

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Dennis Minogue a prisoner at HMP Bristol on 15 January 2018

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 Dennis Minogue died of cancer of the larynx (voice box) on 15 January 2018 at HMP Bristol. He was 72 years old. I offer my condolences to his friends.

The care that Mr Minogue received at Bristol was of a good standard and equivalent to that which he could have expected to receive in the community. However, I am concerned that there was a delay in staff entering the cell when Mr Minogue was seen to be unresponsive.

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

Elizabeth Moody
Deputy Prisons and Probation Ombudsman **November 2018**

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Summary

Events

1. On 15 November 2007, Mr Dennis Minogue was sentenced to serve a minimum of eight years in prison for public protection before the Parole Board would consider his parole for sexual offences. After he successfully appealed, he was sentenced to 16 years in prison on 27 August 2008.
2. Mr Minogue progressed through his sentence and had been at HMP Bristol since 20 February 2017. In April 2017, he complained that he had had a sore throat for a number of weeks. After blood tests and weight checks, a prison nurse arranged a GP appointment.
3. On 2 June a prison GP urgently referred Mr Minogue to the Head and Neck Cancer Team at a hospital under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks. Mr Minogue was diagnosed with cancer of the voicebox. He had a tracheostomy (an opening in his throat so a tube could be connected) to help him breathe.
4. Healthcare staff saw Mr Minogue daily. He had a care plan which they regularly updated. He managed his tracheostomy himself and used a nebuliser to ease his breathing.
5. At 5.40am on 15 January 2018, officers found Mr Minogue face down, leaning across his bed, and one of them radioed an emergency code. Nurses attended and decided that it was not appropriate to try to resuscitate Mr Minogue as it was clear that he had died. Paramedics arrived at 5.49am and confirmed Mr Minogue's death at 6.04am.

Findings

6. The care that Mr Minogue received at Bristol was of a good standard and equivalent to that which he could have expected to receive in the community. Prison GPs saw him many times, and they investigated appropriately, including arranging tests and facilitating his cancer treatment. Managers promptly authorised Mr Minogue's release on special temporary licence when he needed radiotherapy.
7. Staff inappropriately delayed entering the cell after seeing that Mr Minogue was unresponsive. Although this delay would not have changed the outcome for Mr Minogue, in other circumstances it could and is clearly inconsistent with Prison Service policy.

Recommendation

- The Governor should ensure that all prison staff are made aware of, and understand their responsibilities during medical emergencies, including entering cells.

The Investigation Process

8. The investigator issued notices to staff and prisoners at HMP Bristol informing them of the investigation and asking anyone with relevant information to contact her. No one responded.
9. The investigator obtained copies of relevant extracts from Mr Minogue's prison and medical records. She interviewed two members of staff on the telephone on 15 March and four members of staff at Bristol on 21 March.
10. NHS England commissioned a clinical reviewer to review Mr Minogue's clinical care at the prison. He conducted joint interviews with the investigator at Bristol.
11. We informed HM Coroner for Avon of the investigation who gave us the results of the post-mortem examination. The investigation was suspended from 22 January to 16 April 2018 while we awaited confirmation of the cause of death. We have sent the Coroner a copy of this report.
12. The investigator wrote to Mr Minogue's friend to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He did not respond to our letter.
13. The investigation has assessed the main issues involved in Mr Minogue's 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.
14. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS pointed out some factual inaccuracies and this report has been amended accordingly.

Background Information

HMP Bristol

15. HMP Bristol is a local prison, which can hold up to 614 prisoners, both those who have been sentenced and those who are on remand. Bristol Community Health provides primary healthcare and Hanham Health Services provides GP services. Avon and Wiltshire Partnership provides mental health and psychosocial substance misuse services and Bristol Community Health provides clinical substance misuse services.

HM Inspectorate of Prisons

16. The most recent inspection of HMP Bristol was in March 2017. Inspectors reported that relationships between staff and prisoners were quite good, with two thirds of prisoners saying that staff treated them respectfully (although this was a decrease from the previous inspection). Inspectors also reported that prison and health services staff shortages had severely restricted service delivery, particularly secondary health screens for new arrivals, chronic disease management and therapeutic input into the Brunel Unit (for prisoners with complex mental and physical needs). Inspectors found that waiting times for most primary care clinics were satisfactory, although many appointments were lost because of prisoners not being escorted to the health centre. They noted that medication management was generally satisfactory and dental services were good, with short waiting times.

Independent Monitoring Board

17. 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 their latest annual report for the year to July 2017, the IMB reported that while they had previously been extremely concerned by low staffing levels, the headcount had improved. However, they noted that there was still a weekly deficit of approximately 800 prison officer hours. (They also reported that approximately 60% of staff had less than two years' experience.)

