

**Investigation into the circumstances surrounding the  
death of a man in December 2010 at hospital whilst in the  
custody of HMP Wandsworth**

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

**February 2012**

This is the report of an investigation into the circumstances surrounding the death of a man at hospital whilst he was a prisoner at HMP Wandsworth. He died in December 2010 from B cell non Hodgkin's lymphoma.

I would like to pass my condolences to the man's family and hope this investigation provides some answers to the questions that they have about his care. I would also like to apologise for the delay in issuing this report and any further distress that this may have caused.

The investigation was carried out on by my Investigator. A clinical review of the man's healthcare was undertaken by a clinical reviewer from the local Primary Care Trust. I am grateful for his report, a copy. I would also like to thank the Governor of Wandsworth and his staff for their assistance during the investigation.

The man had complex health needs and throughout his time in prison his care involved hospital specialists as well as healthcare staff at both Wormwood Scrubs and Wandsworth. The investigation has found that overall he received a good standard of care. Nevertheless, two learning points have been identified. The first responds to a concern raised by his family in relation to obtaining a prisoner's consent to allow disclosure of medical information to family members. The second, is in regard to the use of end of life care pathways to ensure that there is documentary evidence that a prisoner's needs are being effectively co-ordinated.

This version of my report, published on my website, has been amended to remove the names of the man who died and those of staff and prisoners involved in my investigation.

**Nigel Newcomen CBE**  
**Prisons and Probation Ombudsman**

**February 2012**

## **CONTENTS**

Summary	4
The investigation process	5
HMP Wandsworth	7
Issues	8
Conclusion	18
Recommendations	19

## SUMMARY

1. The man was sent to HMP Wormwood Scrubs on 10 February 2010 following his arrest for failing to surrender. He was already suffering from lymphoma<sup>1</sup> and was HIV positive. On 12 February, he was taken to hospital following a deterioration in his condition. He was moved to another hospital where he remained until 22 June. Having returned to Wormwood Scrubs for one night he returned to hospital, where he remained until 9 July.
2. An application for early release on compassionate grounds was made on 24 July. This was rejected by the National Offender Management Service (NOMS) because he did not meet the criteria for early release. In particular, NOMS were not satisfied that his medical condition had deteriorated to the extent that he would be incapable of committing further offences.
3. During his time at Wormwood Scrubs the man was seen on a regular basis by consultant oncologists<sup>2</sup> at both hospitals.
4. At the end of November he was told that any further treatment would be on a palliative<sup>3</sup> basis only. Following discussions between healthcare staff at Wormwood Scrubs and the community palliative care team the man was moved to the Jones Unit at HMP Wandsworth.
5. Following a further deterioration of his health the man was moved to hospital on 26 December. He died two days later.
6. The clinical reviewer has commented that there is no record of an end of life pathway in the man's medical record. This investigation has found that he was aware of his diagnosis and the information contained within his medical record shows that the core principles of the end of life pathway were adhered to. However, this report includes a recommendation about the importance of completing a formal end of life care plan.
7. There is no evidence that healthcare staff at Wormwood Scrubs or Wandsworth sought the man's consent to allow them to disclose medical information to his family. We have therefore made a recommendation in relation to this.

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<sup>1</sup> Lymphoma is a cancer of the lymphatic cells of the immune system.

<sup>2</sup> An oncologist a doctor who specifically deals with tumours and cancer.

<sup>3</sup> Palliative care is a specialised area of healthcare that focuses on relieving and preventing the suffering of patients.

