that the opportunity for an earlier diagnosis was missed. Although this may not have changed the outcome for Mr Deacon, I consider that the care he received at Dartmoor in relation to his cancer diagnosis was not equivalent to that he could have expected to receive in the community.

After his diagnosis, Mr Deacon transferred to Exeter for palliative care and I am pleased that the care he received there was of a high standard.

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 **November 2016**

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Summary

Events

1. On 5 June 2015, Mr Deacon was remanded to HMP Exeter. He had a history of ischaemic heart disease, osteoarthritis and type two diabetes. He had also suffered two heart attacks in 2000. Doctors prescribed appropriate medication for these conditions. On 3 July 2015, Mr Deacon was sentenced to five years in prison for sexual offences and on 9 July transferred to HMP Dartmoor.

2. On 31 July, Mr Deacon told a doctor he had heartburn after eating and he had felt bloated for four weeks. A doctor prescribed omeprazole (to treat excess stomach acid).

3. In September, another doctor prescribed medication for heartburn and indigestion at the request of a nurse.

4. On 28 January 2016, a doctor saw Mr Deacon, who said that he had been nauseous for ten days and felt food sticking behind his breastbone. The doctor made an urgent referral to gastroenterology and ordered a blood test. Two days later, a doctor reviewed the results and noted they were normal, despite them containing some abnormalities indicating that Mr Deacon's kidney and liver function was impaired.

5. Mr Deacon had an upper gastrointestinal endoscopy (a telescopic examination of the oesophagus and stomach) on 2 February. On 10 February, a doctor reviewed the results and diagnosed gastritis. Two days later, another doctor prescribed antibiotics for a bacterial infection.

6. On 26 February, a doctor saw Mr Deacon, who said that he felt sick when he ate. The doctor noted some tenderness around his liver and was concerned he may have cancer. She made a referral to gastroenterology, and requested an ultrasound scan. Mr Deacon had the ultrasound scan on 10 March, which showed multiple tumours in the liver.

7. The following day, a doctor sent Mr Deacon to hospital, where specialists diagnosed him with pancreatic cancer and metastases in the liver. Three days later, a hospital doctor confirmed that Mr Deacon had less than six months to live and that he required palliative care. Mr Deacon remained in hospital.

8. On 17 March, Mr Deacon was moved from hospital to Exeter's palliative care suite and staff there implemented care plans to monitor his condition and ensure he had adequate pain relief. A doctor spoke to Mr Deacon about his resuscitation wishes and he said that he did not want anyone to resuscitate him if his heart or breathing stopped.

9. Over the next seven weeks Mr Deacon's condition steadily deteriorated and he died at 9.28pm on 5 May. A post-mortem showed that Mr Deacon died from severely narrowed coronary arteries and a blood clot in his heart contributed to by pancreatic cancer.

Findings

10. The clinical reviewer said although Mr Deacon's primary cause of death was related to his heart, his pancreatic cancer was far advanced and he would have been expected to die from this within weeks or days. The clinical reviewer was satisfied that prison healthcare staff appropriately monitored and treated Mr Deacon's heart disease. However, we agree with the clinical reviewer that clinicians should have investigated and followed up Mr Deacon's indigestion/abdominal discomfort in 2015 and abnormal blood test results in 2016, which may have resulted in an earlier diagnosis of pancreatic cancer.

11. While the clinical reviewer believed that there were missed opportunities to diagnose the cancer, he did not believe that they affected the eventual outcome for Mr Deacon. Overall, we agree with the clinical reviewer that the care Mr Deacon received before his diagnosis was not equivalent to that he could have expected to receive in the community.

12. However, after being diagnosed, we are satisfied that the palliative care Mr Deacon received at Exeter was of a high standard, and at least equivalent to the care that he would have received in the community.

Recommendations

- The Head of Healthcare at HMP Dartmoor should ensure that clinicians appropriately review and follow up abnormal blood test results.
- The Head of Healthcare at HMP Dartmoor should ensure that clinicians manage ad review prisoners with persistent indigestion/heartburn in line with NICE guidelines, including appropriate referral to specialists.

