Investigation into the circumstances surrounding the death of a man in hospital in March 2008 whilst in the custody of HMP Stocken

Report by the Prisons and Probation Ombudsman for England and Wales

March 2009

This is the report of an investigation into the death of a man. The man died of natural causes in March 2008 in hospital, whilst in the custody of HMP Stocken.

I would like to offer my personal condolences to the man's family. One of my family liaison officers was contacted by the man's brother. She informed him of our role and invited his participation in the investigation. The man's brother did not have any matters concerning his brother's death that he wanted to bring to my attention, but he asked to see a copy of my report when it was completed. I am sorry for any distress caused by the delay in doing so.

This investigation was undertaken by one of my investigators. Both he and I would like to thank the Governor and staff of HMP Stocken for their assistance. A medical practitioner was asked by Leicestershire and Rutland Primary Care Trust to undertake a review of the man's clinical care, and I also appreciate his help.

When a prisoner has died of natural causes I must look closely at the clinical review before compiling my report. In the man's case, the clinical reviewer has found that he died from a rapid progression of an aggressive form of cancer. In his opinion, the quality of care the man received was equivalent to that he could have expected in a typical doctor's surgery. I do not make any recommendations to the Governor.

There were three deaths of prisoners at HMP Stocken that I had investigated before that of the man. Sadly, the prison suffered another death two days after the man passed away. None of the circumstances of these other deaths has similarities those covered in this report.

Stephen Shaw CBE
Prisons and Probation Ombudsman **March 2009**

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SUMMARY

The man died in hospital whilst a prisoner at HMP Stocken. He had been in hospital for 19 days prior to his death.

The man had served previous terms in prison before he was sentenced to life imprisonment in 1997. He moved through the prison system, and during that time made efforts to address his offending behaviour. He undertook a number of therapeutic courses, including some that were very demanding.

The man was not in the best of health. He suffered from diabetes and epilepsy. Heart disease had caused him to have a heart attack and triple bypass surgery in the past. Through the course of his life he had sustained a number of head injuries. He had also misused alcohol and drugs for a number of years, and was a longstanding heavy smoker.

Early in 2008, the man's health began to deteriorate rapidly. He was referred for tests but, before the results were fully available, he was so ill that he required a transfer to hospital. Once in hospital, it was confirmed that he had cancer.

The prison remained in contact with the hospital during the man's time there. The man was largely unconscious, and the prison took the decision that he did not need to have restraints attached to him. The hospital began a course of chemotherapy, but the man's condition continued to worsen. In mid March 2008, medical staff at the hospital agreed that the man's treatment should be discontinued. He died peacefully the following morning.

The man was not in contact with any of his family. When the prison contacted both the man's ex-wife and his brother they said that they were content for the prison to arrange the funeral. The arrangements were therefore made by the prison. The Governor and two other members of staff from the prison attended. At the same time as the funeral, a service was held in the prison to allow fellow prisoners to pay their respects.

THE INVESTIGATION PROCESS

1. My investigator visited HMP Stocken. He spoke to a number of staff there, including the Governor, and was shown around the prison. He formally interviewed two members of staff. These interviews were recorded and both interviewees signed a copy of their transcripts confirming the accuracy of the record. The transcripts are annexed to this report. Notices were posted to staff and prisoners about the investigation, inviting contributions. No responses were received. My investigator studied all available relevant prison records relating to the man, including his security record, medical records and prison records.

2. Leicestershire County and Rutland Primary Care Trust asked a medical practitioner to carry out a review of the man's clinical care. I am grateful to him for undertaking this review. My investigator discussed aspects of the man's treatment with both healthcare staff at Stocken and with the clinical reviewer.

3. My investigator contacted Her Majesty's Coroner to inform him of the nature and scope of my investigation and to request a copy of the Post Mortem report. As is my practice, upon completion my report will be sent to the Coroner to assist in his enquiries into the man's death.

HMP STOCKEN

4. HMP Stocken was built in 1985 and is a category C closed prison. New wings have been built a number of times and the prison now holds over 800 prisoners.

