PRISONS AND PROBATION OMBUDSMAN
for England and Wales
Independent Investigations

A Report by the Prisons and Probation Ombudsman Nigel Newcomen CBE

Investigation into the death of a man at hospital in December 2012, while in the custody of HMP&YOI Littlehey

Our Vision

‘*To be a leading, independent investigatory body,*
a model to others, that makes a significant contribution to
safer, fairer custody and offender supervision’

This is the report of an investigation into the death of a man, a prisoner at HMP and YOI Littlehey, who died at hospital in December 2012. His death was caused by viral pneumonia and failure of the immune system while he was being treated for non-Hodgkin's lymphoma. He was 49 years old. I offer my condolences to his family and friends.

A review was conducted of the man's clinical care whilst in prison. Littlehey cooperated fully with the investigation.

The man was diagnosed with a non-Hodgkin's lymphoma in January 2004 and treated with chemotherapy and radiotherapy with apparent success. In February 2011, he developed a growth on his jaw. He was referred promptly to specialist hospital services and diagnosed with a reoccurrence of non-Hodgkin's lymphoma.

The man was given suitable care for a very complex condition. Littlehey put in place a clear, well-communicated care plan, with appropriate guidelines to both healthcare and discipline staff so that his symptoms could be monitored and action taken if there were signs of deterioration. However, I am concerned that use of restraints in hospital did not always appear to be justified by a fully considered risk assessment. Nevertheless, I am satisfied that, overall, he received good and prompt care at Littlehey equivalent to that he could have expected in the wider community.

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 **December 2013**

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SUMMARY

1. The man was remanded into custody on 27 November 2009 and was subsequently sentenced to six years and six months imprisonment. It was his first time in prison. In June 2010, he moved to Littlehey from HMP Wandsworth.

2. The man had received chemotherapy and radiotherapy treatment for non-Hodgkin's lymphoma in January 2004, with apparent success. On 16 February 2011, he reported to healthcare staff at Littlehey that he had developed a growth on his jaw. The prison GP referred him to hospital for tests, which showed that the non-Hodgkin's lymphoma had returned.

3. In the following months, the man underwent three cycles of chemotherapy. He also received a bone marrow transplant on 25 September 2012. A comprehensive care plan was put in place after his discharge from hospital and he was well supported by healthcare and wing staff.

4. On 3 December, the man was seen by a prison doctor as he had developed a cough, a high temperature and had reduced oxygen levels. The doctor carried out a blood test and noted high potassium levels, possibly indicating that his kidneys were failing. She contacted a consultant at the hospital, who advised her that an emergency admission was not necessary. As she was not content with the consultant's response and had concerns that the advice given was not in line with his care plan, she arranged for him to be taken to hospital by emergency ambulance, where he was admitted as an inpatient.

5. On 13 December, the man's condition in hospital worsened and he was moved to an intensive care unit (ICU). A bronchoscopy was carried out which indicated he had a chest infection.

6. A few days later the man's condition deteriorated further and his vital organs began to fail. Later that day, after discussions between hospital staff and his family, all heart, blood pressure and breathing support was withdrawn. He died that afternoon with his family around him. The prison provided his family with appropriate support and help with the funeral expenses.

7. The clinical reviewer concludes that both primary and secondary care providers monitored and treated the man appropriately. We agree that he was given suitable care, for a very complex condition. However, we are concerned restraints were used during his treatment in hospital which does not appear to have been justified by fully considered risk assessments. We make one recommendation about this.

THE INVESTIGATION PROCESS

8. Notices were issued announcing the investigation to staff and prisoners at the Littlehey, asking anyone with relevant information to contact the investigator. No one came forward.

9. The investigator visited Littlehey on 21 December 2012. He met the Governor, the liaison officer and the manager of the wing where the man had lived. He also spoke to staff and prisoners who knew him. The investigator obtained copies of his prison records, including his medical record.

10. The local PCT asked a clinical reviewer to report on the man's clinical care at the prison. He was given all relevant documents to assist his review.