The Investigation Process

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

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

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

16. We informed HM Coroner for Exeter and Greater Devon District of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

17. One of the Ombudsman's family liaison officers contacted Mr Deacon's son to explain the investigation and to ask if the family had any matters they wanted the investigation to consider. Mr Deacon's son did not raise any specific issues.

18. The initial report was shared with the Prison Service. The Prison Service pointed out some factual inaccuracies and this report has been amended accordingly.

19. Mr Deacon's son was informed the initial report was available, but did not wish to receive a copy or make any comment.

Background Information

HMP Exeter

20. HMP Exeter is a local prison holding up to 565 men. Dorset Healthcare University NHS Foundation Trust provides health services. There are ten cells on F Wing for prisoners who need social care and one cell for end of life palliative care. The wing has facilities for visiting relatives.

HM Inspectorate of Prisons

21. The most recent inspection of Exeter was in August 2013. Inspectors reported that care for prisoners on F Wing with complex social care needs and disabilities was impressive. There were 24-hour health services and a wide range of clinics, including for chronic diseases. Two nurses led the care of older prisoners. Palliative care was supported through an excellent new suite, which had been created for the care of terminally ill prisoners.

Independent Monitoring Board

22. 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 most recently published annual report for the year to December 2015, the IMB said the health services at Exeter were generally good but under pressure because of the large number of prisoners and lack of staff. The board noted that prisoners had numerous challenging and acute problems and the system was under strain.

Previous deaths at HMP Exeter

23. Mr Deacon was the tenth prisoner to die from natural causes at Exeter since January 2015. There have been two since. We have consistently found that Exeter has provided good end of life care.

HMP Dartmoor

24. HMP Dartmoor holds up to 642 adult male prisoners. The prison comprises six residential wings. Dorset Healthcare Unit Foundation Trust provides the prison's healthcare. Healthcare staff are on duty between 7.45am and 5.30pm on weekdays and between 8.15am and 5.15pm at weekends.

HM Inspectorate of Prisons

25. The most recent inspection of HMP Dartmoor was in December 2013. Inspectors found the delivery of health services had improved with a small but well qualified team of healthcare staff delivering a wide range of clinics. Seven GP clinics were delivered each week.

Independent Monitoring Board

26. In its latest annual report, for the year to September 2015, the IMB reported that the healthcare provider at Dartmoor had changed, though the new provider still suffered with a shortage of nursing staff. This meant that doctors had to

complete tasks that should have been done by nurses. The IMB noted that the ageing prison population's more complex and often chronic health conditions resulted in an increased attendance at a range of outpatient appointments and increased age related checks.

Previous deaths at HMP Dartmoor

27. Two prisoners have died of natural causes at Dartmoor since January 2015. There were no similarities between the circumstances of Mr Deacon's death and previous deaths at the prison.

Key events

28. On 5 June 2015, Mr Deacon was remanded to HMP Exeter. He had a history of ischaemic heart disease, osteoarthritis and type two diabetes. He had also suffered two heart attacks in 2000. Throughout his time in prison, doctors monitored and prescribed appropriate medication for these conditions. On 25 June, a healthcare assistant reviewed Mr Deacon and recorded his weight at 84kg.

29. On 3 July, Mr Deacon received a five year prison sentence for sexual offences and on 9 July, he transferred to HMP Dartmoor. On 31 July, a prison GP saw Mr Deacon, as he complained of heartburn after eating and said he had felt bloated for four weeks. She recorded his weight at 82.5kg, and prescribed omeprazole (to treat excess stomach acid). There was no record that she examined Mr Deacon any further.

30. On 23 September, a prison GP prescribed Mr Deacon with Gaviscon chewable tablets (to treat acid indigestion and heartburn) at the request of a nurse. There was no record of reasons for prescribing this medication.

31. On 5 October, an assistant practitioner reviewed Mr Deacon and recorded his weight at 84kg. She also referred Mr Deacon for a blood test, as there were no blood tests recorded in his medical record. Four days later, a prison GP reviewed the results and noted they were normal.

32. On 27 January 2016, a nurse manager saw Mr Deacon, as he was concerned about his loss of appetite, weight loss and feeling tired, which had lasted for seven to ten days. She recorded his weight at 81kg and referred Mr Deacon to see a GP.

