

**Report into the death of
a man in July 2004
whilst a serving prisoner at HMP Kingston**

Prisons and Probation Ombudsman for England and Wales

April 2005

This is the report of an investigation into the circumstances of the death of a man on 7 July 2004 at a hospital in Portsmouth whilst a serving prisoner at HMP Kingston.

I would like to extend my condolences to the man's family and friends for their sad loss.

All deaths in custody are investigated, including those due to natural causes. The responsibility for carrying out those investigations traditionally fell to the Prison Service itself, but has now passed to the Prisons and Probation Ombudsman to bring greater independence and consistency to the task.

This man's death has been investigated by one of my Deputy Ombudsmen who has a BSc and is a qualified RGN. Her report makes two recommendations. Overall, it draws attention to the sensitive and supportive care that the man received from staff and management at Kingston. They have reason to be proud of their efforts

The decision of the Parole Board are not within my remit. However, in one of the recommendations I ask that the Board be sent a copy of the report for their consideration. The progress of a terminal illness is always difficult to assess, but in my judgement this man could and should have been released from his life sentence before succumbing to his final bout of illness.

Stephen Shaw CBE
Prisons and Probation Ombudsman

April 2005

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Summary

This man was born November 1952, the second of three children. As a child he suffered from asthma with frequent episodes of bronchitis requiring spells in hospital. He left school at the age of 16 and got a job as a school caretaker, which he enjoyed. After the breakdown of his marriage, he began to drink heavily. It was whilst under the influence of alcohol that he committed the offence that resulted in him receiving a life sentence in June 1993.

The man participated well with offending behaviour programmes and his behaviour whilst in prison was good and compliant. He was a well liked prisoner who interacted well with his peer group and staff. By May 2002, the Parole Board had recommended that the man was suitable for 'open conditions'. However, he remained at HMP Kingston, at his own request, due to his failing health and desire to be with his friends.

The man was due for a tariff expiry Parole Board review in March 2004. However, this did not occur. In May 2004, the establishment submitted an application for Early Release on Compassionate Grounds. No response was received and, despite Kingston chasing the man's dossier and highlighting the urgency, the Parole Board set a hearing date for August 2004.

The man was admitted to a hospital in Portsmouth on 13 June and died peacefully on 7 July. Whilst in hospital, he was treated by prison staff in a dignified and humane way with minimal security that had been appropriately risk assessed.

Introduction

The man was received into prison on 13 January 1992 and subsequently sentenced at the Central Criminal Court to life imprisonment in June 1993, with a tariff recommendation of 11 years. His tariff expired in April 2004.

HMP Kingston

HMP Kingston is situated about two miles from Portsmouth city centre and opened in 1877 as a local prison for the Portsmouth area. In the years preceding the Second World War, it held preventive detainees who were transferred to HMP Parkhurst at the outbreak of the war in 1939. During the war it was used by the Royal Navy as Naval Detention Quarters. HMP Kingston closed in 1945 and remained empty until 1948 when it became a recall centre for borstal trainees. In 1969, following alterations HMP Kingston became a training centre for Category B life sentence prisoners.

Custodial History

The man was first received into custody in 1992. After his life sentence he was allocated to HMP Wormwood Scrubs as a first stage lifer. He was subsequently transferred to HMP Kingston in February 1997.

In June 2000, following a Parole Board review, the man was identified as being suitable for Category C conditions. In May 2002, following a further review, a recommendation was made that he be transferred to open conditions as a Category D prisoner, with a further review in 18 months.

The transfer to open conditions never occurred due to the man's medical needs and his own anxieties about his ability to cope.

A memo was sent to Lifer Section on 2 July 2003 detailing the man's failing health and requesting urgent consideration of his case.

His next Parole Board review should have commenced in March 2004 with his tariff expiring in April. Requests were made for the man's skeleton dossier but it did not arrive. Reminders were sent on 19 April and 5 May before the dossier finally arrived on 10 May.