## THE INVESTIGATION PROCESS

8. The investigation was undertaken by an investigator. She first visited Wandsworth on 5 January 2011 and was given access to the man's prison records. She saw the healthcare unit and the unit where he lived during his time at the prison.
9. During this initial visit, the investigator met a member of the Independent Monitoring Board (IMB)<sup>4</sup> and invited them to provide any information regarding the prison or the circumstances surrounding the man's death that they thought relevant to the investigation. The IMB did not have any specific matters to bring to the investigator's attention at the time. She also ensured Notices to Staff and Prisoners were displayed at the prison.
10. The local Primary Care Trust (PCT) was asked to undertake a clinical review of the care that the man received whilst he was in custody at Wandsworth. The clinical review was undertaken by a clinical reviewer on behalf of the PCT.
11. One of the Ombudsman's Family Liaison Officers (FLO) contacted the man's sister and partner to explain the purpose of the investigation and to invite them to ask any questions or raise any issues for consideration. His partner was appointed by the family as the main point of contact. The FLO spoke with her at some length on the telephone. She raised numerous questions and points of concern which are detailed below:
  - Why was his medication not available to him on a 24 hour basis? The family believed that this meant he was unable to have pain relief when he required it and that on occasion he did not receive his medication on time or did not receive it at all.
  - Why did he have to clean his cell following a move to E wing when he was so unwell?
  - Why was he not taken to hospital when it was clear his condition had deteriorated?
  - Why were duty doctors at the prison and prison staff unable to discuss his condition with his family? Despite speaking to many different people at Wormwood Scrubs the family felt their concerns were not acted upon.
  - Why was his application for early release on compassionate grounds turned down?
  - When in isolation he spent a two week period without being handcuffed. When he was returned to the ward he had a further week or so without

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<sup>4</sup> Each prison has an Independent Monitoring Board. IMB members are unpaid and monitor day-to-day life in the prison to ensure that proper standards of care and decency are maintained. The IMB produces an annual report of its work.

handcuffs. Then for no apparent reason the handcuffs were put back on. Why was this?

- Why did he have to walk a long way to the visiting centre at Wormwood Scrubs when his immunity from infection was so low?
12. The man's partner spoke positively about the treatment she received from two governors at Wormwood Scrubs and the good access she was given to the prison. We hope this report helps them better understand the events leading to his death. They will have an opportunity to see and comment on the draft version of my report, should they wish to do so.
13. The investigation assesses the following aspects of the man's care and treatment:
- a. Whether his diagnosis was made in a timely fashion
  - b. Whether he was told about his condition and the treatment which followed
  - c. Whether he was treated properly and attended hospital appointments as necessary
  - d. Whether the liaison with his family was appropriate
  - e. Whether he was accommodated in the most appropriate part of the prison
  - f. Whether consideration was given to compassionate release from prison
  - g. Whether appropriate palliative care was provided
14. The issuing of this report has been delayed in part by the length of time taken to complete the clinical review into the man's care. The report was received from the Primary Care Trust on 6 September 2011. These delays were then compounded by workload pressures within the Ombudsman's office.
15. The man's family responded to the draft report and their issues are answered at the relevant sections of this report where mentioned, or separately in a letter from the family liaison officer. The National Offender Management Service also responded to the draft report. They identified no factual inaccuracies, and we include their response to the recommendations at the end of the report.

## HMP WANDSWORTH

16. Wandsworth is a large Victorian prison in south west London. It is the largest prison in England and Wales holding up to 1,665 unconvicted and convicted adult men. Its catchment area includes courts in central and south west London and neighbouring Home Counties. It is a category B local prison. Category B prisoners must be held in secure conditions which make escape difficult (the majority of prisoners will be category B at the point of sentencing).
17. The former HM Chief Inspector of Prisons (HMCIP) in her last published inspection report of September 2009 detailed positive changes at the prison. The Inspectorate recognised the considerable efforts made by many staff to improve relationships between staff and prisoners, and that out of cell time had increased.
18. Primary care healthcare at Wandsworth is currently provided by NHS Wandsworth. In relation to healthcare services, the Chief Inspector's report noted that there were "gaps in the provision of care" and that  
  
"there were a number of staff vacancies on the primary care team, resulting in an over-dependence on bank and agency staff and an inconsistency of approach to prisoners. Healthcare staff did not work as an integrated team."
19. Although prisoners with complex needs had care plans, the Inspector found that prisoners who had lower levels of need would have benefited from distinct care plans. Their care was recorded in their main clinical record which meant that staff had to search through previous entries to find information that was up-to-date.
20. Each prison in England and Wales is monitored by an Independent Monitoring Board (IMB), consisting of volunteers from the local community. The Board must produce an annual report for the Secretary of State. The most recent report by Wandsworth's IMB, covering June 2009 to May 2010, identified some of the issues already covered by HMCIP such as difficulties in the recruitment of staff for permanent posts, the lack of a multi-disciplinary approach and the slow pace of implementing planned initiatives such as clinics for long-term initiatives.
21. The man's death was the eleventh to take place due to natural causes at Wandsworth in 2010. There are no apparent similarities between the circumstances of the eleven deaths, or the recommendations made in previous investigation reports.

