Investigation into the circumstances surrounding the death of a man at Nevill Hall Hospital in June 2009, while a prisoner at HMP Usk and Prescoed

Report by the Prisons and Probation Ombudsman for England and Wales

January 2010

This is the report of the investigation into the death of a man at Nevill Hall Hospital on 8 June. The man was a serving prisoner at HMP Usk and Prescoed (referred to as Usk for the remainder of the report) at the time of his death. The post mortem revealed that he died of cancer.

I offer my sincere condolences to the man's family and friends, and all those touched by his loss.

The investigation was carried out by an investigator from my office. Healthcare Inspectorate Wales commissioned a doctor to undertake a review of the clinical care the man received at Usk. The review was completed by her colleague. I am grateful for their assistance. I would also like to thank the Governor and his staff for their co-operation. I am particularly grateful to the establishment's investigation liaison officer.

The man first arrived in custody in June 2006. He had a history of ill health and was being prescribed a number of medications. However, I am satisfied that his conditions were managed well and he enjoyed reasonable health.

In January 2009, the man complained of a cough, pains in his chest and feeling generally unwell. The doctor diagnosed pleurisy and prescribed antibiotics. After three courses of antibiotics, healthcare staff were satisfied that the problem had been resolved. However, in May staff and friends noticed that the man had lost a lot of weight. On 27 May, a chest x-ray revealed a large mass on his chest and he was told he most probably had cancer. The man's health rapidly deteriorated and he was admitted to hospital on 3 June. Doctors there confirmed he had cancer and that he would not be well enough to return to prison. He died in hospital on 8 June.

The short amount of time between the diagnosis and the man's death caused his family considerable concern. The clinical reviewer and I have considered their concerns carefully and are satisfied that healthcare staff treated the man's symptoms appropriately and that he received a suitable level of care. I make two recommendations: one concerns recording when prisoners do not collect prescribed medication and the other issuing guidelines to staff carrying out hospital bedwatch duties.

The man's family gave careful consideration to the content of this report at the draft stage. I am grateful for their participation in what is, undoubtedly, a very difficult process.

This is the fifth natural causes death to occur at HMP Usk and Prescoed since the Ombudsman began investigating all deaths in custody in 2004. I have found no particular similarities between the circumstances of the deaths.

Jane Webb
Acting Prison and Probation Ombudsman **January 2010**

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SUMMARY

The man was remanded into custody on 8 June 2006. In September that year he received an Indeterminate Public Protection sentence, with a minimum tariff of three years. He spent the first 21 months at HMP Cardiff and HMP Parc, before transferring to HMP Usk on 19 March 2008.

On arrival at Usk, the man told healthcare staff that he had a number of existing health problems including asthma, hypertension and angina. He had suffered a heart attack 15 years previously, had his gallbladder removed and had received treatment for hernias. He had been a smoker but successfully gave up in 2007. He was being prescribed a number of medications.

In January 2009, the man was examined by the prison doctor complaining of a cough, pain on the left side of his chest and feeling generally unwell. The doctor thought the man might have pleurisy and prescribed a course of strong antibiotics. The man returned to see the doctor a week later, with the same symptoms, and was prescribed a second course of antibiotics. He failed to attend an appointment with the doctor in February and also did not turn up for a chronic disease clinic that month. As a result, staff thought he must be feeling better.

On 13 March, the doctor examined the man again. He recorded that the man had another chest infection and prescribed antibiotics for the third time. Following this, it seemed the infection had been successfully treated.

The man was found guilty of six additional offences on 22 April 2009 and received a further seven years on his sentence. Prison staff and the man's friends knew he was upset by this. In early May, a nurse recorded that the man looked very pale, was sleepy and had lost weight. She referred him to the doctor and to the community psychiatric nurse, in case these were symptoms of depression or stress following his court appearance.

The doctor examined the man on 11 May (after the man missed an earlier appointment) and, having noted his obvious weight loss, referred him for a chest x-ray and blood tests. The man's friends in the prison and staff working on the wing also noticed that he had lost a lot of weight and began to be concerned about him. These concerns were raised with healthcare.

On 20 May, the man went to the local hospital and had a chest x-ray. The results arrived a week later and showed a large mass on his chest. The man was told that he probably had cancer. It seems that he chose not to share this news with his family or friends.

The man's health continued to deteriorate, but he made it clear to healthcare staff that he did not want to be transferred to another prison with more appropriate healthcare facilities. He denied being in any pain and appeared to remain positive about his condition. His cellmate provided support and helped with practical tasks such as showering. Staff on the wing knew that the man was not well, but did not know the cause of his worsening health.

On 2 June, a nurse visited the man and found him to be dehydrated, dizzy and breathless. The man said he was unable to leave his cell. The doctor examined him the following day and agreed that he was suffering with malnutrition and dehydration. The doctor decided that the man should be admitted to hospital to enable a proper diagnosis and prognosis, and to treat his dehydration.

The man was admitted to hospital as an inpatient on 3 June. The doctors there confirmed that he had cancer and told him it was unlikely he would be able to return to prison. He died in hospital on 8 June.

I make two recommendations as a result of this investigation, one concerning recording when a prisoner does not collect prescribed medication and the other issuing guidelines to staff undertaking hospital bedwatch duties. I conclude, however, that the man received an equitable level of care at Usk to that he would have in the community and that neither recommendation would have impacted on the final outcome.

THE INVESTIGATION PROCESS

1. The Ombudsman's office was informed of the death of the man on 8 June 2009. The investigation was allocated to an investigator that day. The investigator issued notices inviting staff and prisoners to contact her with any information they felt might be relevant to the investigation. Three prisoners made contact and they were interviewed as part of the investigation. I am grateful for their cooperation.

