

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Alan Felton a prisoner at HMP Moorland on 24 March 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*



© Crown copyright 2018

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 Alan Felton died of clostridium difficile colitis (a bacterial infection of the bowel) on 24 March 2019 at HMP Moorland. Mr Felton also had heart disease and emphysema (a type of chronic obstructive pulmonary disease) which contributed to but did not cause his death. He was 76 years old. I offer my condolences to Mr Felton's family and friends.

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

However, I am concerned that Mr Felton was twice restrained inappropriately when he went to hospital in February 2019 because prison staff did not take into account his very poor health.

In 2018, we twice found failings in the escort risk assessment process at Moorland and the Governor and Head of Healthcare explained how they would remedy the issue. I am, therefore, concerned that the inappropriate use of restraints is again a concern, and I am escalating this issue to the Prison Group Director for Yorkshire to ensure action is taken to address this unsatisfactory state of affairs.

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

September 2019

Contents

Summary 5
The Investigation Process 7
Background Information 8
Key Events 9
Findings..... 14

Summary

Events

- 1 On 29 May 2014, Mr Alan Felton was sentenced to 10 years in prison for sex offences.
- 2 Mr Felton had a number of pre-existing medical conditions. He had had two heart attacks and bowel cancer in the 1990s, lung cancer which had been treated surgically in 2011, hypertension, angina and arthritis in his knees. He was also obese.
 1. He was transferred to HMP Moorland in June 2016 because of his complex healthcare needs.
 2. In January 2017, Mr Felton was moved to a new unit at Moorland for older prisoners because of his deteriorating health, incontinence and poor mobility. He developed pressure sores which healthcare staff treated and he had a hospital bed with a specialist mattress to relieve pressure.
 3. On 3 January 2019, tests found that Mr Felton had clostridium difficile (a bacterial infection that can cause diarrhoea). He was nursed in isolation and monitored. On 18 January, tests found that Mr Felton was clear of clostridium difficile.
 4. After this, staff operated an open-door policy which meant that Mr Felton's cell door was left open 24-hours to allow easy access for healthcare staff. The treatment of his pressure sores remained a concern.
 5. On 7 February, Mr Felton went to hospital for an outpatient appointment. He was restrained with a single cuff which was changed to an escort chain during treatment.
 6. On 23 February, Mr Felton was taken to hospital for treatment for a pressure wound on his foot, which was getting worse. He went to hospital by ambulance, escorted by two officers and restrained with an escort chain. Mr Felton remained in hospital and the restraints were removed. Hospital staff gave Mr Felton intravenous antibiotics for a bone infection in his foot and for a chest infection. On 1 March, Mr Felton self-discharged back to Moorland.
 7. On 9 March, Mr Felton's health deteriorated, and he was sent by ambulance to hospital for further assessment, unrestrained.
 8. Mr Felton's condition deteriorated and on 24 March, he died in hospital of clostridium difficile colitis (a bacterial infection of the bowel).

Findings

Clinical care

9. The clinical reviewer concluded that the care that Mr Felton received at Moorland was equivalent to that which he could have expected to receive in the community.

Restraints, security and escorts

10. Mr Felton was 76 years old, had serious health conditions, mobility issues and used a wheelchair. In these circumstances, we are very concerned that he was restrained twice when he went to hospital in February 2019.

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;
 - healthcare staff complete the medical section of the risk assessment form; and
 - 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:
 - review the decision-making process used on 7 and 23 February 2019 when it was concluded that Mr Felton should be restrained; and
 - write personally to the Ombudsman setting out the lessons that have been learned and the changes that have been made as a result.
- The Prison Group Director for Yorkshire should satisfy himself that effective measures have been taken to address Moorland's continuing failure to comply with case law on the use of restraints

The Investigation Process

11. The investigator issued notices to staff and prisoners at HMP Moorland informing them of the investigation and asking anyone with relevant information to contact him. No one responded.
12. The investigator obtained copies of relevant extracts from Mr Felton's prison and medical records.
13. NHS England commissioned a clinical reviewer to review Mr Felton's clinical care at the prison.
14. We informed HM Coroner for South Yorkshire East District of the investigation. She gave us the results of the post-mortem examination. We have sent the Coroner a copy of this report.
15. The Ombudsman's family liaison officer wrote to Mr Felton's son to explain the investigation and to ask if he had any matters he wanted us to consider. He did not respond.
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.

Background Information

HMP Moorland

17. 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.
18. In August 2018, Moorland was selected to be part of the “10 Prisons Project” which seeks to improve safety, security and decency in the prisons involved. The project is focusing on reducing violence, improving living conditions, preventing drugs from entering the prisons and enhancing the leadership and training available to staff.