11. On 30 January, the investigator returned to the prison with the clinical reviewer and interviewed three members of staff. He carried out a further three interviews with staff at Littlehey on 13 February and gave feedback on the preliminary findings of the investigation to the Head of Safer Custody and Equalities.

12. HM Coroner for South and West Cambridgeshire was informed of the investigation and a copy of the investigation report has been sent to him.

13. One of the Ombudsman's family liaison officers contacted the man's family by telephone and in writing. They raised a number of issues that do not impact on the factual accuracy of this report and have been addressed through separate correspondence.

HMP&YOI LITTLEHEY

14. HMP&YOI Littlehey in Cambridgeshire is a medium security prison holding approximately 1200 male adult prisoners and young adults in adjoining sites.

15. Cambridgeshire and Peterborough NHS Trust commissions healthcare services. The healthcare centre is open from 7.30am to 5.00pm Monday to Friday and from 8.00am to 12.30pm at weekends. A local practice provides GP services. A range of nurse-led and pharmacy-led clinics are run. Cambridgeshire and Peterborough NHS run an out of hours service. There are no inpatient beds at Littlehey.

HM Inspectorate of Prisons (HMIP)

16. HM Inspectorate of Prisons (HMIP) carried out a short follow-up inspection of Littlehey in October 2011. Inspectors found that the prison had made good progress in addressing the healthcare-related recommendations made after the previous full inspection in 2007. Prisoners were generally positive about access to, and communication with, health services staff. Partnership arrangements between commissioners, health services staff and the prison were effective. Healthcare facilities were satisfactory and a wide range of services and clinics were provided in the prison. Prisoners had satisfactory access to GPs although there was a large reliance on locum doctors.

Independent Monitoring Board (IMB)

17. Each prison in England and Wales has an Independent Monitoring Board made up of unpaid volunteers from the local community who monitor standards to help ensure prisoners are treated fairly and decently. In its most recent report, for the period February 2011 to January 2012, the IMB at Littlehey reported favourably on the healthcare provided. They were satisfied that the clinical needs of all prisoners were met. They also noted that since their last report, the prison had made significant improvements and advancements in relation to the pharmacy and monitoring attendance at healthcare appointments.

Previous deaths at HMP&YOI Littlehey

18. We have investigated four deaths at Littlehey since 2012. Three, including the man's, were from natural causes. We repeat a recommendation about the use of restraints.

KEY EVENTS

19. The man was convicted of sexual offences at Crown Court on 27 November 2009. He was remanded to HMP Wandsworth and subsequently received a sentence of six years six months. He was 46 years old and it was his first time in prison.

20. The man had been treated, apparently successfully, for non-Hodgkin's B cell lymphoma (a type of white blood cell cancer) at hospital, using a combination of chemotherapy and radiotherapy. After he went into prison, his care was transferred to the oncology department at another hospital for six-monthly check ups.

21. On 9 June 2010, the man transferred to HMP and YOI Littlehey. During the reception process, a healthcare assistant noted that he was fit and well. He was due to see one of the GPs at Littlehey, but he did not attend that appointment or another arranged for the next day, despite a healthcare assistant reminding him. He said he had forgotten about both of the appointments.

22. Another of the GPs at Littlehey saw the man on 17 June and noted that he had previously undergone a series of treatments for non-Hodgkin's lymphoma and had attended routine follow-up examinations at hospital. His next appointment was due in November that year. The doctor also noted that he had previously undergone a series of spinal operations, as part of the treatment for lymphoma and had been prescribed pain relief for ongoing pain. He told the doctor that he no longer required the pain relief as he had been pain free for two days. The doctor advised him to request pain relief if he needed it.

23. The doctor had no further contact with healthcare staff until three months later, on 14 September 2010. After discovering lumps in his lower abdomen, he saw a doctor, who referred him to a consultant haematologist at hospital the same day. After examining him, the consultant wrote to the doctor, informing him that, in his opinion, the lumps were soft tissue masses that had already been noted in a previous routine examination in November 2009. He assured the doctor that the man remained in remission from non-Hodgkin's lymphoma.

24. On 16 February 2011, another GP at Littlehey examined an enlarged gland on the man's jaw. The GP referred him for a full blood test and sought advice from the consultant haematologist. The consultant examined him on 14 March and concluded that the swelling was due to an enlarged saliva gland. He planned to review him six months later.