Knowing that a review was imminent, HMP Kingston prepared for completion of the dossier and by mid-May the completed dossier was returned to the Lifer Section. The dossier supported the man's release on medical grounds. Additionally, the documentation for Early Release on Compassionate Grounds was completed in accordance with Prison Service Order 6000.

Whilst at Kingston, the man had not been subject to any adjudications and was noted by staff to be polite and to interact well. The man had achieved enhanced status under the Incentives and Earned Privilege Scheme. This was reflected in the application for compassionate release.

The application was further supported by a letter dated 6 May from the Consultant Physician in Diabetes and Endocrinology who was managing the man's care. In the letter, he stated that *"future outlook and prognosis is considered poor"* and supported the proposal for early release.

The man had maintained contact with his mother and sister whilst in prison but was initially estranged from his brother. The man's mother died in 1999. By September 2003, the man had re-established contact with brother and was hoping to be released to a hostel in Kettering to be near his brother who was happy to provide care and support for him.

All the documents were once more faxed to Lifer Section on 3 June 2004 in an attempt to speed up the process. These documents had to be faxed again on 5 July 2004 as a response had still not been received. By this time, the man was in hospital requiring ventilation to assist his breathing.

On 25 June 2004, a letter was sent to Kingston advising them the man would have a Parole Board hearing at the establishment on 13 August 2004.

The man was not released on compassionate grounds and sadly died before his scheduled Parole Board hearing.

Chronology of clinical events

On reception into prison, the man advised staff of asthma and epilepsy. Furthermore, he admitted to a problem with alcohol misuse.

On reception at Kingston, the man was noted to be a poorly controlled asthmatic who *"over used"* his inhalers requiring steroids and antibiotics on occasions to manage his chest infections.

In September 1999, an entry in his medical record notes that, following a Myocardial Infarction in October 1998 coupled with his poorly controlled asthma, his mobility was poor.

In January 2000, the man was admitted to hospital in Portsmouth with chest pain. He was diagnosed with angina and ischaemic heart disease. That November, he was also diagnosed with chronic obstructive pulmonary disease.

In August 2002, the man was fitted for travel to transfer to HMP Leyhill. However, Leyhill prison wanted a medical report on the man's medical condition and he was anxious about how he would cope in open conditions. Therefore, the transfer to open prison did not take place.

In April 2004, there was concern about the man's memory loss and the increase in the severity of his epileptic fits. He was referred to, and subsequently admitted to a hospital in Portsmouth.

On 16 April 2004, the man decided to sign a 'Living Will'. He was fully aware of his condition and did not wish to be resuscitated or receive other medical interventions

other than to make him comfortable. Less than a week later, he had reconsidered his decision and wished to be resuscitated if necessary in prison but not if in hospital. His biggest wish was not to die in prison. He was fully aware of his prognosis but wanted to die a “free-man”.

In early June, his physical health had further deteriorated and it was felt that he would benefit from being transferred to HMP Winchester where he could receive 24-hour healthcare. The man was seen by the Governor and the head of healthcare to discuss this option. He expressed the wish to remain at HMP Kingston *“amongst people he knows and feels he can rely on”*. Following a multi-disciplinary case conference, it was agreed that he could remain at Kingston. The man was experiencing some difficulties with his breathing due to the hot summer weather and lack of circulating air. It was agreed that a small air-conditioning unit would be purchased to make him more comfortable.

On 13 June 2004, the man was once again admitted to hospital with further breathing difficulties. Whilst in hospital, he was subject to a single officer escorted absence and due to the low level risk was not restrained under mechanical restraints. He was subject of a supervised licence.

The man died in hospital on 7 July 2004 from respiratory failure; COPD and suspected right lung carcinoma; ischaemic heart disease.