2. The Healthcare Inspectorate Wales appointed a clinical reviewer to undertake a review of the clinical care the man received at Usk. The investigator and the clinical reviewer were supplied with copies of the man's medical records and other relevant documentation. They conducted a number of joint interviews with prison healthcare staff in September. The review was completed by the clinical reviewer's colleague. Prisoners are entitled to receive care equitable to what they would receive in the community and part of the purpose of the clinical review is to judge whether that was the case.

3. One of the Ombudsman's Family Liaison Officers, made contact with members of the man's family to invite them to be involved in the investigation. They raised concerns about the standard of medical care the man received. In particular, they wanted to know whether:
    - The cause of the man's weight loss was properly investigated.
    - The diagnosis of pleurisy was, in the circumstances, appropriate.
    - The man should have been diagnosed with lung cancer earlier than he was.
    - Had an earlier diagnosis of lung cancer been made, whether there was any treatment that the man could have received.
    - The man received a lower standard of clinical care as a result of him being in prison.
    - Discipline staff looking after the man on the wing were aware of raised concerns about his sudden weight loss.
    - The prison responded adequately to the man's family's concerns about him.

The man's family also raised concerns about the actions of some staff undertaking bedwatch duties. I hope that this report addresses their concerns.

HMP USK AND PRESCOED

4. HMP Usk and Prescoed are jointly managed prisons in Monmouthshire, Wales. Usk is a closed training prison housing up to 250 adult male prisoners, most of whom are convicted sex offenders. In March 2008, 39 per cent of the population was aged over 50.

5. Every prison in England and Wales is subject to performance monitoring by the National Offender Management Service (NOMS). The performance of each prison is assessed against an agreed framework and awarded one of four ratings: exceptional performance, good performance, requiring development or serious concerns. Usk/Prescoed is currently rated as 'good'.

6. The prisons last underwent an unannounced short follow up inspection by HM Chief Inspector of Prisons (HMCIP) in March 2008, following a full announced inspection in April 2005. Staff-prisoner relationships were described as "relaxed", with prisoners finding staff to be "friendly and helpful". However, there was "little evidence" that the personal officer scheme in place had "any impact". Furthermore, HMCIP found that the "personal officer plus work that the prison aspired to, and that sought personal officer engagement with families, was also not working".

7. Healthcare services at Usk/Prescoed are run along the lines of a doctors' surgery in the community. Healthcare staff are based in the prison between 7.30am and 4.30pm on weekdays. Outside these hours, staff are available by telephone and on an 'on-call' basis. There are no inpatient facilities at either prison. HMCIP found healthcare facilities at Usk to be "small [and] cramped". In 2005, the Chief Inspector recommended that a new healthcare facility be provided at Usk. Building work was due to start in September 2008, but had not been completed at the time of this investigation.

8. Each prison in England and Wales is also monitored by an Independent Monitoring Board (IMB), formed of volunteers from the local community. IMB members have full access to each part of the prison and every prisoner held there. The Boards produce annual reports, with the most recent available report for Usk/Prescoed covering April 2007 – April 2008.

9. The IMB noted that the healthcare centre at Usk is inappropriate, and that neither Usk nor Prescoed have any inpatient bed spaces. However, the Board praised the "majority of staff" who "continue to impress with their dedication and professionalism under often extremely difficult conditions".

Personal officers

10. Personal officer schemes operate in most prisons across England and Wales. Each prisoner is allocated a named officer (or officers) who acts as their first port of call if they need help or advice. Usually, a prisoner's personal officer is expected to see the prisoner and make entries in their file at least once a fortnight.

KEY EVENTS

11. On 8 June 2006, the man was convicted of sexual offences and was remanded into the custody of HMP Cardiff to await sentencing. It was his first time in prison. On arrival, he underwent the first reception healthscreen with a nurse. (This is designed to identify any immediate mental or physical health concerns requiring referral to the doctor or a specialist service.) He told the nurse that he had a history of angina, had suffered a heart attack in the past and had received treatment for hernias. He said he was asthmatic and allergic to penicillin. The man said that he smoked, drank socially but did not use drugs. He said he had no mental health concerns.

12. Five days later, on 13 June, the man was transferred to HMP Parc. On 22 September 2006, he received an Indeterminate Public Protection (IPP) sentence, with a minimum tariff of three years. (IPP sentences apply to those who commit certain serious violent or sexual offences and who are deemed to pose a "significant risk of serious harm in the future". The sentencing court sets a minimum period of imprisonment required, but the individual will only be released after that point if the Parole Board is satisfied that the risk to the public is reduced.)

13. Whilst at Parc, the man completed two offending behaviour programmes: the Enhanced Thinking Skills Programme and the Rolling Sex Offenders Treatment Programme. He also undertook a number of education and training related courses and had various jobs in the prison.

14. The man's health problems were monitored by healthcare staff whilst he was at Parc. In July 2006, the prison doctor referred the man to the Bro Morgannwg Hospital because he complained of severe abdominal pain caused by a recurring hernia. The man was examined by a consultant general surgeon at the hospital in January 2007. The consultant told the man that to repair the hernia would be a "major undertaking" with "no guarantee" of a cure. The man and the consultant agreed that the hernia should be "left well alone". The man was offered an abdominal support to wear when exercising but did not attend his appointment to have the support fitted.

15. In 2007, the man attended smoking cessation sessions and succeeded in giving up smoking. He was also referred to the prison gym, specifically to improve his health. As a result, he reported improvements in his breathing and asthma. However, in February 2008, he was treated by healthcare staff when he again complained of abdominal pain at the site of his hernia operation scar.