## ISSUES

### The diagnosis of the man's terminal illness

22. Prior to being diagnosed with human immunodeficiency virus (HIV) in 2004, the man was in good health. In 2006, whilst in France he was diagnosed with lymphoma and underwent two courses of chemotherapy<sup>5</sup> treatment. He returned to the United Kingdom in January 2010. He underwent tests to determine the extent of his condition at the Department of Haematology<sup>6</sup> at hospital. However, before he was able to start his treatment he was arrested. He was returned to custody at HMP Wormwood Scrubs on 10 February 2010.
23. On arrival at Wormwood Scrubs a Healthcare Assistant (HCA) carried out a medical assessment on the man. The HCA noted that he had registered with a doctor two weeks before coming into custody and had been referred for chemotherapy treatment. He said that he was HIV positive and was receiving treatment for this condition.
24. A prison doctor wrote to the hospital on 12 February. He said that the man had been receiving chemotherapy treatment until 10 February for a highly aggressive lymphoma. The doctor explained that the man had failed to respond to treatment and the intention was to intensify the chemotherapy because his clinical condition was deteriorating. The doctor noted that the man had a large tumour on the right side of his neck.
25. The man was moved to hospital on the same day. Three days later, on 15 February, he was transferred to another hospital for continuation of his chemotherapy treatment. He received his fourth cycle of chemotherapy on 3 May. He remained in hospital until 22 June before returning to Wormwood Scrubs for one night. Unfortunately he was too ill to remain at the prison and was sent back to hospital where he remained until 9 July.
26. On 25 November, the man and his partner were seen at hospital by a consultant in clinical oncology. He was told that his condition was terminal and any further treatment would be on a palliative basis.
27. The clinical reviewer raised no concerns about the timeliness of the diagnosis.
28. In response to the draft report, the man's family said the assessment that he was fit to return to Wormwood Scrubs on 22 June was incorrect as he was admitted to hospital the following day. However, the decision to return him to Wormwood Scrubs was made by hospital staff whose actions are beyond the remit of this office. However, the clinical reviewer has subsequently commented

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<sup>5</sup> Chemotherapy is a treatment for cancer where medicine is used to kill cancerous cells. It can be given in tablet form or as an injection into a vein.

<sup>6</sup> Haematology is the branch of biology, physiology, internal medicine, pathology, clinical laboratory work and paediatrics that is concerned with the study of blood, the blood-forming organs and blood diseases.

that his condition deteriorated further after he was discharged from hospital which explains why he was then readmitted to hospital.

### **Informing the man about his condition and treatment**

29. The man was diagnosed with HIV in 2004. He was diagnosed with lymphoma in 2006 and, subsequently, underwent two courses of chemotherapy treatment. During his time at Wormwood Scrubs, he was given full information by healthcare staff on the reasons for referral to hospital for chemotherapy and radiotherapy<sup>7</sup> treatment. He was regularly reviewed by a professor, a consultant in medical oncology<sup>8</sup> at the hospital.
30. On 25 November 2010, the consultant oncologist wrote to the professor regarding the man's condition. She said that she had told him and his partner that his recent biopsies had confirmed B-cell non-Hodgkin's lymphoma and an extensive ulcer on the right side of his neck. He was made aware that any treatment would be on a palliative basis and the professor would be in touch to arrange his treatment.
31. A Do Not Resuscitate (DNR) form<sup>9</sup> was completed by a doctor at the hospital. The medical records show that, on 3 December, a discussion was held regarding the man's resuscitation status. He signed the DNR on the same day.
32. Having reviewed the records, the clinical reviewer concludes that the man was informed of his diagnosis and given full information on the reasons for referral to hospital for chemotherapy and radiotherapy treatment. The findings of this investigation support that view.