HM Inspectorate of Prisons

19. The most recent inspection of HMP Moorland was conducted 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. They noted that a dedicated lead for older people had recently been identified but that prisoner needs had not been fully assessed.

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 February 2018, the IMB reported that a successful recruitment drive had allowed prisoners to return to a full regime. They noted some concerns that too many prisoners were not attending healthcare appointments and that external appointments were too often cancelled because of a lack of escorts.

Previous deaths at HMP Moorland

21. Mr Felton was the third prisoner to die at HMP Moorland since March 2017. The previous two deaths were from natural causes. In both of these deaths, we made recommendations about the inappropriate use of restraints.

Key Events

22. On 29 May 2014, Mr Alan Felton was sentenced to 10 years in prison for sex offences. Mr Felton had a number of pre-existing medical conditions. He had had two heart attacks and bowel cancer in the 1990s and had had surgery for lung cancer in 2011. He also had hypertension, angina and arthritis in his knees. He walked with a frame and used a wheelchair when his condition worsened.
23. On 1 June 2014, Mr Felton was transferred to HMP Moorland. A nurse completed Mr Felton's initial health screen and noted that he had been moved to Moorland because of his complex healthcare needs. She noted that he was obese and needed care plans for older persons and heart disease.
24. On 3 June, a prison GP reviewed and re-prescribed Mr Felton's medication.
25. On 7 June, the Head of Healthcare completed Mr Felton's second health screen and noted that he also had chronic obstructive pulmonary disease (COPD - inflamed airways and damaged air sacs in the lungs).
26. On 15 July, the prison GP saw Mr Felton because he had sore knees. He gave him ibuprofen gel. He noted that Mr Felton had had part of his lung removed in 2011 and was short of breath, and that this was linked to his lung disease, for which he had been prescribed inhalers.
27. Mr Felton had physiotherapy assessments, was given walking aids and advised to go to the gym sessions for elderly prisoners to build his strength and mobility. He declined to attend and his mobility got worse and he needed a wheelchair. Mr Felton saw an occupational therapist who arranged for him to have mobility equipment for the shower. He had a buddy (a prisoner who assists another prisoner in their daily life) who took him by wheelchair to get his medications.
28. On 29 January 2017, a nurse noted that Mr Felton had been confused for a week and was gradually deteriorating. He was frequently incontinent of urine because of his mobility issues. She assessed his falls risk as high. Healthcare staff moved him to Houseblock 7 (a new unit for older prisoners).
29. On 8 May 2017, Mr Felton went to hospital for a CT scan of his chest, abdomen and pelvis. A colorectal consultant reviewed him and discharged him.
30. Mr Felton had cardiovascular, kidney and hypertension hospital appointments but sometimes chose not to attend. Healthcare staff assessed him as having a medium risk of developing pressure ulcers and gave him a hospital bed and specialist mattress designed to relieve pressure.
31. On 10 July, because Mr Felton's skin deteriorated in his sacrum (where the spine joins the pelvis), and he saw a prison GP. Mr Felton agreed to have a catheter, which a nurse fitted.
32. On 27 September 2018, a nurse noted that a pressure wound on Mr Felton's left heel was deteriorating. She referred him to a prison GP who said that the wound

did not look infected. Healthcare staff frequently treated Mr Felton's heel and on 18 December 2018, he went to hospital so that hospital staff could review the wound. He had a doppler test (to check circulation to the foot) and was given intravenous antibiotics to treat the wound on his sacrum. On 21 December, Mr Felton discharged himself from hospital against medical advice and went back to Moorland.

33. On 28 December, a prison GP noted that Mr Felton's stools had been loose since his return from hospital and sent a stool sample for testing.
34. Healthcare staff treated Mr Felton's wounds and referred him to the GP for reviews and advice. On 31 December, the prison GP noted that the heel wound was healing and reducing in size. He also noted that healthcare had treated an area of skin near Mr Felton's rectum which was inflamed. A prison GP referred Mr Felton to the tissue viability service but they said that they did not provide an inreach service. Mr Felton's wounds improved very slowly.
35. On 3 January 2019, a nurse reviewed Mr Felton's wounds. She noted that he had some skin loss caused by a pressure ulcer on his sacrum. She treated the wounds and advised him to change position frequently to relieve the pressure, but healthcare staff noted that he often chose not to.
36. That day, the nurse noted that the test results on Mr Felton's stool sample results showed the presence of clostridium difficile (bacteria that can infect the bowel and cause diarrhoea). She asked a hospital microbiologist for advice and was told that Mr Felton should be isolated and monitored for three days.
37. On 6 January, a nurse saw Mr Felton and noted that the wound on his left heel had deteriorated. She reviewed his care plans and planned for daily dressings. Mr Felton's medical records noted that he frequently lay on his back without changing position, contrary to clinical advice.
38. On 7 January, a prison GP saw Mr Felton who said that he felt good. His clinical observations were normal and his blood results had improved but his iron level was low. He prescribed iron tablets. A nurse noted that his pressure ulcer on his left heel had worsened.
39. On 8 January, healthcare staff had a multidisciplinary team meeting and agreed that Mr Felton should continue to receive social care every four hours. He had a system in place to help him call for assistance due to his mobility issues. He remained incontinent of faeces.
40. Between 12 January and 25 January, healthcare staff noted that Mr Felton remained reluctant to lie on his side to relieve the pressure. He had four pressure ulcers on his buttocks and was assessed as at very high risk of developing a pressure sore. Mr Felton declined to shower but had strip washes and daily dressing changes.
41. On 18 January, Mr Felton was found to be clear of clostridium difficile so no longer needed to be isolated. Prison staff arranged for his cell door to remain open 24 hours a day.

