

**Circumstances surrounding the death of the man, a prisoner at HMP Wymott,
in January 2005**

**Report by the Prisons and Probation Ombudsman
for England and Wales**

October 2005

This is the report of an investigation into the circumstances of the death of the man, a prisoner at HMP Wymott. The man had been unwell for some time and died in January 2005 in hospital. He had been diagnosed with lung cancer in October 2004 and his death was not unexpected. The day before his death, he had moved from HMP Ford (a prison at the other end of the country) to be closer to his family.

The investigation was led by one of my Investigators. A clinical review into the man's care and treatment was commissioned from a doctor, of the Primary Care Trust (PCT).

I offer my condolences to the man's family for their loss.

I would like to thank the Head of Healthcare at HMP Ford, the Governor of HMP Wymott, and other staff at both prisons for their assistance with this investigation.

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Summary

The man died at hospital in January 2005. He was aged 62. The cause of death was lung cancer. His death was not connected to the fact that he was in prison or to the level of care that he received there.

The man had been taken to the hospital by ambulance from HMP Wymott the evening before he died as healthcare staff were concerned about his condition. He had only arrived at Wymott a few hours earlier, having been transferred from HMP Ford to be closer to his family.

The man had been diagnosed with lung cancer in October 2004 when his condition was treated with surgery and medication. However, a few months later it was discovered that the cancer had spread to his spine. He was given a prognosis of not more than three months to live.

Various options were considered by staff at Ford concerning palliative care for him. These included temporary release, early release on compassionate grounds as well as a move to a prison nearer his family. In the event, the man arrived at Wymott just a matter of hours before being taken to hospital. He died the next day at 5.40pm.

The Governor and staff at both Ford and Wymott responded to the man's illness and death with professionalism and sensitivity.

There are no recommendations arising from this investigation. The clinical review raised no concerns, but highlighted some procedural considerations for the prescribing of certain medications and suggested that the local hospice might have become involved earlier in the man's care. The post mortem indicates that he had good medical care locally, and died from lung cancer in a clinically understandable timeframe.

Investigation process

My practice in investigations into a death from apparently natural causes is to conduct an initial review to determine the extent of investigation required.

My colleague visited HMP Ford. She met the Head of Healthcare, and the Governor who was involved in managing the man's care. My investigator had already been provided with the man's prison record and copies of the notices, reports and other paperwork that followed his death. She also visited the wing where he had lived and spoke to staff who worked there.

My investigator gathered details of the man's next of kin, the Coroner's officer and the appropriate contact in the Primary Care Trust (PCT). One of my Family Liaison Officers subsequently contacted the man's brother.

A doctor was commissioned by the PCT to carry out a clinical review.

No formal interviews with staff were conducted. This report is based upon informal meetings with the Governor involved in managing the man's care, the Head of Healthcare, and other staff at Ford, as well as discussions with the Governor at Wymott. Additionally, a thorough review of all relevant paperwork was conducted and the findings of the clinical review considered.

HMP Ford

Ford prison is situated outside Arundel in Sussex. It opened as a prison in 1960, having been converted from a military airfield into its current use. It is a category D open prison for men with its main role being one of resettlement and rehabilitation. The majority of prisoners undertake a wide range of voluntary and paid work in the community.

The prison has two residential units. A wing houses about 200 men along with a kitchen, dining room, library and healthcare centre. B Wing provides a range of dormitory style accommodation.

Owing to Ford's open status there are no in-patient healthcare facilities. Prisoners access healthcare directly from services in the local community.

The man

The man was born in London but brought up in Lancaster, where the family had relocated when he was still an infant. He had two siblings, with whom he enjoyed a close relationship. He described his childhood as a happy one.

Having joined the army after leaving school, the man travelled the world, returning home to care for his father who was ill after four and a half years of military service. He settled in the Morecambe area and initially worked as a lorry driver. He then completed a four-year apprenticeship and qualified as a painter and decorator.

After a series of unsuccessful business and employment ventures and the breakdown of a relationship, he moved to Spain in 1997. He worked successfully as a gardener and caretaker for several years until, after a period of ill health, he was forced to retire.

The man was subsequently arrested in Jersey attempting to import cannabis into Britain. He was convicted in 2002 and given a sentence of nine years. This was later reduced to seven and a half years on appeal. Given that he had been arrested and tried in Jersey, he was subject to the island's laws, even when he subsequently transferred to prisons in Britain.

The man began his sentence at La Moye prison in Jersey and was later transferred to HMP Winchester on a Restricted Transfer. (Restricted Transfer means that the prisoner retains the release dates previously notified to him by the Jersey authorities.) In the man's case, this meant that he would not be eligible for parole or Home Detention Curfew and would not be released on a supervision licence under the rules obtaining in England and Wales.

The man moved to Ford in December 2003 and lived on A wing. Staff there described him as a diligent worker, and as a respectful and friendly man. His health had not been good for some time. He suffered from heart problems and depression.

The man had contact with family members during his time in prison.

Events leading up to 14 January 2005

The man was detained in HMP Jersey following his conviction in 2002. On reception, it was noted that he had a history of heart disease and depression. He had various appointments and was prescribed a number of medications for his presenting illnesses. In October 2003, while at Winchester, he was admitted to hospital for a short period for angina. However, for most of the time he remained reasonably well.

On 13 August 2004, the man saw a doctor at Ford and complained of a cough and phlegm and a "fleck of fresh blood" in his sputum. He was referred for an urgent chest X-ray which showed a mass in his right lung. The man was seen in the chest clinic as an urgent case later that month because of the appearances on the chest X-ray. By October 2004, he had been diagnosed with a lung malignancy, namely a 'non small cell lung carcinoma of the right middle and lower lobes'.