25. On 5 May, the man told a locum GP at Littlehey that he was concerned that the swelling on his jaw had got bigger. The doctor thought that it was similar in size to the swelling in March and advised no further action unless it grew larger.

26. On 19 May, the man was again concerned about the swelling on his jaw and saw a locum GP. The doctor noted that the swelling appeared to have grown and, on 23 May, he referred him to an ear, nose and throat (ENT) consultant at hospital, where he was seen on 3 June. A biopsy took place on 17 June. Ten days later, a hospital pathology report indicated that the non-Hodgkin's lymphoma had returned.

27. In a letter dated 5 July, the consultant haematologist confirmed that the man had developed low grade (slow growing) lymphoma. He had told him that his condition could be controlled but not cured.

28. A few weeks later, on 29 August, the man told a nurse that the swelling on his jaw had rapidly increased in size and complained of severe pain to the right side of his head. She sent him to the local hospital by emergency ambulance. He was discharged the same day with medication for pain relief and a referral was made to another hospital.

29. On 1 September 2011, the man was admitted to hospital for surgery to remove the growth on his jaw. As is standard practice, the prison carried out a risk assessment before he went to hospital to consider the security measures required, including the use of restraints. The assessment should include a contribution from healthcare staff about how his health condition affected his risk but they indicated only that there were no objections to the use of restraints. He was assessed as a low risk of escape (on a scale of low, medium, high) and medium risk to the public because of his offence.

30. The deputy Head of Security and Operations at Littlehey authorised the risk assessment. He instructed that two escort staff should accompany the man using single standard handcuffs during the journey and an escort chain (a long chain with a handcuff at each end attached to the prisoner and an officer) in hospital. He returned to Littlehey the following day.

31. After the removal of the growth, the consultant haematologist advised the man that he would need a course of chemotherapy, with regular stays in hospital. He explained the side effects of the chemotherapy and gave a prognosis that the treatment was likely to result in a long term remission from the high grade lymphoma, but that he would continue to have a low grade lymphoma. He also told him that he would need an autologous bone marrow transplant, a procedure where the patient's bone marrow is cleared of any damaged or diseased cells and returned to the patient's body.

32. On 29 September, the man's parents sent an email to the Clinical Services Manager at Littlehey expressing concern about his health and requesting more information. The man agreed that she could keep his parents informed of his condition.

33. The man was admitted to hospital on 24 October for three weeks to have his first cycle of chemotherapy. The risk assessment for that escort reached the same conclusion as the one previously and an escort chain was used throughout his time in hospital.

34. Healthcare staff from Littlehey held a meeting with staff from Peterborough Hospital on 4 November, to discuss the man's susceptibility to infection following chemotherapy. A clear care plan was put in place for his return to Littlehey. He was given a thermometer to monitor his body temperature, with firm instructions that, if his temperature fell below 36 degrees or rose above 37.5 degrees, he must alert staff who would contact the oncology unit for advice. If his temperature was to rise above 38 degrees the plan was that he should be admitted to hospital immediately. He returned to Littlehey on 10 November.

35. On 15 November, a nurse went to the man's cell after he had reported that his temperature had fallen to 35.5 degrees and that he was experiencing pain in his chest. In line with his care plan, she contacted the hospital's oncology unit, who advised that he should be taken there by emergency ambulance. He was stabilised but remained in hospital for his regular course of chemotherapy.

36. While chemotherapy was being administered, the man decided he wanted to discharge himself from hospital. He said that he found it difficult being in hospital while accompanied by two prison officers and restrained by an escort chain. Hospital staff advised him against discharging himself and explained that he could be prone to severe infection if he returned to Littlehey before he completed the course of chemotherapy. However, he discharged himself on 25 November.

37. On 23 January 2012, a locum GP examined the man after he discovered a rash on his abdomen. He also had a small cut to his finger which bled for a long time. The GP noted that this was a side effect of chemotherapy. No further action was recorded, although this was a possible early sign of infection.