33. The next day, a prison GP saw Mr Deacon, who said that he had been nauseous for ten days and felt food sticking behind his breastbone. The GP examined Mr Deacon and noted that there was no enlargement of his glands or organs. The GP diagnosed dysphagia (difficulty or discomfort in swallowing) and made an urgent referral to gastroenterology under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks. He also referred Mr Deacon for a blood test.

34. On 29 January, a prison GP reviewed the blood test results and noted the renal function and liver enzymes as satisfactory with no further action required. However, the blood test results contained some abnormalities, which indicated that Mr Deacon's kidney function was impaired and that some liver function enzymes were raised.

35. Mr Deacon went to hospital on 2 February for an upper gastrointestinal endoscopy (a telescopic examination of the oesophagus and stomach).

36. On 5 February, an assistant practitioner recorded Mr Deacon's weight as 77kg. On 10 February, a prison GP reviewed the results of the endoscopy, which found evidence of inflammation of Mr Deacon's stomach lining and oesophagus but no evidence of any tumours. The GP noted in the hospital's discharge letter that hospital doctors had diagnosed Mr Deacon with gastritis (inflamed stomach

lining). Two days later, a prison GP reviewed the histology report from gastroenterology and noted a diagnosis of Helicobacter Pylori (bacteria associated with gastric ulcers). She prescribed amoxicillin and clarithromycin (both antibiotics) to treat the bacteria, but did not see Mr Deacon.

37. On 15 February, a nurse manager saw Mr Deacon, who said that he felt dizzy and had vomited. She took his basic observations and referred him to a GP. The following day, a prison GP saw Mr Deacon and diagnosed mild dehydration. The GP told Mr Deacon to drink more and recommended a new blood test if he did not improve. There was no record of how healthcare staff should monitor Mr Deacon's condition.

38. On 26 February, a prison GP saw Mr Deacon, who said that he felt sick when he ate. Mr Deacon said that he did not have any specific pain but felt vague pain in his lower abdomen. She recorded his weight at 74kg, noted some tenderness around his liver and was concerned he may have cancer. She made a referral to gastroenterology, and requested an ultrasound scan, a chest X-ray and blood tests.

39. On 4 March, a prison GP examined Mr Deacon and noted that his liver was enlarged. She also noted that the new blood tests were more abnormal than previous results so arranged a CT scan of his abdomen and pelvis.

40. On 10 March, an ultrasound scan showed Mr Deacon had multiple tumours in the liver. The following day, a prison GP reviewed Mr Deacon and sent him to hospital. Once in hospital, doctors diagnosed Mr Deacon with pancreatic cancer with metastases in the liver and told him he had less than six months to live.

41. On 17 March, Mr Deacon moved from hospital to HMP Exeter for palliative care and staff implemented appropriate care plans and prescribed pain relief.

42. On 22 March, a prison GP saw Mr Deacon to discuss his care and prognosis. She made a referral to the palliative care service and recommended that the prison's family liaison officer look at attempting reconciliation between Mr Deacon and his wife. She also recommended that restraints were not required for any hospital visits because of Mr Deacon's current medical condition (Mr Deacon did not go to hospital again).

43. Healthcare staff saw Mr Deacon every day to check on his condition and to provide him with pain relief, which included paracetamol, tramadol and oramorph.

44. On 5 April at a multidisciplinary meeting, Mr Deacon said he did not wish an application for compassionate release to be progressed and wished to spend his final days at Exeter.

45. On 10 April, a nurse reviewed the care plans, which included Mr Deacon's palliative care, nutrition and pain management.

46. On 21 April, a prison GP recorded that Mr Deacon said he did not want anyone to resuscitate him if his heart or breathing stopped. He also said that he did not want to go to hospital except for treatment that would improve his symptoms. She also discussed his pain relief, contact with his wife and his spiritual needs.

47. Mr Deacon's condition continued to deteriorate over the next two weeks. On 5 May, nurses implemented an end of life plan and a prison GP confirmed that Mr Deacon had died at 9.28pm that evening.