Previous deaths at HMP Bristol

18. Mr Minogue's death was the fifteenth at Bristol since January 2015. Of those deaths, six were from natural causes. There are no similarities between this and the previous deaths. There have been two deaths at Bristol since Mr Minogue's death which are under investigation.

Findings

The diagnosis of Mr Minogue's terminal illness and informing him of his condition

19. On 15 November 2007, Mr Dennis Minogue received a minimum sentence of eight years for public protection before the Parole Board would consider his parole for sexual offences. After an appeal, he was sentenced to 16 years in prison on 27 August 2008.

2017

20. Mr Minogue progressed through his sentence and was transferred to HMP Bristol since 20 February 2017. When he arrived at Bristol, he told a nurse that he had a sore throat, had slightly lost his voice and was a light smoker. She checked his observations and noted that his blood pressure was high at 176/84 mmHg. She booked an appointment for a blood pressure check the next day. Nurses frequently checked Mr Minogue's blood pressure and on occasion noted that it was high.
21. On 7 April 2017, Mr Minogue told a healthcare assistant that he had had a sore throat for the last six weeks. He booked a GP appointment for him. A prison GP, examined him on 11 April. He reassured Mr Minogue that it was nothing serious and noted that if it had not improved in two months, it should be reviewed.
22. On 31 May, Mr Minogue told a pharmacy technician, that he was concerned that he had had a hoarse and sore throat for the past six months and had only seen the prison GP once. She booked a GP appointment.
23. On 1 June, a nurse checked Mr Minogue's weight and noted that he had lost 5kg since February. She asked a prison GP, if he wanted the nurses to complete a blood test before Mr Minogue saw a GP. The prison GP said that the nurses should arrange blood tests and an emergency GP appointment.
24. On 2 June, a prison GP referred Mr Minogue urgently to the Head and Neck Cancer Team at a hospital in Bristol under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks.
25. On 10 June, Mr Minogue complained of breathing difficulties. A nurse examined him. She noted that he was attending a programme to stop smoking, his voice was very hoarse and he had a productive cough, with signs of blood. She arranged for paramedics to attend, and they took Mr Minogue to hospital. While in hospital, Mr Minogue was diagnosed as having a tumour of the hypolarynx.
26. The clinical reviewer was satisfied that Mr Minogue's initial care was of a good standard and the doctor appropriately made a referral for suspected cancer. We agree that the prison GP appropriately referred Mr Minogue to investigate his symptoms.

Mr Minogue's clinical care

27. After his diagnosis, Mr Minogue told a prison GP that he needed time to consider his options. On 3 July, Mr Minogue told another prison GP, that he had decided

that he did not want any surgery and wanted to wait until he was released to begin treatment. She told him that delaying surgery may be too late.

28. Mr Minogue changed his mind about not having surgery. He had throat surgery on 7 July and surgery to remove his larynx and drain a blood clot on 28 July. In August, he began radiotherapy. He returned to Bristol on 4 September. He had a tracheostomy tube (for breathing) which he looked after himself. He completed radiotherapy in October. His medical records indicate that nurses looked after him well.
29. On 6 November, specialists at the hospital contacted prison staff and said that they had received blood tests results for Mr Minogue which showed that he had low potassium levels. They said that healthcare staff should arrange for Mr Minogue to return to the hospital's Acute Oncology Unit for treatment. In hospital, Mr Minogue had an infusion and returned to the prison on 8 November. The next day, Mr Minogue returned to hospital as his potassium levels were low again. Once stabilised, Mr Minogue returned to Bristol, with medication to increase his potassium levels (potassium chloride and magnaspartate).
30. Staff continued to manage his pain well and ensured that he had equipment for his trachea care and to keep his stoma clean. They monitored his legs to ensure that they did not swell and encouraged Mr Minogue to keep his legs elevated and to move around. His blood count showed that he was anaemic so staff monitored his haemoglobin levels and they noted that they remained low but steady.
31. On 18 December, Mr Minogue told a senior nurse that despite using his nebuliser (a machine to administer medication through a mist and breathed in through a mask or mouthpiece) regularly, he had thick secretions from his stoma. A prison GP, examined him on 22 December and prescribed antibiotics for a chest infection. On 27 December, Mr Minogue told a nurse that he felt much better.