5. Nurses provide healthcare cover in the prison between 7.30am and 5.30am Monday to Friday and from 8.00am until 5.00pm at weekends. Doctors are available for three hours each day Monday to Friday.

Her Majesty's Chief Inspector of Prisons

6. The last inspection of Stocken by HM Chief Inspector of Prisons before the man died was an announced inspection in May 2005. The Chief Inspector's subsequent report does not raise any issues of relevance to this investigation.

Independent Monitoring Board (IMB)

7. Each prison in England and Wales has an Independent Monitoring Board responsible for monitoring day-to-day life in the prison and to ensure that proper standards of care and decency are maintained. The annual report published by the IMB for Stocken covering the year up to April 2008 also does not raise any issues affecting the investigation into the death of the man.

KEY FINDINGS

8. The man was arrested in February 1996 and remanded in custody pending trial. Whilst on remand the man suffered an epileptic seizure.

9. At Teesside Crown Court on 11 November 1997, the man was sentenced to life imprisonment. A psychiatric opinion produced for the court said that the man had a serious and violent past, an anti-social personality disorder, and a history of significant alcohol abuse.

10. In August 1998, the man was transferred to HMP Wormwood Scrubs. Whilst there, he undertook an Enhanced Thinking Skills programme and a relationships skills course, although he later said that heroin use at the time had restricted his memory of the latter. He was reported as being willing to partake in any course that would help him, and applied for courses to address anger management and drink and drug abuse. He also applied to be a Listener (prisoners who have been trained by the Samaritans to provide support for their peers).

11. The man continued to progress through the prison system, largely without incident. In February 1999, a knife blade was found in his cell. In February 2001, he lost his job as a red band cleaner (a position of higher than usual trust) in Healthcare when he was suspected of involvement in drug dealing. But aside from these instances he received good reports for his work. His behaviour on the wing did not cause any problems. He was generally held to maintain a fairly low profile but did get on well with other prisoners. After his mother died, the man gave up his job as a Listener as he felt that it had become too difficult for him to cope. He embarked upon a Social Sciences degree and had completed his first five assignments with good marks.

12. Early in 2001, the man complained of chest pains. Tests were conducted on his heart and in April 2001 results indicated that that he was suffering from ischaemic heart disease.

13. After completing another thinking skills course in October 2001, the man accepted that he was in the early stages of rehabilitation and that he needed to do more in-depth work on a number of issues. For this reason, he expressed a wish to be transferred to the therapeutic community at HMP Grendon. He was accepted for a place and transferred on 5 November 2001. Located on C wing, he initially found it difficult to settle. However, he conformed to the rules and policies and was not seen as a control problem.

14. The man had a good relationship with both staff and prisoners at Grendon. He was described as polite, and willing to give his time to help others. He made significant efforts to overcome his fear of crowds, deliberately involving himself in Grendon's family days and social evenings. He succeeded in mixing with large numbers of his peer group as well as with other people.

15. After reporting chest pain in December 2002, the man was taken to hospital as an emergency admission. He subsequently discharged himself, but after further problems (including angina) over the following months he underwent further tests. This resulted in triple heart bypass surgery in September 2003.

16. On 26 April 2004, the man suffered a heart attack. On his return from hospital to prison he was unable to engage in therapy fully but was reported to have made good progress in addressing his risk factors. He was said to be working hard in group sessions and making progress, and was keen to address his offending behaviour and reduce his level of risk. In November 2004, the Sentence Planning Review Board recommended that the man was ready to be transferred to category C conditions.

17. Following that recommendation, the man was re-categorised to category C in February 2005. He had a successful small group assessment and was set therapeutic and treatment objectives. The man was reported to be feeling energised and optimistic about the continuation of his work in Grendon.

18. However, in April 2005, the man suffered a transient ischaemic attack (sometimes described as a mini stroke). His therapeutic treatment at Grendon was disrupted and, when it became apparent that Grendon could not provide the healthcare the man required, he was transferred to HMP Littlehey in September. Once again, reports showed that the man maintained a fairly low profile but interacted with staff and prisoners when he needed to. Compliant with wing rules and respectful to others, the man did not have any adjudications during his time at Littlehey. He took part in a programme provided by the Rehabilitation for Addicted Prisoners Trust (RAPt).