38. The next day, a nurse went to see the man after he had reported that his temperature had risen to 37.9 degrees. She contacted the hospital's oncology unit, who advised that he be admitted as an emergency. Hospital staff gave him intravenous antibiotics and a blood transfusion. He returned to Littlehey on 28 January.

39. On 23 February, a nurse referred the man to the Macmillan nurses as he was in an extremely low mood and was concerned about his condition and prognosis. She contacted the hospital's haematology department and a consultant told her that his treatment was curative. In a letter to Littlehey healthcare on 28 February, the consultant haematologist also noted that his treatment was aimed at being curative and not palliative at that stage.

40. On 30 March, the man spoke to a doctor from the transplant unit at the hospital. The doctor told him that his final cycle of chemotherapy, which was due to take place the next week, had been cancelled. Instead, the doctor wanted to arrange a biopsy to determine his suitability for an autologous stem cell transplant. In addition, he told him that his sister would be given a blood

test to determine her suitability as a donor. (Tests later revealed that she was not a match and an unrelated donor was found.)

41. The biopsy was carried out on 9 May at hospital. A doctor discussed the results with the man, which had shown that he had diffuse large B cell lymphoma (a common type of non-Hodgkin's lymphoma). She told him that he would need two further cycles of chemotherapy before the planned stem cell transplant.

42. The man was admitted to hospital for the chemotherapy on 6 June. As previously, healthcare staff maintained regular contact with the hospital for updates on his condition and to amend care plans. On 19 June, nurses at the hospital informed healthcare staff that he had become neutropenic (a failure of the body's immune system, leaving patients susceptible to serious infection) and would remain in hospital while receiving a course of antibiotics. He returned to Littlehey on 25 June.

43. The man was due to be admitted to hospital for his second cycle of chemotherapy on 15 August. That morning, the oncology department told healthcare staff that no beds were available. The admission was rearranged for the following day and he remained in hospital until 1 September.

44. On 12 September, a doctor told the appointments clerk at Littlehey that the man had to attend the bone marrow outpatients' clinic twice weekly for the next two weeks in preparation for his stem cell transplant on 25 September. He said that he would need to stay as an inpatient for four weeks after the transplant as his immune system would be diminished, leaving him vulnerable to infection.

45. The hospital admitted the man as planned on 25 September. A nurse contacted the ward on 12 October for an update on his progress. She was told that he had contracted an infection and they had given him a blood transfusion in an attempt to improve his condition. He was very unwell.

46. By 19 October, the man's condition had improved sufficiently for him to return to Littlehey. The nurse telephoned the doctor to discuss his care plan. He told her that the man had a Hickman line in place (used to administer intravenous drugs) which required no nursing care, and that the hospital would carry out all follow-up care. She agreed that his medication, of which there was a considerable amount, could be kept in his cell so that he could self-administer at the required times. His oxygen levels had to be checked twice daily and healthcare staff needed to be aware of any headaches, rashes or loose stools which would indicate that he required a further blood transfusion. He also had to continue monitoring his temperature and was not to mix with large numbers of prisoners due to his diminished immune system. It was suggested that his meals should be taken to his cell to reduce the chance of infection.

47. The next day, a nurse contacted the haematology department to discuss the man's medication, as well as the signs and symptoms of possible infection.

He had contact with healthcare staff twice a day and his oxygen levels were checked in accordance with his care plan.

48. On 26 October, a nurse recorded that the man had a low pulse rate and temperature, was vomiting and was clearly ill. She contacted the hospital for advice and sent him to hospital immediately by emergency ambulance.

49. The man was due to be discharged from hospital on 1 November. However, when doctors advised him of this, he told them that it was unsafe for him to do so as other prisoners had been stealing his medication. He also claimed that he was due to be released from prison on 18 November and would stay in hospital until that date.

50. On 14 November, a nurse discussed the issues the man raised with a nurse on his ward. She gave assurances that Littlehey could accommodate him safely and manage his medication appropriately. She discussed the matter with him that day.