Liaison with Mr Deacon's family

48. On 17 March, Exeter appointed an officer as the family liaison officer. That day, she contacted Mr Deacon's son, his nominated next of kin, and two of his friends to tell them that he had been diagnosed with terminal pancreatic cancer.

49. On 31 March, the family liaison officer arranged for Mr Deacon's wife and three friends to visit him in the prison. She also continued to provide updates on Mr Deacon's condition to his son who asked for someone to telephone him when Mr Deacon died.

50. On 5 May, the family liaison officer telephoned Mr Deacon's son to inform him that he had died and to offer her support and condolences. She also informed Mr Deacon's friends.

51. Mr Deacon's funeral was on 23 May. The prison contributed to the costs in line with national policy.

Support for prisoners and staff

52. After Mr Deacon's death, a prison manager debriefed the staff involved in his care and offered support.

53. The prison posted notices informing other prisoners of Mr Deacon's death, and offered support. Staff reviewed those assessed as at risk of suicide or self-harm, in case they had been adversely affected by his death.

Post-mortem

54. The post-mortem report gave Mr Deacon's cause of death as severe coronary atherosclerosis (narrowing of the arteries due to fatty deposits) and coronary artery thrombosis (a blood clot). Advanced carcinoma of the pancreas was a contributory factor.

Findings

Clinical care

Heart disease

55. The clinical reviewer noted that the post-mortem report gave the primary cause of Mr Deacon's death as heart disease. Mr Deacon had a history of heart attacks and had diabetes which is a known risk factor for coronary heart disease. The clinical reviewer said clinicians prescribed appropriate medication for secondary prevention of coronary arterial disease, to reduce his risk of death from vascular causes. His cholesterol level was low and his diabetes control was fair. The clinical reviewer considers the care of Mr Deacon's heart disease was good, and equivalent to the care he would have received in the community.

Pancreatic cancer

56. The clinical reviewer points out that Mr Deacon had pancreatic cancer which had spread extensively in his liver. The cancer was not curable and the clinical reviewer notes that, although Mr Deacon's death was heart related (which was unexpected), he was expected to die from the cancer within days, if not hours.

57. The clinical reviewer accepted that it was particularly difficult for doctors to diagnose pancreatic cancer in the early stages, because of the often disparate and vague nature of the symptoms. The symptoms are often the same as other upper gastrointestinal conditions. However, he said there were missed opportunities for an earlier diagnosis for Mr Deacon.

58. The clinical reviewer considered that, in 2015, clinicians should have investigated Mr Deacon's indigestion/heartburn in line with National Institute for Health and Care Excellence (NICE) guidance. NICE guidance (CG184G) on gastro-oesophageal reflux disease and dyspepsia recommends that patients with persistent symptoms should be referred for specialist advice and that doctors should consider diseases of the bile duct where heartburn and bloating are symptoms. A further opportunity was missed following a prison GP's review of Mr Deacon's blood test results in January 2016. The clinical reviewer considered that the results were clearly abnormal, yet the GP logged them as normal. Following the endoscopy, the GP noted that hospital doctors had diagnosed Mr Deacon with gastritis, yet this diagnosis would not explain the abnormal liver function or Mr Deacon's significant weight loss.

59. While the clinical reviewer considered there were clear missed opportunities for an earlier diagnosis, he did not consider this affected the outcome for Mr Deacon. Overall, we agree with the clinical reviewer that the care Mr Deacon received in relation to his cancer symptoms was not equivalent to that provided in the community. We make the following recommendations:

The Head of Healthcare at HMP Dartmoor should ensure that clinicians appropriately review and follow up abnormal blood test results

The Head of Healthcare at HMP Dartmoor should ensure that clinicians manage and review prisoners with persistent indigestion/heartburn in line with NICE guidelines, including appropriate referral to specialists.

60. After his diagnosis, we agree with the clinical reviewer that the palliative care Mr Deacon received at Exeter was of a high standard, and at least equivalent to the care that he would have received in the community. Healthcare staff implemented appropriate care plans and held regular multidisciplinary meetings, ensuring Mr Deacon's needs were met, his pain was well managed and his wishes were considered.

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London, SE1P 4XY

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