16. On 19 March 2008, the man transferred to Usk. On arrival, he underwent a transferred prisoners' reception healthscreen with a nurse. The nurse recorded that the man had a history of asthma and possibly hypertension. She noted that he had been diagnosed with angina and suffered a heart attack 15 years ago, and had his gallbladder removed ten years earlier. She recorded that he was currently prescribed a number of medicines for his various conditions, and was receiving pain relief medication. The man weighed 87.8 kilograms.

17. A couple of weeks after transferring to Usk, the man complained that his hernia scar was leaking fluid. Healthcare staff dressed the wound on 28 March, and continued to do so until it burst on 2 September. On 8 September, the man was referred to the wound specialist at Nevill Hall Hospital in Abergavenny. The specialist did not assess him in person, but gave healthcare staff advice on how best to treat the wound. She also advised that the man be referred to a consultant at the Royal Gwent Hospital for further assessment. Healthcare staff at Usk interviewed for this investigation said that the man did not seem troubled by the problems with his scar and did not complain of being in pain.

18. The man's hernia wound was not healing and on 24 September, the nurse who dressed it referred the man to the prison doctor. The nurse recorded that surgical thread and mesh used during the original hernia operation were now visible in the wound. On 8 October, the prison doctor recorded that the man was "seeing [the] hospital specialist" and wrote a letter to the Royal Gwent Hospital seeking a consultant surgical opinion.

19. On 17 October, the man was charged with six further sexual offences. A wing officer made an entry in the man's wing history file noting that he might be facing a long sentence as a result. The officer wrote that the man was "aware of this and appears to be dealing with it ok", but that staff should, nevertheless, monitor him. The personal officer spoke to the man on 29 October and recorded that he was "obviously very concerned" about the further charges. The personal officer was interviewed as part of the investigation. He said that the man was "devastated" by the additional charges and "felt very worried". The man appeared at a local magistrates' court on 12 and 20 November and was remanded into custody.

20. The man was taken to the Royal Gwent Hospital on 24 November and his hernia wound was assessed by a consultant surgeon there. The consultant decided that the man should return to have the wound treated under local anaesthetic. A further appointment was made for 18 December.

21. A nurse saw the man on 10 December to change the dressing on his wound. She recorded that he felt anxious because of the further charges he was facing. She noted that they discussed "thought distraction" (techniques which encourage the individual to think about something calming and positive) and that the man was "happy to liaise with staff" if he felt more anxious. The nurse wrote that the man had no thoughts of harming himself or anyone else.

22. As arranged, the man was taken to the Royal Gwent Hospital on 18 December and received treatment for his hernia wound, returning to the prison later that day. The consultant directed that the man needed no further follow up treatment. Healthcare staff continued to change the wound dressing frequently. (In fact, they continued to do so until 13 February, when an entry in the man's medical record notes that no more dressings were required.)

23. On 19 January 2009, the man was examined by the doctor. The doctor made few notes about the appointment in the medical record but wrote that the man was suffering with a chest infection and might have pleurisy (when the lining of the pleural cavity, which surrounds the lungs, becomes inflamed). The doctor

prescribed a course of antibiotics. In interview, the doctor was asked about the symptoms the man presented with. He remembered the man complaining of a cough, a pain in the left side of his chest and "just feeling generally unwell". The doctor said he prescribed a strong antibiotic because the man had previously been a smoker.

24. The man returned to see the doctor on 26 January. Although the reason for the appointment was not recorded, in interview the doctor said that the man continued to complain of chest problems. He prescribed another course of antibiotics. Entries in the man's medical record note that he failed to attend an appointment with the doctor on 11 February, and the chronic disease management clinic on 27 February. No reasons for missing these appointments were recorded, but as in the community, prisoners are responsible for attending (or not) their medical appointments. Generally, healthcare staff will not follow up missed appointments. Healthcare staff interviewed said that, because the man missed his appointments, they assumed he was feeling better.

25. The doctor examined the man on 13 March and recorded that he had a "chest infection again". Once more, no symptoms were recorded, but the doctor noted that he had prescribed antibiotics for a third time. The doctor said that after the third dose of antibiotics he thought the man's chest infection had been successfully treated. On 1 April, the doctor recorded that the man's asthma inhaler was being changed. A nurse showed the man how to use the new inhaler.

26. The nurse that carried out the man's initial reception screening weighed him on 22 April (the reason for her doing so is not recorded) and noted that he weighed 76.9 kilograms. Two days later, he appeared at a local crown court and was convicted of several sexual offences. He was sentenced to a further seven years in prison. The man's personal officer explained that he kept a close eye on any prisoners who received additional years on their sentence. He said he would look for any changes in their attitude or lifestyle. Again, the man told his personal officer that he was "devastated" by the outcome of the court case. One of the man's friends at Usk, described the man as "knackered" following the case.

27. On 5 May (a Tuesday), the nurse that carried out the man's initial reception screening made an entry in the man's medical records, noting that he weighed 71.8 kilograms, and that he looked "very pale" and said he was sleepy. She recorded that he should be examined by the doctor and undergo blood tests. The man told the nurse that he was eating and drinking very little. She noted that he had lost 17 kilograms since March 2008 and that his weight should be monitored each week. She also referred the man to the community psychiatric nurse (CPN).

28. The nurse was interviewed during the investigation. She explained that it was not normal practice to refer a prisoner to the CPN for weight loss, however she knew that the man had been facing new charges and was back in court. She said she "had a few concerns about him" and that he seemed "quite stressed and … not his usual self".

29. The doctor examined the man seven days later on 11 May. The nurse explained that she had made an appointment for the man to see the doctor on Wednesday 6

May but he did not attend. She went to the wing to find him and was told that he had gone to his education class instead. The doctor is normally available at Usk on Mondays, Wednesdays and Fridays, but that week was not in the prison on the Friday. As a result, the next opportunity for the man to be examined was the following Monday.