19. As part of his offending behaviour related work, the man wanted to transfer to open conditions. He hoped to demonstrate that he was ready for the next stage in his sentence. He was advised to defer his application until he had completed his current programme. He completed the RAPt Substance Abuse Treatment programme in September 2006, and his case was considered by the Parole Board on 22 November. The Board recommended that the man should remain in closed conditions and undertake further offence-based work to show that he was continuing to address his risk factors.

20. In January 2007, the man completed the RAPt Peer Support programme. He had been made a peer supporter and this reflected the progress he had made in a position of responsibility.

21. The man was transferred to HMP Stocken on 16 April 2007. Once again, he was reported to be a quiet and private person. He was friendly with one other prisoner, whom he had known from a previous

establishment, but beyond that did not associate much. He worked as an education orderly and was well thought of in what was a trusted position. Although he had done well in education previously, he did not want to continue with his own education.

22. The man's personal officer at Stocken told my investigator that the man wanted to return to Grendon to continue his therapeutic treatment. When he was in Grendon, a number of courses had been identified for him, including an Enhanced Thinking Skills course, the Controlling Anger and Learning to Manage it (CALM) course, and potentially a Healthy Relationships Programme (HRP). The HRP was subject to a two-year waiting list. The applicant would then undergo assessment and, if found to be suitable, there was a further two-year waiting list. Prisoners serving life sentences do not have an automatic right to release but must serve a minimum period of imprisonment before release can be considered. This period is known as the tariff. The man knew that he was close to his tariff date and accepted that he would be likely to remain in prison beyond it. He therefore thought it would be beneficial to return to Grendon and finish his therapy. He applied for a transfer, but Grendon was unable to accept him because of his health problems.

23. Following complaints of dizziness, the man was admitted to Leicester General Hospital in September 2007. A computed tomography (CT) scan (a specialised x-ray test to give clear pictures of the inside of the body, particularly of the soft tissues) was normal and his symptoms were treated. He returned to prison on 9 September. On 22 October, the man again complained of chest pain. His hypertension was noted to be poorly controlled, and he was suffering from bronchitis. He was prescribed medication to treat this.

24. The man's personal officer told my investigator that she observed the man's health deteriorating over this period. She noticed that the man was not eating at lunchtimes and, knowing that he had diabetes, this caused her some concern. She said that the man had lost a bit of weight, and she talked to him about going to Healthcare. He told her that he had already consulted them and they were addressing it. The man's medical notes indicate frequent contact with Healthcare through November and December. Shortly after Christmas 2007, the man mentioned to the first officer that he was a bit concerned about a growth he had found on his neck. She said that she again told him that he should go to Healthcare. He said that he had an appointment that same day.

25. Medical records for late December carry frequent entries relating to problems including episodes of central chest pain, erratic diabetic control and shortness of breath. In January 2008, the man complained of pain around his jaw and throat area and it was noted that he had lost weight. On 6 February, it was noted that his health was continuing to deteriorate and chest x-rays were requested. On 22 February, a

review of the x-rays showed a possible malignant disease in both lungs and the man was referred for further assessment within two weeks.

26. However, by 28 February, the man's health had significantly deteriorated. A nurse was called to see him on the wing and was concerned enough about his condition to arrange for an emergency transfer to a Royal Infirmary. Once in hospital it was noted that the man had a high heart rate and a number of swollen glands. He was transferred to the infectious diseases unit where he was diagnosed with pneumonia. On 1 March, the man's health had deteriorated to such an extent that he was admitted to the Intensive Treatment Unit (ITU) with respiratory failure.

