

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Stephen McGill a prisoner at HMP Exeter on 27 May 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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Summary

1. 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.
2. We carry out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.
3. Mr Stephen McGill, who was 63 years old, died of liver cancer on 27 May 2019 at HMP Exeter. We offer our condolences to Mr McGill's family and friends.
4. The clinical reviewer concluded that the nursing care Mr McGill received at Exeter was equivalent to that which he could have expected to receive in the community. However, she considered the GP care that he received was not equivalent to that which he could have expected to receive in the community. Mr McGill was not seen by a GP when he arrived at Exeter, which meant that his records were not updated to show that a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) order was in place and staff subsequently attempted to resuscitate Mr McGill against his wishes.
5. During her investigation, the investigator was not provided with any evidence that either HMP Dartmoor, Mr McGill's previous prison, or Exeter had considered starting a compassionate release application for Mr McGill after he received his terminal diagnosis. It was only after we issued our initial report that Dartmoor provided evidence that they had submitted a compassionate release application. This documentation should have been provided to the PPO investigator when she requested it at the start of her investigation.

Recommendations

- The Head of Healthcare should ensure that patients received into HMP Exeter for planned palliative care are seen by a clinician within 24 hours of admission in order to establish a therapeutic relationship, rationalise medication and establish treatment escalation plans and resuscitation status; these clinical matters must be documented formally in the notes and formally handed over to the remainder of the clinical team and prison staff as appropriate.
- The Governor at HMP Dartmoor should ensure that staff are aware of their responsibilities, set out in PSI 58/2010, to provide all relevant material to the Ombudsman.

Investigation Process

6. NHS England commissioned an independent clinical reviewer to review Mr McGill's clinical care at HMP Exeter. The clinical review is attached to this report as Annex 1.
7. The PPO has investigated the non-clinical issues in Mr McGill's care, including his location, the security arrangements for his hospital escorts, liaison with his family and whether compassionate release was considered.

8. Our investigator wrote to Mr McGill's next of kin, his nephew, to explain the investigation. He asked why Mr McGill had been given a life expectancy of two months but died in two weeks. This issue is addressed in the clinical review.
9. The initial report was shared with the Prison Service. The Prison Service identified a factual inaccuracy which has been amended in this report. They provided an action plan which is annexed to this report.

Previous deaths at Exeter

10. Mr McGill was the 13th prisoner to die at Exeter since May 2017. Of the previous deaths, five were from natural causes, six were self-inflicted and one awaits classification. We have previously made a recommendation to Exeter about completing compassionate release paperwork in a timely manner.

Key Events

11. In December 2015, Mr Stephen McGill was sentenced to eight years in prison for sexual offences. He was sent to HMP Dartmoor on 19 January 2016.
12. On 18 April 2019, a prison GP went to see Mr McGill in his cell, about his ongoing back pain. The GP decided he needed to go to hospital straightaway. Mr McGill was admitted to hospital for further tests.
13. On 10 May, following a biopsy, Mr McGill was told that he had liver cancer and no further treatment would be appropriate. The same day, hospital doctors put a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) order in place.
14. On 16 May, Mr McGill was transferred from hospital to HMP Exeter. (He could not go back to Dartmoor as they could not provide the 24-hour care that Mr McGill needed.)
15. At 6.05am on 27 May, healthcare staff found Mr McGill unresponsive in his cell. It was unclear to nursing staff whether Mr McGill had a DNACPR order in place and so they called a code blue (a medical emergency code that is used to indicate that a prisoner is unconscious or having breathing difficulties) and started resuscitation attempts. However, they were unable to resuscitate Mr McGill and he was pronounced dead at 6.20am.
16. The post-mortem report concluded that Mr McGill died from liver cancer. Mr McGill also had hepatitis C, which was a contributory factor.

Non-Clinical Findings

Compassionate release

17. 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 permanently be 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. The criteria include 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 Selection of Her Majesty's Prison and Probation Service.
18. As part of our investigation, we asked Dartmoor to provide us with any documentation relating to a compassionate release application for Mr McGill. The prison told us that no compassionate release application was made. This led us to recommending to Dartmoor and Exeter that they should ensure compassionate release is considered for terminally ill prisoners and applications submitted promptly where appropriate. During the consultation period, the Governor of Dartmoor provided the PPO with further information that showed that a compassionate release application for Mr McGill had been completed and submitted. However, we are concerned that initially we were given incorrect information which meant that our initial report was incorrect. Therefore, we make the following recommendation:

The Governor at HMP Dartmoor should ensure that staff are aware of their responsibilities, set out in PSI 58/2010, to provide all relevant material to the Ombudsman.

**Louise Richards
Assistant Ombudsman**

October 2019