### **The man's medical appointments and treatment**

33. When the man arrived at Wormwood Scrubs on 10 February 2010, he was already suffering from an aggressive form of lymphoma and was HIV positive.
34. Following a deterioration in his condition, the man was taken by ambulance to the Accident and Emergency department at hospital on 12 February. Three days later, he was moved to another hospital for a continuation of his chemotherapy treatment. He returned to the healthcare wing at Wormwood Scrubs for one night on 22 June but was too ill to remain in prison at that time. He was moved again to hospital before returning to Wormwood Scrubs on 9 July.

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<sup>7</sup> Radiotherapy is the use of high energy rays to destroy cancer cells.

<sup>8</sup> Oncology is the field of medicine that deals with the diagnosis and treatment of cancer.

<sup>9</sup> A 'do not resuscitate' form is a legal order written either in the hospital or on a legal form to respect the wishes of a patient to not undergo CPR or advanced cardiac life support if their heart were to stop or they were to stop breathing. This request is usually made by the patient or health care power of attorney and allows the medical teams taking care of them to respect their wishes.

35. The man was discharged from the radiology department at hospital on 20 July. The discharge letter noted that he had received 79 radiotherapy treatments and was due to receive the final one the following day.
36. The man's records show that he was regularly reviewed by the consultant oncologist and following these reviews the professor was given a full update on his diagnosis. On 30 September, he was taken to hospital for investigations as it was suspected that he may have been suffering from an infection, or that the lymphoma had spread. He returned to prison on 12 October.
37. The man regularly attended appointments with the professor, at which his condition was reviewed. He also underwent a whole body PET<sup>10</sup> scan on 9 November. Following the results of the scan and biopsies, the consultant oncologist told him that he was suffering from B-cell non Hodgkin's lymphoma<sup>11</sup> and had an extensive ulcer on the right side of his neck. He gave his consent for a course of radiotherapy treatment on a palliative basis. She hoped that the treatment might relieve his pain.
38. The clinical reviewer considered that the man's appointments were carefully documented in advance and appropriate arrangements were made to ensure that he attended the hospital oncology, radiotherapy and genitourinary<sup>12</sup> medicine clinics. The reviewer further commented that there was excellent communication between the hospital oncologists and prison healthcare staff. This took the form of prompt and comprehensive letters and, when necessary, telephone calls and planning meetings between prison healthcare and hospital staff. The findings of this investigation support the reviewer's conclusion.
39. In response to the draft report, the man's family felt that the communication between hospital and prison staff was unsatisfactory because he missed hospital appointments. The clinical reviewer, in response, said he did not see any evidence of missed oncology appointments. He explained that there were many letters from the hospital consultants outlining details of treatments and decisions about the management of his condition. There were also letters from the prison healthcare staff to the hospital outlining new symptoms or details of changes in his condition. This correspondence formed the clinical reviewer's basis for assessing the communication as excellent.

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<sup>10</sup> A positive emission tomography (PET) scan is used to produce a detailed three-dimensional picture inside the body. The images clearly show the part of the body that is being investigated and can also highlight how effectively certain functions of the body are working. It is most commonly used to diagnose cancer.

<sup>11</sup> Non-Hodgkin lymphoma is a cancer of the lymphatic system. This is part of the body's immune system and helps us fight infection. It's made up of organs such as the bone marrow, thymus, spleen and the lymph nodes (or lymph glands). Lymph nodes are connected by a network of tiny lymphatic vessels that contain lymph fluid.

<sup>12</sup> Genitourinary medicines relate to sexually transmitted infections.