27. Test results were received on 3 March. They confirmed that the man had cancer and he was informed of the diagnosis.

28. The Head of Healthcare at Stocken contacted the hospital on 5 March and spoke to the Royal Infirmary Infectious Disease Unit Registrar Specialist. The man was unconscious and ventilated. An attempt had been made to extubate the man (remove medical tubes supporting him) at the beginning of the week. His condition deteriorated and he had to be re-intubated (re-applying the medical tubes) and put on life support. At that time the man had also had a degree of kidney failure, and hospital staff were considering whether he might need dialysis. The man also had some cardiovascular failure and was receiving medication through intravenous tubes. The Head of Healthcare at Stocken told my investigator that a biopsy had been taken and histology was awaited, but the prognosis at this point was quite poor.

29. The following day, the Head of Healthcare at Stocken visited the man in hospital. She told my investigator that he remained ventilated and sedated. She said that the consultant in charge of the ITU told her that the man's medical condition had improved slightly from the previous day, and ongoing treatment was being considered. The man had been unconscious virtually since he arrived in hospital. On 7 March, chemotherapy was begun but his condition continued to deteriorate.

30. The man's condition fluctuated over the following days, sometimes slightly improving, at other times deteriorating. On 12 March, it was decided that his sedation and ventilation should be discontinued. The Head of Healthcare at Stocken told my investigator that during the weekend of 14/15 March the man suffered a heart attack, and was resuscitated and consequently re-intubated.

31. Monitoring of his condition revealed on 16 March that the man had developed septicaemia (a poisoning condition of the blood). On 17 March, healthcare staff from the prison spoke to hospital staff. The man was still ventilated at this stage, but the consultant had made the decision to withdraw treatment if his condition deteriorated as further treatment would not be in the man's best interests. At that point, there

would be no more treatment that could benefit the man and resuscitation would not be attempted. Treatment was discontinued on 17 March 2008, and the man died at 11.20am the next day.

32. Notices were posted in Stocken about the man's death. Because of the circumstances of his death a debrief session was not held, but the first officer said that the staff care team were available if anybody required support. She was not individually offered support. The Head of Healthcare at Stocken told my investigator that all healthcare staff were offered good support from the Prison Service as well as from clinical colleagues.

33. The prison held a memorial service for the man to allow his fellow prisoners to pay their respects. This was held at the same time as his funeral, which the prison arranged. The prison held a bereavement workshop on the man's wing.

ISSUES

34. The clinical reviewer finds that the treatment the man received was entirely appropriate. He says that access to healthcare was adequate, and assessments were made by appropriate clinicians. Although he died of cancer, the man's ischaemic heart disease was so severe that he could have died at any time. His heart problems may have contributed to his rapid physical deterioration, and the post mortem lists his heart disease as a secondary cause of his death.

35. In view of the man's medical history and symptoms, the reviewer raises the issue of why chest x-rays and blood tests were not considered earlier. He notes, however, that the man's cancer was an aggressive form of the disease and earlier treatment would not have prevented him from dying. He also notes that the lack of an earlier diagnosis was not the result of a systematic failure but of individual decisions. He does not consider that there is any need to recommend a change of process or the level of clinical expertise at Stocken that could prevent similar deaths in future.

36. Bearing in mind his health problems, the man seems to have been well cared for in Stocken. Despite his wish to return to Grendon, he seemed settled at Stocken, and I entirely understand why a transfer to Grendon was not a realistic possibility. The personal officer took her duties seriously and appears to have formed a good relationship with him.

CONCLUSION

37. The man had been unwell for many years. He had suffered from diabetes for most of his life, had a history of multiple head injuries which he had sustained during fights and road traffic accidents, suffered from epilepsy which was controlled with medication, and had abused drugs and alcohol for a number of years. He was described by his personal officer as a “chain-smoker”, and had smoked heavily for a number of years.

38. The form of cancer that led to the man’s death caused a rapid deterioration in his health. The clinical reviewer notes that an earlier diagnosis would not have prevented the man from dying, and the care he received was appropriate.

39. I have been pleased to note that the prison took the decision that, while the man was unconscious, he did not need to have security restraint chains applied,

40. I have made no recommendations in this report. Sadly, the man’s lifestyle over the years had taken its toll on him. I do not believe that his death could have been prevented or that there were any systematic failings in his care.

41. I also judge that Stocken’s response to the man’s passing was appropriate, sensitive, and in line with Prison Service guidance.