Events on 15 January 2018

32. At approximately 5.40am on 15 January, Officer C was conducting the morning roll check (a headcount of prisoners in their cells). She looked through the observation panel on Mr Minogue's cell door and saw him lying across his bed, with his nebuliser tubes tangled up around him. She banged on the door but did not get a response. She radioed for a prison officer and healthcare staff to attend as she did not have keys to open the door, and asked staff in the control room for permission to open the cell door when her colleagues arrived (which she believed was necessary under prison regulations).
33. Officer C said that Officer D and an operational support grade (OSG), came to Mr Minogue's cell door. An officer in the control room gave permission for the cell door to be unlocked. Officer D unlocked the door and went into the cell with Officer C and the OSG. Officer D checked for a pulse and at 5.43am, radioed an emergency code blue (indicating a prisoner is unconscious, not breathing or is having breathing difficulties). When they received the code blue, staff in the prison control room immediately telephoned for an emergency ambulance.

34. The OSG said that he switched off the nebuliser and checked for a pulse but Mr Minogue's arm was cold and rigid.
35. A nurse and a healthcare assistant attended the cell but it was clear that Mr Minogue had been dead for some time, and they did not try to resuscitate him. Paramedics arrived at the wing at 6.02am and confirmed Mr Minogue's death at 6.04am.
36. The post-mortem report noted that Mr Minogue had died from metastatic squamous cell carcinoma of the larynx.
37. We agree with the clinical reviewer that after his diagnosis, Mr Minogue received appropriate and timely referrals to hospital when needed and there was close liaison with specialists. Staff at the prison treated Mr Minogue with compassion and dignity during his illness. We are satisfied that Mr Minogue was fully informed of his condition and healthcare staff supported him. We are satisfied that the care that Mr Minogue received in prison was equivalent to that which he could have expected to receive in the community.
38. When staff saw Mr Minogue unresponsive in his cell, there was a delay before the cell was unlocked. PSI 24/2011, which mandates procedures for management and security at nights, says that staff have a duty of care to prisoners, to themselves, and to other staff. The preservation of life must take precedence over usual arrangements for opening cells and where there is, or appears to be, immediate danger to life, then cells may be unlocked without the authority of the night orderly officer and an individual member of staff can enter the cell on their own.
39. Officer C knocked on Mr Minogue's cell door for some time before summoning Officer D and the OSG. The officer in the control room gave permission to open the cell door. Mr Minogue was in a single cell and unresponsive. We see no reason why staff did not enter his cell immediately.
40. Although in this instance Mr Minogue had clearly been dead for some time, there was a delay in entering the cell and we repeat the recommendation we have made to Bristol previously about its emergency response procedures.

The Governor should ensure that all prison staff are made aware of, and understand, their responsibilities during medical emergencies including entering cells.

Mr Minogue's location

41. Mr Minogue was located on A Wing and appeared settled. Healthcare staff visited him on the unit, when needed. When his condition deteriorated, staff appropriately assessed him for additional equipment to help keep him comfortable, and to help meet his care needs.
42. Mr Minogue's accommodation and location were appropriate. As his needs changed, prison and healthcare staff reviewed him appropriately. He was happy to stay in his cell for the duration of his illness, as he had a good support network. Mr Minogue was fully involved in the decision-making process and the consistent review of his changing needs was evidence of good practice.

Restraints, security and escorts

43. When prisoners have to travel outside of 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 posed at the time, taking into account factors such as the prisoner's health and mobility.
44. Mr Minogue had many hospital visits for radiotherapy and hospital consultant reviews. Prison managers completed escort risk assessments for his journeys and appropriately, given his age and condition, decided that he should not be restrained.

Liaison with Mr Minogue's next of kin

45. After Mr Minogue's death, the prison appointed, a prison manager as the family liaison officer (FLO). Mr Minogue appointed his friend as his next of kin as he did not have any contact with his family.
46. When Mr Minogue died, the FLO and the governor, visited Mr Minogue's friend's home and told him that Mr Minogue had died. They offered condolences and support.
47. Mr Minogue's funeral was held on 21 February 2018. The prison arranged and paid for the funeral in line with national instructions. We are satisfied that contact after Mr Minogue died was appropriate.

Compassionate release

48. Prisoners can be released from custody before their sentence has expired on compassionate grounds for medical reasons. This is usually when they have a terminal illness and a life expectancy of less than three months. There was no specific evidence to indicate that Mr Minogue was near the end of his life.
49. 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 a temporary licence and will decide whether staff should accompany the prisoner.
50. When Mr Minogue was taken to hospital for radiotherapy, prison managers authorised his release on temporary licence on the grounds that he was receiving essential medical treatment and one member of staff would be present.
51. Managers acted swiftly and appropriately to authorise Mr Minogue's release on special temporary licence when he needed radiotherapy.

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