The man was referred to a London hospital, for surgical intervention, and underwent surgery on 4 November 2004. After a short delay, because of an abnormal heart rhythm, he was discharged back to Ford on 10 December 2004.

The man was admitted to another hospital a week later with severe lower back pain. His discharge from hospital was delayed again because of further complications and he returned to Ford on 5 January 2005. A doctor at this hospital comments in the medical records of 6 January, "his life expectancy is probably now a matter of months and possibly just weeks". This was the first time the prison became aware how serious the man's illness was.

The following day (7 January), the Governor at HMP Ford gave instructions that compassionate release should be sought and, in the interim, temporary release arrangements should be made. It was at this point that staff at Ford became aware that the man had been sentenced in Jersey and was therefore subject to the restrictions of that jurisdiction. At the same time, the medical officer at Ford was of the view that the man could not stay in Ford.

Over the next few days, staff made enquires about his home area, and with his family. Initially it was agreed the he would stay with his brother, until he needed hospice care. However, it soon became apparent that the man would require a level of care beyond that which his brother could provide.

The man's brother then contacted a Macmillan nurse who tried to help with accommodation and with finding a GP for the man. However, the Probation Officer at Ford believed that, as the man had not lived in the area, finding services locally for him might prove time consuming. For these reasons, the procedures necessary to arrange temporary release were abandoned and consideration was given instead to transferring him to a prison near his family.

This would enable him to have visits from his family and subsequent days out if his health permitted it.

However, the man's brother continued to work closely with the Probation Service in Lancaster and suitable accommodation was found for the man, pending his release on the agreement of the Jersey authorities.

On 10 January, the deputy Governor at Ford, spoke to the Governor of La Moye prison in Jersey. They discussed the requirements for releasing the man, given Jersey regulations. The Governor of La Moye prison confirmed that an application could be made to the Bailiff (a public official) with whom the final decision would rest. Shortly afterwards, the deputy Governor of Ford completed the relevant paperwork and faxed the request to La Moye.

Over the next week, the man remained breathless and was coughing up blood. On 11 January, the local hospice was contacted and a hospice doctor agreed to visit him, should he require ongoing hospice treatment in that area.

A prison place was found for the man at HMP Wymott near Lancaster. There was concern about the journey from Ford to Lancaster. It was clear he was not well enough to travel alone.

The man's condition deteriorated on 12 January, but he was considered well enough for the transfer to take place. On 13 January, the man left Ford for Wymott. Ford made provision for the Red Cross to provide an ambulance and two paramedic's for the journey. He arrived at Wymott at 4:35 pm on 13 January 2005. He was described as very short of breath and lethargic.

The man's condition further declined during that evening, and during the night he was admitted to hospital by ambulance because of increasing breathlessness, distress and agitation. Once at the hospital, the escorting staff rang the prison for advice on the use of handcuffs. The Governor advised that, for the preservation of dignity, these should not be used.

The man's brother was aware of the situation through contact with the local Probation Office. They phoned him on the morning of 14 January to let him know that the man had been moved to hospital. As he was on his way to a business meeting, he arranged to call at the hospital that evening.

At 4:30 pm on 14 January, the Governor at Ford was informed that the man had been granted 12 months temporary release by the Jersey authorities. She informed Wymott directly. However, he died at 5:40 pm in the hospital.

Issues Considered

Wymott followed its contingency plans relating to deaths of prisoners. Statements were taken from staff, the IMB were informed and notices to staff and prisoners were issued. The post-incident response was fully compliant with Prison Service instructions and policies on managing a death in custody.

The decision not to use any form of handcuff or restraint was entirely appropriate given the circumstances. However, given that the man had moved from Ford to Wymott for health and not security reasons, it is surprising that restraints were considered at all.

The hospital local to Ford had discharged the man on 5 January because there was nothing further they could do for him. The Governor at Ford then directed that early release on compassionate grounds should be sought. In the interim, a temporary release licence would be considered. Ford rightly felt the man should have been released into the care of his family. However, with the worsening of his condition, this became impossible.

The prison probation officer's view that finding accommodation and support services in Lancaster might prove difficult and time consuming was reasonable in the circumstances, taking into account the urgency of the need to move the man to his brother's home area. I believe the decision to abandon plans for temporary release and concentrate on moving him to a prison closer to his brother was entirely proper. In fact, the application for early release on compassionate grounds was processed speedily by La Moye prison and the Jersey authorities. The decision to grant release for 12 months came sadly just too late for the man.

I am pleased that, despite the difficulties of the situation, the need to involve the Jersey authorities, and the worsening of the man's health, the move to be closer to his brother was accomplished. No-one could have known that his death would have followed so quickly thereafter.

Conclusions and Recommendations

The clinical review did not find any deficiencies in the man's medical treatment while at Ford or Wymott but did identify some learning points. The man had a terminal medical condition. I note that he was a lifelong smoker and that his father had also died prematurely from lung cancer.

The man appears to have settled well at Ford. I have seen no evidence to suggest that he had specific problems that were affecting his mental or physical health. Ford acted quickly and compassionately to deal with his situation once the extent of his cancer and his prognosis became clear on 6 January. I commend the Governor and her staff for that.

I am myself sending a copy of this report to the Governor of La Moye prison, Jersey, for his information. Although the man died while a prisoner at Wymott, he had only been there a matter of hours. I trust that the Prison Service's North West Area Office will also ensure that a copy of this report is sent to the Governor at Ford.