30. In interview, the doctor said that the man's weight loss was "obvious" and so he referred him to Nevill Hall Hospital for a chest x-ray and blood tests. On 13 May, the man attended the asthma clinic. The nurse running the clinic recorded that the man was grey in colour and his chest "was rattley". The man was asked to provide a sputum sample "as soon as possible".

31. The next day, the CPN, assessed the man following the nurse's referral. The CPN recorded that the man had not been eating, had suffered with flu twice and with "several chest infections". The man denied having any mental health problems or any thoughts of harming himself but said that his mood had been low. He told the CPN that his low mood and lack of appetite were caused by his recent ill health. The CPN asked the man to write down what he ate over the following week and arranged to see him again on 22 May.

32. On 15 May, the officer that previously mentioned in his record that he should be monitored as his sentence had been extended made an entry in the man's wing history sheet. He wrote that the man's cellmate, had approached him with concerns about the man's physical and mental health. The officer told the man's cellmate that he would inform healthcare, and did so that day by telephone. The nurse that previously dressed the man's scar, recorded the officer's concerns in the man's medical record, but did not record whether any action needed to be taken as a result. There is no indication that healthcare staff visited the man or talked to him following the officer's call.

33. The man attended for hypertension screening on 18 May, and his blood pressure was found to be "quite high". The nurse recorded that it should be monitored. That same day, the man's personal officer spoke to him about his new sentence. He noted that the man was not in good health and that he had "had pleurisy and … lost four stone in weight". The personal officer recorded that staff were aware of this.

34. The CPN saw the man again on 22 May. As instructed, he had kept a diary of what he had eaten in the past week, which the nurse found "quite satisfactory". The CPN told the man that she would show the nurse that carried out the man's initial reception screening his diary. The man said he was feeling a little stronger, but was hoping for his test results in the next few days. The CPN recorded that the nurse would review the man the following week, but concluded that there did not appear to be "any serious mental health issues at this time". She gave him a further appointment for 29 May and told him to contact healthcare if he had any problems.

35. Following the doctor's referral, the man went to Nevill Hall Hospital for chest x-rays on 20 May. In interview, the man's cellmate, raised concerns about the way the man had been treated by staff who escorted him. (Whenever a prisoner is

taken out of the prison, a risk assessment is carried out to decide how many staff should escort the prisoner. The assessment also informs decisions about the extent to which the prisoner needs to be restrained, by handcuffs, for example.) The man's cellmate said he was working in the brick shop and saw the man being escorted from the prison. He said the man was handcuffed to an officer. From what he heard and saw, he thought the man had been treated unnecessarily roughly by the officer. The man's cellmate told the investigator that, on his return from hospital, the man said he had been "dragged around" by the officer he was handcuffed to that day. The man's cellmate said the second officer escorting the man told the cellmate that he had tried to make sure the man was handcuffed to him instead, but had not been able to arrange this.

36. Since the draft version of this report was issued, Usk have provided the investigator with a copy of the Prisoner Escort Record (PER) and risk assessments relating to the hospital visit. This indicates that the second officer escorting the man and the officer that was handcuffed to the man were responsible for escorting the man to hospital that day. The investigator spoke to the second officer escorting the man by telephone. He was certain that the man had not been mistreated while being escorted. He said that he would challenge any colleague he felt was treating a prisoner inappropriately.

37. Seven days later, on 27 May, the x-ray results arrived. The doctor recorded that they showed a "large bronchial mass – needing urgent chest referral". He discussed the results with the man that day. In interview, the doctor explained that without a tissue biopsy it is not possible to give a definite diagnosis of cancer. However, he said that the x-ray revealed a "growth on the lung … and with a picture like that and with weight loss you have to consider a cancerous growth". The doctor confirmed that this was the first time that the man was told he might have cancer. He said, however, that he thought the man already understood he was "in a pretty poor condition … and knew things weren't right". The doctor prescribed Fortisips (a high energy food supplement) to help combat the man's weight loss and requested further blood tests. He wrote an urgent referral letter to the consultant chest physician at Nevill Hall Hospital, which was faxed to the hospital that day.

38. The nurse that previously dressed the man's scar made a further entry in his medical records that day. She recorded that the man had been given time to talk about how he felt and had been offered support and advice by nursing staff. She noted that he was due to undergo further blood tests the following day. The nurse recorded that the man and his cellmate were now located in a ground floor cell and noted that he should be checked by nursing staff every week day. She wrote that the man knew that, should he find it difficult to look after himself or his condition worsen, he should contact healthcare staff. The nurse also noted that she had talked to the prison catering staff, who had agreed to provide the man with a "light, nutritious" diet. The man was told to contact catering staff if his needs changed. The nurse contacted a palliative care nurse at the St David's Foundation (a hospice), and arranged to speak to her again once the man had been assessed by the hospital specialist.

39. The nurse drew up a care plan for the man, which outlined how his weight loss and mobility problems would be addressed. She wrote that the man would be encouraged to eat and drink, and would be provided with food supplement drinks. Catering staff would continue to provide the man with suitable food, and the man would be asked to complete a chart to record his food and fluid intake. The nurse wrote that the man would be provided with a soft chair and the furniture in his cell would be arranged to allow him to move more easily. The care plan also recorded that the man was to be seen by healthcare staff every day, and notes made in his medical record.