## **The man's pain relief and medication**

40. On the man's return to Wormwoods Scrubs from hospital on 9 July, the discharge letter from the consultant oncologist said that he was suffering from mucositis (inflammation of the mucous lining the digestive tract, usually as an adverse effect of chemotherapy and radiotherapy treatment). She said that he should use the prescribed mouthwashes four times a day. He asked if he could keep the mouthwashes in his possession but was advised that this was not possible due to the guidelines on issuing in-possession medication<sup>13</sup> to prisoners.
41. The man's partner expressed concern to the investigator about his medication, in particular that he did not always receive his prescriptions and was unable to have access to his medication on a 24 hour basis. The investigator sought further information from the healthcare staff. Prisoners in healthcare would always receive their medication from a dispensing nurse and no medication was allowed to be kept in-possession. His medical records show that he was given the mouthwashes four times a day as prescribed.
42. On 20 July, the Head of Safer Custody approached a nurse regarding the man's care. He said that the man's partner had expressed concern about his pain management. This was noted in the medical records.
43. The man's first appointment with the palliative care team took place on 23 July. During a further review on 11 August he said his pain was being effectively managed and he was looking forward to being moved from healthcare to the wing. Throughout his time at Wormwood Scrubs he was seen on a regular basis by the community palliative care team.
44. An entry in the medical records on 26 September showed that the man was experiencing more pain than usual and had asked for a review of his medication. This took place on the following day, when additional pain relief was prescribed.
45. The clinical reviewer concluded that the man's pain relief was well coordinated by the prison, hospital consultants and palliative care team. He considered that when he complained of experiencing increased pain the appropriate adjustments were made. There is no evidence in his medical records that he did not receive his medication as prescribed.
46. In response to the draft report, the man's family said that, considering his condition, it was inconsiderate to keep the mouthwash from him. However, for security reasons, prisoners in healthcare are not permitted to keep any medication in their possession. This ensures that medication is correctly dispensed and taken as prescribed. His mouthwash was treated as medication because it had been prescribed by a doctor. It is important to note that his

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<sup>13</sup> In certain circumstances and subject to the necessary risk assessments, prisoners are allowed to keep their prescribed medication in their possession.

records show that he was given the mouthwash according to the prescribed dosage.

47. The family also said they believed he did not always receive his medication because the prescription charts had not been written up. The clinical reviewer has commented that, when this occurred, the Governor immediately responded to the family's concerns by communicating their concerns to the relevant healthcare staff.

### **Liaison with the man's family**

48. On 14 June the family liaison officer (FLO) at Wormwood Scrubs went to the hospital to offer the man support. He continued to provide support to him through out his stay in hospital and on his return to Wormwood Scrubs.
49. The FLO contacted the man's partner and kept her informed of his location and condition. A meeting was held between them on 11 July. During this meeting, the man's partner raised several issues of concern. The family liaison log shows that the FLO appropriately considered her concerns by ensuring that the man's cell was provided with a kettle and a working television. She also liaised with the prison catering department to ensure that his requirement for a soft diet was arranged.
50. The man's partner has asked why he had to walk a long way to the visiting centre and wait with other prisoners in a small room despite his low immunity to infection. The Investigator sought further information from the prison FLO. He said that the man had not raised any concerns during their regular meetings about having to walk to the visiting centre. If he had done so additional support would have been made available, in particular by offering him the use of a wheelchair. As a normal location prisoner, he was regularly associating with other prisoners despite his low immunity and without any obvious detriment to his health. This investigation has not found any evidence that he had told staff that he was experiencing difficulty in walking to the visiting centre.
51. On 12 August, a 'virtual visit' using video link equipment was arranged between the man and his elderly parents in Norfolk. The prison was flexible in supporting his sons and partner, including facilitating special visiting arrangements at weekends and allowing his partner to visit without the need for a visiting order.
52. The man's partner has said that her and his family's concerns about his health were not acted upon, despite speaking to many different people at Wormwood Scrubs. She has also asked why healthcare and prison staff were unable to discuss his medical condition over the telephone.
53. The family liaison log shows that the family's concerns were appropriately considered and acted upon. It is evident that the family received appropriate support from the prison FLO. On 20 July, the Head of Safer Custody informed healthcare that the man's partner had expressed concern about his pain management. This was recorded on his medical record and he was seen by the palliative care team a few days later.

54. The frustration experienced by a prisoner's family when they are unable to obtain information, especially when it concerns a family member's health, cannot be underestimated. However, patient confidentiality means that personal medical information cannot be passed on to others unless the patient has given informed consent. The man's case was further complicated because healthcare staff would have been unable to establish his partner's identity because she was using the telephone. There is no evidence that healthcare staff sought his consent to allow staff to discuss his medical condition with his partner. We therefore make the following recommendation:

**The Heads of Healthcare at HMP Wormwood Scrubs and HMP Wandsworth should ensure that healthcare staff seek a prisoner's informed consent to allow disclosure, where appropriate, of medical information to nominated family members. The prisoner's decision should be documented in their medical record.**

55. Following the man's move to Wandsworth permission was granted for him to receive his visitors in the Jones Unit to reduce the risk of infection.