Events leading up to the death

Due to his failing physical condition, the man had numerous admissions to local hospitals in the months before his final admission on 13 June. He was well known by all the staff at HMP Kingston and was supported emotionally and physically by staff during these admissions and on his return to the prison.

A comprehensive risk assessment was completed when the man was admitted on 13 June and it was identified that he was low risk and did not require mechanical restraints. It was decided that he would have a single officer escort mostly to provide emotional support. Furthermore, the Governor gave permission for the escort staff to wear civilian clothes. The Governor felt these small actions would reduce the indignity of dying with a uniformed officer sat beside the bed. It was also to help the man to feel he had taken “one more step to freedom”.

During the man's final stay in hospital, he was visited regularly by the Governor, other members of the senior management team and the chaplaincy.

Post incident support

The man died peacefully in hospital on 7 July 2004 with an officer in civilian clothes with him. Following his death the appropriate plans were activated.

The man's friends at the establishment were told personally of his death by staff. Other prisoners were notified by a sensitive “Notice to Prisoners” which offered them support. The staff who were on the bed-watch with the man were seen by senior managers and offered care and support if required. Furthermore, staff could access

a counselling service free of charge to enable them to manage and cope with death and dying.

A memorial service was held for the man a few days after his death which was well attended by staff and prisoners.

Findings and Conclusions

The man had been suffering from failing health for a number of years. He had been managed sensitively and appropriately by all staff whilst at HMP Kingston. The man was fully involved in the decision making process and had declined 'open conditions' because of the support and care he received whilst at Kingston. When the man's health deteriorated further, and it was felt he would benefit from 24-hour healthcare, he was included in the discussions. After the case conference, it was decided that the man would remain at Kingston with support and a small air-conditioning unit to help him with his breathing.

The way in which the man's health and social care needs were managed whilst he was at Kingston is commendable. The man was fully involved in well thought through multi-disciplinary care planning.

In May 2004, as a result of the man's physical health, the process of applying for release on compassionate grounds was commenced. The forms were completed by the necessary personnel and a supporting letter was promptly provided by the consultant in charge of his care. These forms were faxed to Lifer Unit on 3 June 2004 and hard copies sent by post. By 5 July 2004, no response had been received and so they were faxed again.

The man's tariff expired in April 2004 and he should have been subject to a tariff expiry parole review. The Lifer Unit at Kingston had been in communication with Lifer Section at Prison Service headquarters since July 2003 requesting the skeleton dossier for completion. Despite a number of reminders the dossier was not received at Kingston until 10 May 2004 for disclosure in March 2004. The staff at Kingston had in fact arranged for the necessary reports to be completed in advance of the dossier being sent. The dossier clearly identified the man's failing health, his compliance with offending behaviour programmes and good behaviour in prison.

On 25 June 2004, the Parole Board sent a letter to the Governor informing him that the man's case was listed for a hearing on 13 August 2004.

Despite the best efforts of the establishment, they were unable to secure a timely Parole Board hearing or a hearing for Early Release on Compassionate Grounds.

Lifer Unit should ensure that urgent and timely consideration is given to applications for Early Release on Compassionate Grounds. A copy of this report should also be sent to the Parole Board for their consideration.

When the man was admitted to hospital on 13 June, the risk assessment process clearly took a holistic approach to the man's risk and needs. This resulted in the commendable decision to use a one officer escort in civilian clothes and without

mechanical restraints. This provided the man with the maximum amount of dignity bearing in mind he was a serving prisoner. The staff with the man in hospital treated him with respect and sensitivity.

The Governor and staff involved in the care and management of the man should be commended for the way in which they acted in a dignified and sensitive manner.

Recommendations

National

Lifer Unit should ensure that urgent and timely consideration is given to applications for Early Release on Compassionate Grounds. A copy of this report should also be sent to the Parole Board for their consideration.

Local

The Governor and staff involved in the care and management of the man should be commended for the way in which they acted in a dignified and sensitive manner.