51. In the meantime, results of a routine blood test indicated that the man had contracted a kidney infection, which required a two-week course of anti-viral therapy. It was initially agreed that he should be discharged to HMP Bedford as it had better facilities to manage the therapy. However, a doctor at the hospital later decided that it could be given orally, and he returned to Littlehey on 21 November. A nurse gave him advice on the management of his medication, the importance of monitoring his temperature and ensured he was aware of the indicators of possible infection.

52. On 3 December, a GP at Littlehey noted that the man had developed a cough, a high temperature and had reduced oxygen levels. A blood test showed high potassium levels, possibly indicating that his kidneys were failing. She contacted a consultant at the hospital, who advised her that an emergency admission was not necessary. She was not content with the consultant's response as the advice did not accord with his care plan, so she arranged for him to be taken to hospital as an emergency. She also wrote to the consultant at the hospital on 7 December to express her concerns about the advice.

53. The man was admitted to hospital, where he was treated for infections and breathing difficulties and received blood transfusions. On 11 December, a CT scan showed multiple nodules (small collections of cells) in his lungs as well as signs of inflammation and fluid in the heart and lung linings. Overnight, he suffered kidney failure and had difficulty breathing unaided.

54. On 12 December, the Head of Security and Operations at Littlehey visited the hospital to review the escort risk assessment. He decided that restraints were no longer necessary and the presence of one prison officer would be sufficient to manage any risk.

55. The man's condition worsened on 13 December and he was moved to an intensive care unit (ICU). His mother visited him that day. A bronchoscopy

confirmed a chest infection, which was treated internally with an antibiotic wash. On 15 December, his condition deteriorated further and he required the use of a ventilator tube. (A ventilator is used as life support for patients who cannot breathe unaided.) His condition was described as stable but serious.

56. The next day, the man's viral infection worsened and, at 10.25am, nurses advised the escort officer that he was not expected to survive. At 10.30am, the prison contacted his family to inform them of his deteriorating condition. At 12.03pm, his family arrived at the hospital. The prison officer left the room while the family spoke to the hospital staff. After discussion with his family, it was agreed that there would be no attempt to restart his heart, or breathing, if they were to stop. At 12.15pm, the prison appointed two family liaison officers (FLO's).

57. Both FLOs went to the hospital at 1.55pm, to meet the man's family, accompanied by a member of the chaplaincy team. They stayed with the family until 7.00pm.

58. The ICU consultants told the man's mother that his vital organs were failing. After further discussions with the family all heart, blood pressure and breathing support was withdrawn and he later died.

59. The prison held debrief meetings for staff involved in the man's care.

60. The funeral was held on 4 January. It was conducted by the prison chaplain at the request of the man's family, and he was the sole representative from Littlehey. In line with national guidance, the prison contributed to the cost. Littlehey held a memorial service on 23 January.

ISSUES

Clinical care

61. The man had been successfully treated for non-Hodgkin's lymphoma several years before he went into prison but he was subject to six-monthly reviews.

62. The man reported a lump in March 2011, which was thought to be due to an enlarged saliva gland. As it was still there in May, a prison doctor referred him to hospital. Subsequent tests showed a recurrence of lymphoma.

63. The clinical reviewer comments that in his opinion the initial diagnosis of the man's cancer was timely. The GPs at Littlehey acted promptly when he discovered the growth on his jaw, and referred him to hospital within the expected time frame. He was kept fully informed of his condition and treatment options at all times.

64. The man raised several concerns about his medical care. He felt at times that his pain management was inadequate. In relation to the lymphoma, the clinical reviewer notes that his medical records show appropriate pain management, in line with national guidelines including morphine for overnight use.

65. The clinical reviewer said the man's condition was complex and we consider he received a good level of care from staff at Littlehey. There was consistent joint working by both healthcare and wing staff to ensure any early signs of infection were acted on quickly and in line with his care plan. There is no evidence to support his concerns about returning to Littlehey on 1 November 2012 because other prisoners were stealing his medication. His painkillers were in his locked cell during the day. At night he was given liquid morphine to manage his pain and invariably returned some in the morning which would indicate that his pain relief was adequate. Overall, the clinical reviewer considers that his care was equivalent to that in the wider community and concludes:

> "There is very clear evidence that with the exception of the one incident (23 January a doctor noted that a cut on his finger would not stop bleeding and recognised that as a side effect of chemotherapy but did not make a referral) both medical and wing staff at Littlehey had a very clear idea of the symptoms that would indicate the need for emergency admission and the system was implemented in a very timely manner when required. A patient in this position in the community would not benefit from such support".