56. In response to the draft report, the man's family said they experienced difficulty in contacting the prison FLO. They said most of the family's concerns were dealt with by either the Head of Safer Custody or another governor, who they described as 'extremely helpful'. The family liaison log provides a record of contact between the FLO and the family. The log shows that the FLO was appointed as the prison FLO on 14 June 2010 and maintained appropriate contact with the family. The log supports the family's view that they were given good support from the Head of Safer Custody and another governor.

### **The man's location**

57. Following his return to custody in February 2010, the man was located at Wormwood Scrubs before he was moved to hospital following a deterioration in his condition.

58. He returned to Wormwood Scrubs on 9 July and was initially located on the healthcare wing. On 12 August, healthcare and prison staff considered his request to return to a residential wing. A case conference was held with all relevant healthcare and prison staff to plan his move appropriately and to consider any additional support that he would require from wing staff. A decision was made that if his condition deteriorated further he would return to the healthcare wing. He moved to E wing on 15 August.

59. The man's family have asked why he was expected to clean his cell when he moved to E wing despite being so unwell. The prison FLO told the Investigator that the man did not express any concerns to staff about having to clean his cell. If he had done so additional support would have been made available and may have included asking a trusted wing cleaner to assist with cleaning the cell. Both prison and healthcare staff were satisfied that his medical condition was stable enough to agree to his request to move to E wing and he was able to

undertake the responsibilities of a prisoner on a residential wing. This investigation has found that his move to E wing was planned appropriately and his individual needs were considered.

60. When the man's condition deteriorated, he was returned to the healthcare wing. His family has commented that he had pleaded with healthcare staff to take him to hospital. The clinical reviewer considers that his medical needs were reviewed on a daily basis by healthcare staff. He notes that very detailed records were kept by all staff involved in his care and a daily assessment of his needs was undertaken. His medical record provides a detailed record of his interaction with healthcare staff.
61. Unfortunately, the man became increasingly unwell and it became evident that he required care in a palliative environment. Because Wormwood Scrubs was unable to offer care of this nature consideration was given to moving him to a hospice environment or to the Jones Unit at Wandsworth. The unit is staffed on a 24 hour basis for the care of prisoners with physical health and palliative care needs. Prior to admission, a clinical assessment of his medical condition and palliative needs was undertaken by two doctors. The outcome of the assessment was that the Jones Unit was an appropriate location for him and he was moved to Wandsworth on 10 December. On 26 December, having suffered a further deterioration in his medical condition, he was moved to hospital where he died two days later with his family present.
62. In response to the draft report, the man's family said they did not consider the Jones Unit to be an appropriate location for someone that was dying. The clinical reviewer commented in response that the records show that, when it became clear that he needed care in a palliative environment, consideration was given to moving him to a hospital or the Jones Unit. A clinical assessment was undertaken by two doctors who considered the advantages and disadvantages of both environments. Consideration was also given to the security implications of moving him to an outside location when he had previously failed to surrender for sentencing. The doctors agreed that the facilities available in the Jones Unit would provide him with the appropriate palliative care.

### **Compassionate release**

63. PSO 6000- Parole Release and Recall, Chapter 12 advises that early release on compassionate grounds may be considered on the basis of a prisoner's medical condition or as a result of tragic family circumstances. It is only granted in exceptional circumstances.
64. The fundamental principles underlying the approach to early release on compassionate grounds are:
  - The release of the prisoner will not put the safety of the public at risk.
  - A decision to approve release would not normally be made on the basis of facts which the sentencing or appeal court was aware.