40. At 2.20pm, the nurse that carried out the man's initial reception screening checked him and noted that he was still "shell shocked". In interview, she said that while the man had been shocked by the likely diagnosis, he remained very positive and forward-looking. She reiterated that he should contact healthcare if he needed anything and that she would check him again before the end of her shift. Later that evening, at 7.10pm, the man's cellmate spoke to the second officer responsible for escorting the man to hospital on 20 May as he was concerned about the man's health. The officer informed a senior officer (SO), who spoke to the man. The senior officer made an entry in the wing observation book writing that the man "should be referred to healthcare for an up date on his wellbeing". The SO recorded that he too was concerned about the man's "deterioration". (Information relating to prisoners' health is regarded as "medical in confidence". Healthcare staff do not routinely share such information with discipline staff. Discipline staff might be told that a prisoner is unwell but would not normally be informed of a diagnosis. A prisoner might however choose to share information about his health with any member of staff or other prisoners. Staff responsible for the man on the wing were not aware that he had been told the seriousness of his condition.)

41. Ten minutes later, the senior officer contacted healthcare to inform them that the man had soiled himself. The duty nurse agreed to come and see the man and arrived on the wing at 8.15pm. She provided him with incontinence pads, and talked to him about how he felt. The nurse told the man to contact staff if he felt unwell. She recorded that she had informed the doctor of her assessment.

42. The nurse that carried out the man's initial reception screening visited him at 9.45am the following day and found him to be lethargic and grey in colour. She was unable to take a blood sample from him and wrote that she would try again the following day. She returned to see the man at 2.00pm and he told her he had only been able to eat a very small amount of his lunch. The nurse encouraged him to eat and told him she would visit again later. She did so at 4.00pm and noted that the man had now been given a comfortable chair. The nurse asked him if he was in any pain, and he replied that he was not.

43. On 29 May, the same nurse and the CPN visited the man. The man told them that he knew he was physically ill but that it was not affecting his mental health. The CPN noted that she would continue to monitor the man as he had not yet received the test results or a confirmed diagnosis. The nurse recorded that he seemed lethargic again. He told the her that he felt very tired but was trying not to sleep. He said he was not in any pain, but was told that he could ask for pain

relief if he needed any. The nurse returned at 2.00pm, when the man was asleep, and again at 4.00pm. She checked he had enough Fortisips drinks to last the weekend and reiterated that he should tell staff if he was in any pain. The nurse also made an entry in the man's wing history sheet, confirming her visit. (In interview, the nurse said that healthcare staff often asked the man if he was in any pain and he always said he was not. She explained that they told him they could provide him with pain relief if he needed it, but he continued to insist that he did not.)

44. The following day, a Saturday, the second officer responsible for escorting the man to hospital on 20 May noted that the man had showered, with the help of his cellmate. (Healthcare and discipline staff alike spoke very highly of his cellmate and the care he showed to the man while he was ill.) The officer noted that the man was eating "very [little] if any food at the moment". The nurse that carried out the man's initial reception screening visited again on Monday 1 June, and found the man to be very tired. He said he had managed to eat a little over the weekend but the nurse described him as looking "gaunt". The man maintained that he was not in any pain. Later that morning, the nurse left a message for the hospital specialist about the man's appointment. She visited the man again shortly afterwards and gave him a food chart to complete (to record how much he ate and drank). The man was also asked to provide a urine sample. Later that day, the nurse recorded that the hospital consultant's secretary had returned her call and had explained that the consultant was on leave. She agreed to ask another consultant to review the man's chest x-rays with a view to arranging an appointment.

45. On 2 June, the nurse that previously dressed his scar visited the man in his cell. She described him as "grey, face drawn, skin showing signs of dehydration". She recorded that he was only able to walk a very short distance before feeling dizzy and breathless. She thought that he might be suffering with malnutrition and dehydration and wrote that he was "not really able to tolerate" the Fortisips drinks. Analysis of his urine showed the presence of ketones and protein. (Ketones are produced when the body breaks down fat for energy. Their presence might indicate that the individual has not eaten for some time.) The nurse wrote that the man had showered the previous day and "felt exhausted". He told the nurse that he was not leaving his cell, and was having his food brought to him. He said that other prisoners were visiting him, but the nurse recorded that he could not really remember who had visited. The nurse arranged for a jug of water to be placed in the man's cell so staff could monitor how much he drank. She also arranged for the Fortisips drinks to be replaced with high energy yoghurts. She was able to take a sample of the man's blood to be tested.

46. Later that day, the nurse rang the doctor to discuss the man's deteriorating health. She told the doctor that the man appeared malnourished and dehydrated and that he was unable to walk very far. The doctor agreed to examine the man the following morning, with a view to arranging for him to be transferred to a prison with an inpatient healthcare facility.

47. As arranged, the doctor examined the man on the morning of 3 June. He found him to be very weak and unable to look after himself “as much as he would like to”. The man told the doctor that he was drinking enough but the doctor recorded that his tongue showed signs of thrush and dehydration. The man said he was not in any pain. They discussed whether the man should transfer to another prison with better healthcare facilities, but the man said he was happy to stay at Usk. The doctor recorded that he would speak to the prison head of healthcare about whether the man should be admitted to hospital. He wrote that this would enable a proper diagnosis and prognosis to be made, help rehydrate the man and allow for consideration of whether he should transfer to another prison.

48. The nurse that carried out the man’s initial reception screening and the nurse that had previously dressed his scar visited the man at 9.30am that morning to tell him he was going to hospital. The nurses washed the man and found a sore area at the base of his spine. He told the nurses that it hurt to be touched. He also said that he had not been taking any of his medication because he was “unable to tolerate them”. (The man was prescribed most of his medication on a monthly basis, meaning he kept a month’s supply in his cell and was responsible for taking the correct dose.) His urine was tested again and traces of blood, protein and ketones were present. He now weighed 63.2 kilograms. In interview, the nurse said that this was the first time that he admitted to being in pain. However, she also said that when told that he would be going to hospital, the man was “begging us not to send him in because he didn’t want to go”. The nurse thought that he realised that if he left Usk, it was unlikely that he would return – either because he would be staying in hospital or because he would be transferred to a prison with 24 hour healthcare, better suited to address his needs. The nurse said the man had previously “refused point blank” to consider transferring to another prison.

