Investigation into the circumstances surrounding the death of a prisoner at Rugby St Cross Hospital, while in the custody of HMP Rye Hill, on 9 August 2005

Report by the Prisons and Probation Ombudsman for England and Wales

November 2005

This is the report of an investigation into the circumstances of the death of a prisoner on 9 August 2005. He died from natural causes at Rugby St Cross Hospital while in the custody of HMP Rye Hill.

My colleagues and I would like to extend our condolences to his family and friends for their loss.

One of my investigating officers conducted the investigation. A doctor carried out a clinical review on behalf of the Daventry and South Northants Primary Care Trust. I am grateful to the reviewer and the PCT for their timely contribution to the investigation.

My report makes one recommendation. I also wish to identify myself with what the reviewer writes in commending the healthcare team at Rye Hill for treating the prisoner with compassion, care and sensitivity.

Stephen Shaw CBE
Prisons and Probation Ombudsman **November 2005**

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Summary

The prisoner died on 9 August 2005 at Rugby St Cross Hospital while in custody at Rye Hill. He was 62 years old. He had been in prison for over 20 years, having been sentenced to life imprisonment for the murder of his partner in 1984.

The prisoner had been diagnosed with acute myeloid leukaemia in June 2000. He underwent chemotherapy and the cancer went into remission. The prisoner suffered a relapse in December 2003 and this was confirmed by bone marrow examinations.

The prisoner received two further treatments of chemotherapy in December 2003 and January 2004. However, subsequent clinical tests found that it was not appropriate that he received any further courses of chemotherapy. He was therefore treated with supportive therapy but his condition continued to deteriorate. The prisoner was by this time requiring blood transfusions every three to four weeks.

On 21 July 2005, the residential manager (Lifer Manager) at Rye Hill applied to have the prisoner released on compassionate grounds as his health had deteriorated to such an extent that it was thought that he only had days to live. The Lifer Review and Recall Section in the National Offender Management Service considered that, although in normal circumstances the prisoner would have qualified for compassionate release, there was not enough time left to allow the necessary reports to be completed in time.

On 25 July, an application for the prisoner to be released on temporary licence was made to the Director of Rye Hill, he initially refused the application, as he considered there was continuing concern that - despite the prisoner's illness - there remained a risk of him re-offending. The prisoner was released on a second application for a temporary licence on 8 August. By this date, the risk of him re-offending was considered to have been reduced due mainly to a significant deterioration in his physical condition

A doctor carried out a clinical review on behalf of the Daventry and South Northants Primary Care Trust. The reviewer concluded that, while he was in Rye Hill, the prison health services delivered a level of care and support to the prisoner that was more than satisfactory compared to the services he could have expected in the community. The reviewer commends the caring and compassionate management of the prisoner by the prison health team at Rye Hill.

The prisoner's death was not connected to the fact that he was in prison or to the level of care he received there. The prisoner died in Rugby St Cross Hospital as a result of acute myeloid-leukaemia, sepsis and left lower pneumonia.

Investigation Methodology

1. All the initial indications were that this was a death from natural causes. My investigator, was given access to all the prisoner's prison records, including his medical records, and was given copies of everything that was required.

2. Notices to staff and prisoners were sent to the liaison officer appointed by Rye Hill, to be displayed around the prison. These announced the investigation and invited staff and prisoners to submit to my investigator any concerns or view they wished to express.

3. Daventry and South Northants PCT were invited to undertake a review of the clinical care the prisoner received while in custody and identified the reviewer to undertake this task.

4. One of my family liaison officers wrote to a friend of the prisoner and his nominated next of kin, on 19 September to tell him of the investigation and ask if he wanted to be involved. He has not received a response. We have therefore been unable to establish if there are any specific issues he wished us to consider during our investigation.

Background

The prisoner

5. The prisoner was born in Rochdale on 25 July 1943. He was 62 years old when he died on 9 August 2005.

6. The prisoner had a large number of pre-convictions dating back to 1956. A number of his offences were triggered by excessive alcohol consumption.

7. The prisoner was sentenced to life imprisonment in September 1984 for the murder of his partner during the course of an argument. He received a tariff recommendation of 12 years, but had served 21 years when he died and remained a Category B prisoner. Reports say that the prisoner had shown little insight or remorse into his offending and had failed to address his offending behaviour whilst in custody.

8. It seems that throughout his time in prison there had been no change in the prisoner's attitude towards his offence. Although he admitted responsibility for the murder, he found it difficult to discuss it in detail and tended to apportion blame on his victim.

HMP Rye Hill

9. HMP Rye Hill was opened in early 2001 as a purpose built category B training prison. It has a 660-bed capacity, predominantly made up of single cells. Rye Hill is a privately managed prison run by GSL UK Ltd.

10. The prison regime is based on a minimum of 35 hours per week purposeful activity including work, training and education (including physical education), and offending behaviour programmes, all of which are linked to a system of earned incentives and privileges.

11. Rye Hill was inspected by Her Majesty's Chief Inspector of Prisons for the first time in 2003. In her report, the Chief Inspector commented that staff treated prisoners with respect. However, she also raised some concerns in response to which the prison undertook to put in place more effective management and support systems. A subsequent full unannounced follow-up inspection on 11-15 April 2005 found that the Inspectorate's key concerns had not been dealt with. Indeed, the prison had deteriorated to an extent that the Chief Inspector considered it was at that time an unsafe and unstable environment both for prisoners and staff. So great were her concerns that Ms Owers immediately informed Ministers and urged the then Chief Executive of the National Offender Management Service to take immediate and decisive action.