- There is some specific purpose to be served by early release.
65. Early release may be considered on medical grounds where a prisoner is suffering from a terminal illness and death is likely to occur soon. There are no set time limits but three months is considered to be an appropriate period. A clear medical opinion on life expectancy is required. The Secretary of State will also need to be satisfied that the risk of re-offending is past and that there are adequate arrangements for the prisoner's care and treatment outside prison. There is also a requirement that the early release of a prisoner will bring some significant benefit to the prisoner or his family. The decision to release a prisoner on compassionate grounds is made by the Secretary of State taking into account information provided by Prison Service staff and medical opinions.
  66. On 17 June 2010, the man was visited by a family liaison officer at Wormwood Scrubs. She told him that an application for early release on compassionate grounds (ERCG) was being submitted to the Public Protection Unit at the National Offender Management Service (NOMS). The dossier was submitted on 24 July. The documentation show that the medical assessment of his suitability for ERCG was completed on 30 June. The Governor considered his application some three weeks later on 23 July.
  67. When considering the man's suitability for release on medical grounds a nurse noted that his condition was expected to deteriorate further. For this reason, he was suitable for ERCG on the grounds on privacy and dignity. Consideration was also given to his capability of committing further offences of a violent or sexual nature, despite his medical condition. A doctor noted that he was independently mobile and able to care for himself. He could not therefore say that he was not incapable of committing further offences. However, his physical capability was expected to deteriorate over the coming weeks.
  68. In his assessment the Governor said:
 

“Whilst the prognosis is clear in the medium to long term it is also clear at present that the man's condition has not reached a stage where his overall mobility has diminished significantly to reduce the risk posed that has been identified earlier in this report. His medical condition is complicated and his condition can rapidly deteriorate leading to sudden death. At this time release on temporary licence would be a consideration locally but release on compassionate grounds would be appropriate. It is not my belief that we are yet at that stage but a rapid decline in health could indicate a swift decision will need to be made sometime in the not too distant future.”
  69. Having considered all of the information available NOMS concluded that the man was not suitable for ERCG. He was informed about their decision on 5 August. Despite receiving an extremely poor prognosis he did not, at that stage, meet the criteria for release on compassionate grounds. At the end of November, when it became clear that his condition had deteriorated further his application was re-submitted. However, he died before the assessment could be completed.

70. Whilst the decision to refuse the man ERCG was appropriate, the time taken for the Governor to complete his assessment was not acceptable. There may be future occasions where a prisoner meets the criteria for ERCG and prompt completion of the documentation would ensure that the prisoner is released without delay.
71. In response to the draft report, the man's family said that they believed that he fulfilled all the requirements for ERCG. They agreed that length of time the Governor took to complete the assessment was unacceptable. At the time of the initial assessment, the doctor said that he was independently mobile and able to care for himself. He noted that his condition was expected to deteriorate over the coming weeks but he could not say that he was incapable of committing further offences at that time. We are satisfied that he did not meet the eligibility criteria for ERCG at this stage. Following the deterioration in his condition, the records show that a governor took action to update the initial assessment to enable the application to be resubmitted.

### **Palliative care plans**

72. The man was referred to the Pembridge Palliative Care team on 25 June. He was seen by the team on four occasions between July and November. On 1 December, a matron at Wormwood Scrubs was told by the consultant oncologist that he could only be offered palliative care because his condition was unsuitable for any further treatment. On 3 December, the matron met with the consultant and a Macmillan nurse to discuss whether he was suitable for a move to hospital or the Jones Unit at Wandsworth.
73. The clinical reviewer has commented that there is no record of an end of life pathway in the man's medical notes. The National End of Life Pathway Programme promotes a high standard of care for all prisoners regardless of diagnosis at the end of life. This is achieved by improving the quality of care offered and enhancing dignity and choice for serving prisoners approaching the end of life.
74. The core principles for the delivery of end of life care are :
- Treat individuals with dignity and respect
  - Identify and respect people's preferences
  - Provide information and support to families and carers
  - Recognise and respect and individual's spiritual and religious needs
  - Provide effective pain and symptom management
  - Provide care after death
  - Ensure care is patient-centred and integrated
  - Provide a safe environment for care
75. There are three end of life care tools which are designed to increase choice, improve standards of care and facilitate communication between medical professionals, patients and their families. This investigation has found that the man was aware of his diagnosis and the information contained within his

medical record shows that the core principles of the end of life pathway were adhered to. This included care provided to his family following his death by the prison's family liaison officer. However, the use of a formal care plan would have provided documentary evidence that his needs and preferences were being effectively co-ordinated.