49. Because the man was being transferred to hospital, a risk assessment was carried out. The nurse that carried out the man’s initial reception screening noted that there were no medical objections to the use of restraints (for example, handcuffs) but that the man was unable to walk. A member of staff from the security department recorded that the man did not pose a risk to hospital staff and had no history of violence, or drug or alcohol use. They noted that there was no indication that he might try to escape or that the man himself might be at risk. A Governor completed the assessment and agreed that no cuffs be applied, due to the seriousness of the man’s condition. It was decided that two members of staff should escort him to the hospital, but that only one would be necessary once he had settled there and necessary security assessments had taken place. At 10.15am, the man was taken to Nevill Hall Hospital by the nurse, a SO and a officer.

50. An officer recorded in the man’s wing history sheet that he had left a message for the man’s ex-wife on her mobile telephone, and had also spoken to one of the man’s sisters-in-law to let them know he had been admitted to hospital. He gave both the prison telephone number so they could contact staff for further information. Later, the officer made a further entry recording that one of the man’s brothers had telephoned and been told which hospital ward the man was in.

51. After the man left for the hospital, the nurse that previously dressed his scar telephoned the healthcare centre at HMP Parc to ask if they could accommodate the man if he was discharged from hospital, explaining that he would need an inpatient bed. Staff at Parc agreed to discuss the matter with the Governor, but thought it unlikely they would be able to assist due to staff shortages.

52. Later that afternoon, hospital staff telephoned the prison to make sure that the man's family had been told that he was seriously ill. One of the man's brothers visited him that evening. The nurse that carried out the man's initial reception screening telephoned the hospital for an update and was told that he had undergone a scan, and was being given an intravenous drip with potassium. The nurse agreed to call again the following day for further updates.

53. The following day, the nurse telephoned the hospital again and was told that the man was undergoing further investigations. The nurse told hospital staff that the prison would need "as much notice as possible" if the man was to be discharged as they still needed to find another prison that could accommodate him. The hospital agreed to liaise with prison staff if the man was well enough to be discharged.

54. On 5 June, an officer who was conducting the bedwatch (when officers remain with a prisoner while in hospital), called the prison and told a senior officer that a hospital doctor had confirmed that the man had cancer, and that it had spread. The officer recorded in the bedwatch notes that the man also had a problem with his stomach, which would require examination by a surgeon. The senior officer wrote in the man's wing history sheet that the man's condition was terminal and he was also being treated for diabetes. Hospital staff had told the man that he would probably not leave the hospital. The senior officer passed on the information to the nurse that carried out the man's initial reception screening and the Duty Governor (who is the Head of Release and Reoffending). Later that evening, two of the man's brothers visited him. The officer recorded that hospital staff had given the family permission to visit at any time.

55. The Duty Governor was interviewed during the investigation. He was asked whether consideration had been given to releasing the man on temporary licence (ROTL) or on compassionate grounds. He explained that ROTL was rarely available for prisoners at Usk due to the nature of their offences, the length of their sentences and the perceived risk to others. Prison Service Order (PSO) 6300 provides guidelines on the use of temporary release or release on compassionate grounds. It directs that prisoners serving IPP sentences should be classed as life sentenced prisoners. Prisoners serving life sentences are normally only eligible for temporary release if they are held in open, or semi-open conditions. Usk is a closed prison and so the man was not suitable for ROTL or compassionate release.

56. The man's daughter telephoned the prison on 6 June, asking for permission for her mother (the man's ex-wife) to visit the man in hospital. As she was not listed as an 'approved visitor' (someone who has been cleared by the security department to visit the prisoner in prison), the Prison Family Liaison Officer

contacted the Duty Governor. He gave permission for them to visit. The man's daughter asked why her mother had not been informed that the man was in hospital and was told that a message had been left on her mother's mobile telephone on 3 June.

57. The Duty Governor explained that he was aware that there were some "family tensions" and that, for the man's own safety, the escort should be increased to two officers. He told the investigator that doing so meant an officer would always be present to make sure no unauthorised visitors arrived and that the man was supported at all times. The Duty Governor said he visited the hospital and spoke to the man, who was not concerned about the new escort arrangements. He was not sure whether the man's brothers had been told but thought that the escorting staff on duty at their next visit would explain the situation. The Duty Governor said he told the staff nurse on the ward about the decision.

58. The following day, the man's ex-wife, and later his brothers, visited him. At 8.25pm, one of the escorting officers noted that the man was "not looking well at all". During the night, the officer noted that the man was breathing very heavily.

59. Another officer took over bedwatch duties at 7.45am on 8 June. At 8.05am, she recorded that the man had died, which was confirmed by a hospital doctor at 9.45am. The ward sister contacted one of the man's brothers to tell him of his death.

60. The post mortem concluded the cause of the man's death to be:
    1a. Dissemintated malignancy (widespread cancer)
    1b. Small Cell Anaplastic Carcinoma of the lung (lung cancer)

Contact with the man's family

61. When the seriousness of the man's condition became clear, a senior officer was appointed as the family liaison officer. Following the man's death, she contacted the man's brother, his appointed next of kin, and the man's ex-wife and visited them both on 8 June. The family liaison officer provided the family with information and helped to arrange the funeral. The Prison Service offered financial assistance towards the cost of the funeral.