Events leading up to The prisoner's death

12. The prisoner was diagnosed with acute myeloid leukaemia in June 2000, while at Nottingham Prison. He underwent chemotherapy at Nottingham City Hospital and went into remission.

13. The prisoner was transferred to Rye Hill on 12 February 2002. He attended the oncology clinic at the University Hospital Coventry and Warwickshire every two months from 21 June 2003. At first, he remained clinically well.

14. On 1 December 2003, the prisoner underwent a bone marrow examination which confirmed a relapse of acute myeloid leukaemia. He was transferred to the Walsgrave General Hospital where he received two further courses of chemotherapy, the first on 12 December 2003 and the second on 29 January 2004. Further treatments of chemotherapy were not possible at this stage as it was believed that it would be clinically more harmful than beneficial. It was therefore decided to continue with supportive therapy only.

15. Throughout these treatments, the prisoner returned to Rye Hill. He was cared for on the healthcare unit until 28 April 2004 when he was moved to Andrews unit which is a standard living area. This was at the prisoner's own request and was permitted on the understanding that he attended hospital appointments as requested and would see the nursing staff three times daily when receiving his medication. The prisoner stayed on Andrews unit until 11 July 2004 when his condition deteriorated and he returned to the healthcare unit.

16. After the relapse of leukaemia, the prisoner's clinical condition deteriorated markedly, with him now becoming transfusion dependent and requiring a blood transfusion every three to four weeks. He also required other blood products like platelets to prevent bleeding, antibiotics to combat infections and strong analgesics for pain relief.

17. The prisoner was admitted to Rugby St Cross Hospital on 14 July 2005 for a blood transfusion, and his condition deteriorated further day by day. On 21 July, at the request from the prison doctor, and the Consultant Gastroenterologist at Rugby St Cross Hospital. The Lifer Manager submitted an application to the Lifer Review and Recall Section of the National Offender Management Service to have the prisoner released from his sentence on compassionate grounds. The consultant thought that the prisoner had only days to live. A progress report summary (LSP 3E) was comprehensively completed in a timely manner to support the application along with a letter from the doctor. Lifer Review and Recall Section confirmed in an email that the prisoner would clearly qualify for release on compassionate grounds. However, he felt that there would be insufficient time to complete the necessary reports.

18. This did not deter the prison from continuing to pursue this possible option. A manager at Rye Hill made prompt enquires of the prisoner's home probation officer to establish if a report could be completed urgently. One of the other factors identified by Lifer Review and Recall Section was accommodation, if the prisoner were to be discharged by the hospital. Rye Hill's staff looked into the possibility of the prisoner being transferred to a local hospice should such a situation arise.

19. On 25 July, an application was made to the prison's director for the prisoner to be released on temporary licence on compassionate grounds. This application was denied after the director had reviewed the available information. He considered there to be a continued concern that, despite his illness, the prisoner remained at risk of re-offending.

20. The prisoner was discharged by Rugby St Cross on 30 July and returned to the healthcare centre at Rye Hill. His condition was noted to be weak and rapidly deteriorating. The duty GP for Rye Hill discussed his case with the consultant haematologist at the hospital and it was agreed that the prisoner would not receive any further active treatment, including blood transfusions.

21. The prisoner returned to Rugby St Cross Hospital on 2 August for terminal care after his condition deteriorated further. He was incontinent and vomiting by this stage. The prisoner's condition was getting worse on a daily basis and hospital staff ensured that he was kept comfortable and pain free.

22. On 8 August, the prisoner was released on temporary licence. This was due to his now being in hospital as an in-patient. Conditions in the licence were that he was not to leave the hospital, and would return to prison if discharged. The prisoner died in hospital on 9 August.

23. The post mortem concluded that the prisoner died of Acute Myeloid Leukaemia, Sepsis and Left Lower Pneumonia.

Clinical Review

24. A clinical review was carried out on behalf of the Daventry and South Northants Primary Care Trust. The reviewer concludes that Rye Hill performed more than satisfactorily in its care of the prisoner compared to services he could have expected to have received in the community. He records that the standard of care the prisoner received in the Rugby Royal St Cross Hospital was the same as could be expected by any other patient in the community.

25. The reviewer makes no specific recommendations but commends healthcare staff at Rye Hill for carrying out their duties competently and compassionately. I endorse his view. In my judgement, staff and managers at Rye Hill managed the prisoner with sensitivity and compassion.

Findings and Conclusion

The prisoner received appropriate treatment for his medical needs while at Rye Hill. I commend prison staff for their care of the prisoner during the course of his terminal illness.

I note the view of Lifer Review and Recall Section that there was insufficient time to consider the prisoner's release from custody on compassionate grounds. It is important that mechanisms are in place to provide prompt reviews and timely consideration of applications at the end stages of life. While appreciating that estimates of life expectancy amongst those suffering from a terminal disease are inexact, I make the following recommendation:

NOMS should work with the Department of Health to review policies and procedures to ensure they fit with the Department of Health's Cancer Care Plan, thus enabling prison staff to plan and manage terminally ill patients in a dignified manner.

Recommendations

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