

**Prisons &  
Probation**

**Ombudsman**  
Independent Investigations

# Independent investigation into the death of Mr Derek Russ 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*



© Crown copyright 2020

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](https://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](mailto: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.

## 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 Derek Russ, who was 64 years old, died of bowel cancer on 27 May 2019 at HMP Exeter. We offer our condolences to Mr Russ' family and friends.
4. The clinical reviewer concluded that the clinical care Mr Russ received after his cancer diagnosis was of an excellent standard and at least equivalent to that which he could have expected to receive in the community. He made no recommendations.
5. However, we are concerned that an application for compassionate release was never completed for Mr Russ, despite staff at HMP Channings Wood starting the process on 12 December 2018 before he was transferred to Exeter.

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

## Recommendations

- The Governor and Head of Healthcare at HMP Channings Wood should ensure that applications for compassionate release are progressed in a timely manner and submitted as promptly as possible.
- The Governor and Head of Healthcare at HMP Exeter should ensure that when they receive a terminally ill prisoner from another prison, they check whether a compassionate release application has been started and progress it as appropriate.

## Investigation Process

6. NHS England commissioned an independent clinical reviewer, to review Mr Russ' 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 Russ' care, including his location, the security arrangements for his hospital escorts, liaison with his family and whether compassionate release was considered.
8. One of our family liaison officers wrote to Mr Russ' next of kin, a friend, to explain the investigation and ask if he had any matters he wanted the investigation to consider. He did not reply.
9. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

## Previous deaths at Exeter

10. Mr Russ was the 14<sup>th</sup> prisoner to die at Exeter since May 2017. Of the previous deaths, six 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. Mr Derek Russ was serving time in prison for sexual offences. He was moved to HMP Channings Wood in April 2017.
12. On 1 November 2018, Mr Russ was diagnosed with bowel cancer. On 11 December, Mr Russ said that he was in severe pain. He was seen by the prison GP who said that he needed to be taken straight to hospital. He was admitted to hospital for chemotherapy and radiotherapy treatment. This treatment was palliative only and Mr Russ was told that his condition was terminal.
13. Following Mr Russ' treatment, the hospital doctor said that he would need 24-hour care. Channings Wood could not provide this so on 8 January 2019, Mr Russ was sent from hospital to HMP Exeter. He was looked after in the palliative care suite.
14. At 12.20 on 27 May, healthcare staff found Mr Russ unresponsive in his cell. In line with his wishes, healthcare staff did not try to resuscitate him. At 12.34pm, a prison GP confirmed that Mr Russ had died.
15. The post-mortem report concluded that Mr Russ died from pneumonia caused by bowel cancer. Mr Russ also had cirrhosis of the liver and heart disease, which were contributory factors.

## Non-Clinical Findings

### Compassionate release

16. 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 Section of Her Majesty's Prison and Probation Service.
17. Staff at Channings Wood started a compassionate release application for Mr Russ on 12 December 2018. However, they then took no action on it until 9 February 2019, when one of the prison GPs chased up the paperwork. There was an exchange of emails on 9 February but no further action was taken after

that and the application was never completed. There is no evidence that staff at Exeter checked on the status of the compassionate release application or chased it up after Mr Russ was moved there. Therefore, we make the following recommendations:

**The Governor and Head of Healthcare at HMP Channings Wood should ensure that applications for compassionate release are progressed in a timely manner and submitted as promptly as possible.**

**The Governor and Head of Healthcare at HMP Exeter should ensure that when they receive a terminally ill prisoner from another prison, they check whether a compassionate release application has been started and progress it as appropriate.**

**Sue McAllister CB  
Prisons and Probation Ombudsman**

**November 2019**