42. On 25 January, two prison GP's saw Mr Felton in his cell. He told them that he felt well. His observations were stable but his iron count remained low and a blood protein test indicated a possible inflammation caused by his heel wound. His protein levels were low so one of the prison GP prescribed drink supplements.
43. On 1 February, a nurse noted that Mr Felton's pressure ulcer on his left buttock had healed but that he had a blood blister on the same buttock. Although Mr Felton did not want to take her advice, she told Mr Felton to relieve the pressure to prevent a further breakdown of his skin. Mr Felton's mobility deteriorated so his buddy collected his meals and helped him with his daily activities and tasks.
44. On 7 February, Mr Felton attended hospital for an outpatient appointment to review the wound on his heel. Prison staff completed an escort risk assessment. A nurse completed the medical section and objected to the use of restraints because Mr Felton had heart failure and heart disease. She noted that his COPD was likely to influence the escort. A business administrator noted that Mr Felton posed a medium risk to the public and a low risk of escape. The Head of Security instructed officers to use a single cuff for the escort which could be reduced to an escort chain for treatment. (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.)
45. On 23 February, a nurse telephoned a vascular consultant at the Royal Infirmary for advice about Mr Felton's heel wound, which was getting worse. The consultant asked for Mr Felton to be admitted to hospital.
46. Before Mr Felton went to hospital by non-emergency ambulance, prison staff completed an escort risk assessment. The medical section was not completed. An operational support grade noted that Mr Felton posed a medium risk to the public and a low risk of escape. She noted that Mr Felton used a wheelchair because of his poor mobility. A Custodial Manager (CM) decided that Mr Felton should be escorted by two officers and restrained with an escort chain.
47. The next day, prison staff completed another risk assessment. The Security Hub Manager noted that Mr Felton was paralysed from the waist down. The Deputy Governor instructed that the restraint should be removed.
48. In hospital, Mr Felton had intravenous antibiotics for a bone infection in his foot and for a chest infection. On 28 February, Mr Felton refused to let nurses change his position every two hours (to relieve pressure on his wounds), and on 1 March, he self-discharged against medical advice and went back to Moorland.
49. Prison healthcare staff created and updated the care plans for Mr Felton's pressure ulcer on his right buttock, social care, wound care for his left heel, urinary and bowel incontinence, falls, mobility and catheter. Occupational therapy care plans were in place for Mr Felton's toileting, chair transfer, and personal care.
50. On 3 March, a mental health nurse saw Mr Felton because healthcare staff were concerned about his low mood: he said that he wanted to die, had stopped eating, was refusing some of his care and was sometimes disorientated and muddled. Mr Felton said that he did not have any mental health issues and had no

intention of harming himself. She noted that he had mental capacity and discharged him from mental health services. She noted that he was feeling more positive after talking to her.

51. On 9 March, a nurse saw Mr Felton who appeared to be confused. She noted that he had a National Early Warning Score (NEWS) of 2 which indicates that a patient should be monitored every four hours. (NEWS is a tool to help clinicians detect and respond to clinical deterioration.) She decided that he should go to hospital for further assessment.
52. Before Mr Felton went to hospital by ambulance, prison staff completed an escort risk assessment. The medical section was not completed. An operational support grade assessed Mr Felton as posing a low risk to the public and a low risk of escape but recommended that he should be restrained, including during medical treatment. A CM decided that he should be escorted by two officers but should not be restrained because of the previous risk assessment.
53. On 10 March, prison staff completed another escort risk assessment for Mr Felton. An operational support grade assessed Mr Felton as posing a medium risk to the public and a low risk of escape. She noted that a single cuff should be used. The medical section was not completed. The Head of Drug Strategy noted that Mr Felton was 76 years old, unable to walk unaided and had very poor health. She said that two officers should escort him, but that he should not be restrained.
54. Prison healthcare staff remained in frequent contact with hospital staff about Mr Felton's treatment and care. On 15 March, he signed an order to say that he did not want to be resuscitated if his heart or breathing stopped. He refused to have intravenous antibiotics and was again assessed as having mental capacity.
55. Mr Felton's condition deteriorated and on 24 March, he died in hospital.