62. A member of the prison's chaplaincy team led the funeral service and the family liaison officer and the Duty Governor attended. Members of the man's family told the Ombudsman's family liaison officer that the prison family liaison officer had been "absolutely marvellous", and that they had appreciated her kindness and support.

Support for other prisoners

63. The man's friends at Usk found out he had died by a variety of means including through individual members of wing staff and a member of the chaplaincy team. In addition, the Governor issued a notice informing all prisoners of his death. The man's cellmate said he was not offered any specific support following the man's death, but that he did not think he had needed any. The member of the

Chaplaincy team arranged a memorial service in the prison chapel. However, two of the man's friends said that, due to confusion about the arrangements, the service did not take place as scheduled and that they were not told that a new time had been arranged. As a result they both missed the service and were upset and angry.

Support for staff

64. All staff interviewed said that they had been well supported by colleagues and managers after the man's death. The Prison's family liaison officer told the investigator that officers conducting bedwatch duties who were present when a prisoner died were usually offered support. However, she said that this did not normally apply to other officers who had carried out bedwatch duties.

ISSUES IDENTIFIED DURING THE INVESTIGATION

Clinical care

65. Healthcare Inspectorate Wales commissioned a review of the clinical care the man received at Usk. The review was completed by the original reviewer's colleague.

66. The clinical reviewer concludes that, on the available evidence, he doctor's diagnosis of pleurisy was appropriate. The man complained of a cough, pain in the left side of his chest and feeling generally unwell – all indicative of pleurisy. The doctor prescribed a course of strong antibiotics. In total, the man was prescribed three courses of antibiotics. The man did not return to see the doctor following the third course and, in fact, failed to attend two appointments with healthcare staff. On that basis, they were satisfied that the man felt better.

67. The man's rapid weight loss (a possible symptom of cancer) was noted in May 2009, and the doctor promptly referred him for a chest x-ray. On 27 May, the man was told that he most probably had cancer. Lung cancer is very aggressive, with an average survival from diagnosis to death in the United Kingdom of six months. The doctor confirmed that he had anticipated the man receiving a course of radiotherapy, which might have given him an additional month or two.

68. The length of time between the man receiving the probable diagnosis of cancer and being admitted to hospital was only a week, and I have no doubt that the speed at which his health appeared to decline caused a great deal of concern to his family. For whatever reason, it seems the man chose not to tell his family that he was unwell, or that he probably had cancer, and that must also be difficult to accept. However, both the clinical reviewer and I are satisfied that the man received the appropriate assessment and treatment at Usk, and that this was equitable to what he would have received in the community.

69. The man's family were concerned that the man's diagnosis and possible treatment were delayed by the fact that he was a serving prisoner. The investigation has found no evidence of this. The family told the Ombudsman's family liaison officer that the man had been in pain for "some time". The nurse that carried out the man's initial reception screening who visited the man daily when he became ill, said that she and her colleagues frequently asked him if he was in any pain and offered pain relief if he was. She said the man denied being in any pain until 3 June, when he was admitted to hospital. The man's friends at Usk agreed that he had never mentioned being in pain.

70. The clinical review identifies that the man did not collect his prescribed medication at the beginning of May. There is no documented reason for this, although the reviewer notes that it appears to coincide with the man's deteriorating health. It is, clearly, not possible to know whether the man failed to collect his medication because he felt unwell or for any other reason. However, had staff recorded that the man had not collected his medication, it might have prompted an investigation, which might have identified his declining health earlier.

The Head of Healthcare should ensure that staff make an entry on the medication chart and/or clinical record whenever medication has not been collected as required, in line with the Nursing and Midwifery Council standards.

How discipline staff responded to the man's ill health

71. The man first complained of chest problems in January 2009 and his health began to significantly decline in May. Entries in his wing history file indicate that discipline staff noticed his ill health (and were further alerted to this by his cellmate, the man's cellmate) on 15 May. By this point, healthcare staff were also concerned about his rapid and noticeable weight loss and general ill health.

72. During the course of the investigation, the man's personal officer was interviewed. He said that he spoke to the man each day that he was on duty and "built up a good rapport" with him. The personal officer explained that he had noticed that the man had lost some weight, but realised how much when he returned from a period of leave. He described the man's weight loss as "drastic" and said he had planned to speak to him about this. In the meantime, a member of the healthcare department asked the personal officer to discuss the weight loss with the man. He did so and the man told him he had lost four stone, but that this was due to having pleurisy. He reassured the personal officer that this had been "sorted out". The second officer escorting the man to hospital on 20 May spoke to healthcare on 27 May, having become concerned about the man's ill health. Earlier that day, the man had been told he probably had cancer.

73. All those who knew the man described his weight loss as rapid and startling. However, he had been charged with additional offences and, in April, was sentenced to a further seven years in prison. Staff knew he was very upset by this. The nurse that carried out the man's initial reception screening was concerned that his ill health was a result of stress. Both discipline and healthcare staff told the investigator that information about prisoners' health remains "medical in confidence". Staff looking after the man on the wing would not have been told that he had suffered with chest infections, been diagnosed with pleurisy or prescribed antibiotics over the preceding months – until or unless the man chose to tell them himself. On these grounds, I think that it is reasonable that discipline staff were not concerned about the man's health until his weight loss became worryingly evident in May. At this point, they raised their concerns with healthcare, which was entirely appropriate. I do not believe they could be expected to have done more or acted sooner.

74. It is worth noting that many of the Ombudsman's investigations find that personal officer schemes are not used to the full. I am pleased to note that on this occasion the man seems to have had a good relationship with his personal officer, who took a close interest in his welfare.