66. We are satisfied that the man's treatment and the handling of his medical care at Littlehey was both prompt and appropriate. In particular, we note the efforts of one doctor to secure treatment for him, in spite of a consultant's advice that this was not necessary.

The man's care plan

67. The man's condition necessitated prolonged periods of treatment in hospital. In addition, due to the side effects of his treatment, he also had a number of emergency admissions. On each occasion, healthcare staff maintained regular contact with the secondary care providers, amending his care plan as required. The care plan was clear and communicated well to all grades of staff, up to and including the Governor, so they were aware of the symptoms that would indicate when he needed hospital treatment.

68. The man was aware of the need to monitor and record his own temperature. He did this with the support of healthcare staff, who explained to him the early symptoms of possible infection and the need to report any concerns to them. Medical records show that he was well supported by both healthcare and wing staff.

69. We are satisfied that there was a clear, well-communicated care plan in place for the man, with appropriate guidelines to both healthcare and discipline staff.

Escort security

70. The Prison Service has a duty to protect the public when escorting prisoners to hospital and a responsibility to balance this by treating prisoners with humanity and maintaining their dignity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment which considers the risk of escape, the risk to the public and which also takes into account factors such as the prisoner's health and mobility. A judgement in the High Court in 2007, made it clear that a distinction needs to be made between the risk of escape (and the risk to the public in the event of an escape) posed by a prisoner when fit and those risks posed by the same prisoner when suffering from a serious medical condition. The judgement indicated that medical opinion regarding the prisoner's ability to escape must be considered as part of the assessment process. It deemed that handcuffing a prisoner receiving chemotherapy (and, by implication, other life saving treatment) was degrading and that such restraint would be likely also to be regarded as inhumane unless justified by other relevant considerations.

71. British Medical Association guidance is that there should be a presumption that prisoners are examined and treated without restraints, unless there is a high risk of escape or the prisoner represents a threat to himself, the health team, or others. We acknowledge that public protection is paramount, but security measures must be proportionate to a prisoner's individual circumstances.

72. When the man attended hospital for treatment he was assessed as a low risk of escape and a medium risk to the public should he do so. Some of the risk assessments, such as one completed in October 2012, assessed him as low risk on all counts. The risk assessment took account of his offence and the fact that, in hospital, he had sometimes been challenging because of his treatment. On one occasion, he terminated his treatment as he was unhappy

to receive treatment while restrained. Restraints were not removed until 12 December 2012, when the man's physical condition seriously deteriorated.

73. The procedures for assessing the man's level of risk did not follow the requirements of the court judgement as the assessments did not include medical opinion about how his medical condition affected his ability to escape. His risk of escape was assessed as low and it is not clear why restraints were needed in addition to the presence of two officers. It also appears that restraints were used while he was undergoing invasive treatment at hospital. We make the following recommendation:

The Governor should ensure that the use of restraints accurately reflects a prisoner's risk at the time. Unless there are exceptional circumstances, restraints should not be used during invasive treatment.

Family liaison

74. Following diagnosis of the recurrence of non-Hodgkin's lymphoma, the man's parents contacted Littlehey to get further information on his state of health. After seeking his approval, a nurse emailed his parents to ensure they were fully aware of his condition. A series of emails followed answering points raised by his parents.

75. Two family liaison officers were appointed on 16 December. One FLO kept a comprehensive record of her many contacts with the man's family. We consider that good efforts were made to keep his family informed.

RECOMMENDATION

The Governor should ensure that the use of restraints accurately reflects a prisoner's risk at the time. Unless there are exceptional circumstances, restraints should not be used during active treatment.

Accepted. "A standing agenda item has been added to the weekly Complex Needs meeting which reviews all prisoners in outside hospital. This includes a review of the use of restraints to ensure it accurately reflects a prisoner's risk at the time."