Contact with Mr Felton's family

56. On 18 March, the Head of Safer Custody appointed an officer as the family liaison officer and a hub manager as the deputy family liaison officer.
57. Mr Felton had listed one of his sons as his next of kin but prison staff were aware that he had no contact with this son. Mr Felton had regular telephone contact with another son, who visited his father in hospital on 19 March and 23 March. The family liaison officer telephoned this son and explained her family liaison role. Liaison subsequently took place with this son.
58. After Mr Felton died on 24 March, a CM telephoned Mr Felton's son and told him that he had died. Later that day, the family liaison officer telephoned Mr Felton's son and offered her condolences. On 25 March, she and her deputy met Mr Felton's son at the hospital.
59. Mr Felton's funeral took place on 15 April, and Moorland contributed to its cost in line with national instructions.

Support for prisoners and staff

60. After Mr Felton's death, the Head of Reducing Reoffending debriefed the staff involved in the emergency response to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support.
61. The prison posted notices informing other prisoners of Mr Felton's death, and offering support. Staff reviewed all prisoners assessed as being at risk of suicide or self-harm in case they had been adversely affected by Mr Felton's death.

Post-mortem report

62. A post-mortem examination established that Mr Felton died of clostridium difficile colitis (a bacterial infection of the bowel). It concluded that he had ischaemic heart disease and emphysema (a type of chronic obstructive pulmonary disease) which contributed to but did not cause his death.

Findings

Clinical care

63. The clinical reviewer concluded that the care that Mr Felton received at Moorland was equivalent to that which he could have expected to receive in the community. He had a history of arthritis, COPD and had previously had bowel and lung cancer, all of which were assessed and reviewed in a timely manner. He was appropriately screened for vascular disease and referred to specialists.
64. The clinical reviewer said that there were many examples of good practice which included regular reviews of Mr Felton's skin integrity, nutrition and mobility. Healthcare staff liaised with a hospital consultant and microbiologist, which indicated that they were proactive in his care.
65. Mr Felton was offered ongoing and timely support and specialist clinical management of his complex health needs. Although he sometimes declined treatment and care which put his health at risk of deterioration, he was assessed as having the capacity to make such decisions.

Restraints, security and escorts

66. The Prison Service has to balance its duty to protect the public when escorting prisoners outside prison, such as to hospital, with its responsibility to treat 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.
67. 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 he has 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 reviewed as circumstances change.
68. When Mr Felton went to hospital on 7 February 2019, he was restrained with a single cuff. This was reduced to an escort chain at the hospital.
69. On 23 February, when Mr Felton went back to hospital, he was restrained with an escort chain, even though the risk assessment noted that he used a wheelchair. When he stayed in hospital, the restraint was removed.
70. Mr Felton went to hospital on 9 March, unrestrained, and remained unrestrained until he died.
71. We do not consider that the requirements of the High Court judgement were properly fulfilled when Mr Felton went to hospital on 7 February. A nurse objected to the use of restraints because Mr Felton had heart failure and heart disease and noted that his COPD was a factor in the escort. Mr Felton now had very poor health: he was 76 years old, incontinent of urine and faeces, had a number of pressure sores, was obese and had very poor mobility. An officer assessed him

of being a medium risk to the public and a low risk of escape. Despite this the authorising officer said that he should be single cuffed which could be reduced to an escort chain in hospital.

72. We also consider that Mr Felton should not have been restrained when he went to hospital on 23 February. Healthcare staff did not complete the medical section of the risk assessment and Mr Felton was restrained with an escort chain despite his very poor mobility and wheelchair use.

73. We are very concerned that there were, therefore, two occasions when restraints were authorised without any evidence that the decision makers took account of medical advice. 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;**
- **healthcare staff complete the medical section of the risk assessment form; and**
- **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:**

- **review the decision-making process used on 7 and 23 February 2019 when it was concluded that Mr Felton should be restrained; and**
- **write personally to the Ombudsman setting out the lessons that have been learned and the changes that have been made as a result.**

74. Moorland has previously twice agreed to implement recommendations about the inappropriate use of restraints on very sick and elderly prisoners. We are therefore concerned that once again, we have identified the unjustified use of restraints. We are therefore now escalating the issue and make the following recommendation:

The Prison Group Director for Yorkshire should satisfy himself that effective measures have been taken to address Moorland's continuing failure to comply with case law on the use of restraints.