Hospital visit on 20 May

75. The man's cellmate told the investigator that he had seen the man being roughly treated by a member of prison staff responsible for escorting him to hospital on 20 May. He said that the man told him he had been "dragged around" the hospital. The cellmate believed the officer that treated him badly to be the officer handcuffed to him. The investigator spoke to the second officer escorting the man. She also requested the PER relating to the visit from the prison, which was provided after the draft version of the report had been issued. The PER confirmed the identities of the two officers responsible for escorting the man to hospital that day. The second officer escorting the man could not remember who he had been on escort duty with but was certain that the man had not been mistreated that day. He said he would have challenged any officer he felt to be treating a prisoner inappropriately.

76. Given the two varying accounts from the man's cellmate and the second officer escorting the man, I am unable to reach a definite conclusion about the allegations that the man was roughly treated during the escort.

Contact with the man's family

77. The man's family thought that the prison should have been more pro-active in letting them know that the man was unwell. The man had not sent any Visiting Orders to his family or written to them for several months and his brother said this was unusual. He telephoned the prison to check he was alright but said he received an "unhelpful" response from the prison officer whom he spoke to.

78. During the investigation, the investigator spoke to the prison family liaison officer. She explained that she is usually told promptly when a prisoner is seriously ill and likes to make contact with the prisoner's family as soon as possible. She said, however, that it is a finely balanced decision and requires a great deal of sensitivity. She explained that she normally listens to the prisoner's recent telephone calls to see who they have been in contact with and whether they have discussed their illness. (All prisoners' telephone calls are recorded and can be monitored if necessary.) On listening to the man's telephone calls, she understood that he had not told his family he was unwell. She explained that it is for a prisoner to decide what to tell friends and family, and that staff would never force them into a decision, or contact family without their consent. She said that staff would, in most circumstances, contact a prisoner's next of kin if the prisoner is admitted to hospital. In doing so, however, they would not reveal details about the nature of the prisoner's illness.

79. The prison family liaison officer was also asked how prison staff are expected to respond to family members telephoning with concerns about prisoners. She was surprised to learn that the man's family had not found the officer's response helpful and said that she would expect the majority of staff to take action on receiving such a call. In this case, the SO said she would have expected the officer to tell the man that his family were worried, and perhaps suggest that he sent them a Visiting Order, or telephone them to reassure them. She said that staff could not send out Visiting Orders on behalf of a prisoner, unless the prisoner

asked them to do so. The prison family liaison officer said that, ideally, a note of the family's concerns should be made in the prisoner's file, although she accepted that this did not always happen. (There was no mention of the man's family having telephoned the prison in his prison file.)

80. The man's personal officer explained that, due to shift patterns, staff often do not know whether a prisoner is receiving visits. However, he said that in his role as a personal officer he would try to ask prisoners if they were receiving visits and keeping in touch with friends and family. The man did not mention any problems with either. The personal officer was clear that, if there had been problems, he would have tried to discuss these with the man but that he would not have contacted friends and family unless the man had asked him to.

81. There is no doubt that having a family member who is ill and in prison is extremely worrying. Lack of information and contact can only make the experience more stressful for those on the outside. However, it is clearly for individual prisoners (who have the capacity to make such decisions) to decide what and when to tell their family. The man was told he most probably had cancer on 27 May. By all accounts he remained lucid and fully aware of the seriousness of his condition throughout. Staff at Usk respected his choices and were clear that they could not have contacted his family without his express permission. I appreciate that this will be of little comfort to the man's family, but I agree it must be the case.

The actions of bedwatch staff

82. The man's family raised concerns about the actions of some individual officers conducting bedwatch duties while the man was in hospital. They said that most had acted sensitively and left the room during their visits, however, some staff stayed throughout the visit and they thought this was unnecessary and intrusive.

83. The Duty Governor told the investigator that there are no specific instructions for bedwatch, beyond whether the prisoner must be restrained and that staff are encouraged to use their judgement in other matters. On 6 June, the Duty Governor decided to increase the level of escort from one to two officers, for the man's own safety. He thought it possible that staff on duty after that time might have believed they needed to stay in the room in the light of that decision.

84. The investigator was provided with the bedwatch logs covering the man's time in hospital and found no evidence of purposeful insensitivity. However, staff undertaking such duties at what is likely to be a highly distressing time for the prisoner and his family, might benefit from some additional guidance.

The Governor should consider issuing formal guidelines to staff undertaking bedwatch duties.

CONCLUSION

85. The man arrived in prison in 2006 with a number of existing health problems. His health was monitored and he received appropriate treatment when necessary. In January 2009, the man's health began to deteriorate. The doctor diagnosed pleurisy and chest infections and prescribed three courses of antibiotics. After the third course, the symptoms appeared to clear.

86. In May 2009, healthcare and discipline staff noticed that the man had lost a lot of weight in a short space of time. The doctor referred the man for chest x-rays at the local hospital and on 27 May told the man that he probably had cancer. The man's health quickly deteriorated. On 3 June, he was taken to hospital, where he died five days later.

87. The length of time between the man being diagnosed with cancer and his death was very short and, undoubtedly, shocking for his family. However, this investigation has found that the care provided to him at Usk was appropriate and equitable to that he would have received in the community. I make two recommendations, but do not believe that either would have changed the outcome for the man.

RECOMMENDATIONS

1. The Head of Healthcare should ensure that staff make an entry on the medication chart and/or clinical record whenever medication has not been collected as required, in line with the Nursing and Midwifery Council standards.

   The Prison Service has accepted this recommendation. Nurses will be reminded to note when a patient fails to collect repeat prescriptions.

2. The Governor should consider issuing formal guidelines to staff undertaking bedwatch duties.

   The Prison Service has accepted this recommendation. Existing instructions will be amended to ensure future risk assessments/ care plans contain necessary guidance to staff, which will reflect the sensitivities of each particular prisoner being managed.