**The Heads of Healthcare at HMP Wormwood Scrubs and HMP Wandsworth should ensure staff are aware of the importance of completing an end of life care plan for prisoners who have been diagnosed with a terminal illness.**

### **Restraints, security and bedwatch**

76. When the man was first taken to hospital on 26 December, he was the subject of an initial risk assessment that required he be escorted by two members of staff and that he should remain handcuffed to one of them at all times. The only exception to this would be if certain medical procedures needed to be performed that might put escorting staff at risk or would otherwise hamper medical staff. He was considered to be a low risk to the public and of escaping from custody. However, because he was being admitted through the accident and emergency department of the hospital the risk assessment said that he should remain cuffed until his permanent location on a ward was known.
77. The following day a full risk assessment was carried out with consideration being given to the man's location in the Thomas McCauley Ward. His restraints were removed. Escort staff were also withdrawn from his bedside which allowed him to receive visits from his family in private. The level of restraints was appropriate and he was treated in a dignified and respectful manner by bedwatch staff.
78. The man's family have referred to a two week period that he spent in isolation at the hospital. They have asked why he was not cuffed during this time only to have restraints applied when he returned to the ward. His medical records do not provide any information to enable the investigator to make a judgement regarding the level of restraints used. However, it would not be unusual for a prisoner to remain without restraints if their medical condition warranted a period in isolation. It is therefore likely that restraints were applied when his condition improved to the point that he was suitable to be located on a general ward with other patients.
79. In response to the draft report the man's family said they were unhappy that he was restrained when they arrived at his bedside on 27 December. The reasoning for his initial restraint is explained above, and we note that the bedwatch history log shows that a governor authorised for his restraints to be removed at 1.10am on 27 December. His family agreed that the bedwatch staff from both Wormwood Scrubs and Wandsworth were very kind and respectful.

## **CONCLUSION**

80. When the man arrived at Wormwood Scrubs on 10 February, he was already suffering from an aggressive form of lymphoma and was HIV positive. The clinical reviewer has concluded that he had a complex illness that would have been difficult to manage in any environment.
81. His medical care involved hospital specialist as well as prison doctors, nurses and a community palliative care team. He was kept fully informed about his diagnosis and suitable treatment. When his condition deteriorated he was told by the hospital oncologist that any further treatment would be on a palliative basis.
82. Throughout his time in custody, appropriate decisions were made regarding the man's location. Healthcare staff at Wormwood Scrubs were able to communicate his needs to prison staff which allowed him to move to normal location from the healthcare wing, albeit for a short period of time. Effective liaison with the community palliative care team resulted in him being moved to the Jones Unit at HMP Wandsworth.
83. Good support was offered to the man's family by the family liaison officer at Wormwood Scrubs. During his short time at Wandsworth he was allowed to receive his visitors in the Jones Unit.
84. He was treated in a dignified and appropriate manner by bedwatch staff.

## RECOMMENDATIONS

1. The Heads of Healthcare at HMP Wormwood Scrubs and HMP Wandsworth should ensure that healthcare staff seek a prisoner's informed consent to allow disclosure, where appropriate, of medical information to nominated family members. The prisoner's decision should be documented in their medical record.

The National Offender Management Service accepted this recommendation:

"HMP Wormwood Scrubs: Template for clinical system being devised at present. Question of disclosure will be included. Once the template is on the system this decision will automatically be documented."

"HMP Wandsworth: SystemOne template for consent form will be written specifically for the purpose of disclosure of medical information to a nominated family member. "

2. The Heads of Healthcare at HMP Wormwood Scrubs and HMP Wandsworth should ensure staff are aware of the importance of completing an end of life care plan for prisoners that have been diagnosed with a terminal illness.

The National Offender Management Service accepted this recommendation:

"At HMP Wandsworth, the Band 7 senior nurse manager attended a prison specific end of life care conference on 07/12/11 along with a Band 5 junior nurse. The importance of an end of life care plan will be communicated to all healthcare staff at HMP Wandsworth. End of life care plans are to be devised for clinical records system at both establishments."