



A Report by the
Prisons and
Probation
Ombudsman
Nigel Newcomen CBE

**Investigation into the death of a man at HMP Risley in
November 2013**

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 investigation report into the death from heart disease, of a man in November 2013 at HMP Risley. He was 76 years old years old. I offer my condolences to the man's family and friends.

The investigation was carried out by an investigator. A clinical reviewer reviewed the clinical care the man received at HMP Risley. The prison cooperated fully with the investigation.

The man had been in prison since 2005, and transferred to Risley in July 2011. He was diagnosed with chronic obstructive pulmonary disease (COPD) before his prison sentence but had no recorded history of heart disease. The man was prescribed medication for his condition while in prison and also received treatment at hospital. In January 2013, the man was found to have bladder cancer and two tumours were removed in February.

The man's COPD continued to worsen and in May 2013, the prison GP told him that his life expectancy was three to six months. The prison began an application for compassionate release but a decision had not been reached before his death. The man spent three periods at a hospice but returned to prison each time when his condition improved.

On 15 November, an officer found the man unresponsive in his cell and appeared to be dead. A nurse attended but could find no signs of life. In line with the man's wishes, the staff did not attempt resuscitation.

In December 2012, tests indicated that the man had high cholesterol levels but no action was taken. Although the clinical reviewer considers that it was unlikely to have affected the outcome for the man, it is a concern when such results are not followed up. I also regard it as unacceptable that the man missed an important hospital appointment when he was being investigated for suspected cancer because prison officers refused to push his wheelchair. However, overall I am satisfied that the man was well cared for at Risley in his final months.

Nigel Newcomen CBE
Prisons and Probation Ombudsman

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SUMMARY

1. On 4 April 2005, the man was sentenced to 14 years in prison for sexual offences. In 2001, he had been diagnosed with chronic obstructive pulmonary disease (COPD – lung disease, which includes emphysema) for which he continued to receive treatment in prison.
2. In July 2011, the man moved to HMP Risley. At a reception health screen, the man said he had no family history of heart disease and reported no symptoms. In December, he experienced deterioration in his COPD and suffered from shortness of breath and poor mobility. His condition was well managed and healthcare staff reviewed his care and treatment plan regularly.
3. In December 2012, blood tests showed that the man had high cholesterol levels but no action was taken. The same month the prison GP referred the man for tests for suspected cancer. He missed one appointment for an X-ray and scan when prison officers refused to push his wheelchair. In January 2013, it was discovered he had bladder cancer. Two tumours were removed during a hospital stay in February.
4. The man's COPD fluctuated and resulted in a number of emergency hospital admissions and periods in a hospice. In May 2013, a prison GP told the man that he had between three and six months left to live. He began 24 hour oxygen therapy and remained on his wing in an adapted cell. Healthcare staff and carers attended to him daily.
5. Despite periods of short term improvement, the man's condition gradually deteriorated. His symptoms were well controlled but he sometimes refused to take his medication, despite encouragement to do so.
6. On 23 October 2013, the man's had a routine electrocardiogram (ECG), which checks for problems with the electrical activity of the heart. The results were normal. On 31 October, after discussing this with a prison GP, the man decided he did not wish to be resuscitated in the event of a cardiac or pulmonary arrest.
7. On 14 November, a nurse saw the man and noted that he did not appear to be in any pain or discomfort. His wife visited him that day. In the early morning of 15 November, an officer checked the man who was unresponsive. She requested assistance and a nurse attended. In line with the man's wishes the staff did not attempt resuscitation as it was clear that the man had died.
8. The clinical reviewer makes a number of recommendations for improvements in healthcare service at Risley which we draw to the attention of the Head of Healthcare. Overall we are satisfied that the man's received appropriate care, but make two recommendations about following up blood tests and the need to ensure that important hospital appointments are not missed.

THE INVESTIGATION PROCESS

9. The investigator, issued notices to staff and prisoners at HMP Risley informing them of the investigation and inviting anyone who had relevant information to contact him. No one responded.
10. The investigator obtained copies of the man's relevant prison and medical records. He interviewed three members of staff and a prisoner at Risley on 2 and 3 January 2013. The investigator gave the Governor initial feedback about the investigation and followed this up in writing.
11. NHS England commissioned a clinical reviewer to review the man's clinical care at the prison.
12. We informed HM Coroner for Cheshire, Halton and Warrington of the investigation who provided the post-mortem results. We have sent the Coroner a copy of this investigation report.
13. One of the Ombudsman's family liaison officers contacted the man's wife to explain the investigation. The man's wife said she thought her husband had received good care at the prison and had no specific issues she wanted the investigation to cover.
14. The man's wife received a copy of the draft report. She did not make any comments. The prison has also submitted an action plan detailing what they have done to address the issues we raised and this is included at the end of the report.
15. The investigation has assessed the main issues involved in the man's care, including his diagnosis and treatment, whether appropriate palliative care was provided, liaison with his family, his location, whether compassionate release was considered; and security arrangements for escorts.

HMP RISLEY

16. HMP Risley is a category C training prison which holds over 1,000 adult male prisoners. NHS England Lancashire Team commissions healthcare services at the prison. There is 24 hour healthcare cover. There is a doctor in the prison during the day and at night there are nurses on duty. There is no inpatient facility. Prisoners who need inpatient treatment are referred to other prisons (usually HMP Preston) or to hospital.

HM Inspectorate of Prisons

17. The last inspection of HMP Risley was in July 2013. The Inspectorate found that the overall standard of healthcare services was good and that the prison had very good links with local palliative care services. The prison had employed carers for some prisoners who needed help with personal care.

Independent Monitoring Board

18. Each prison has an Independent Monitoring Board of unpaid volunteers from the local community who help ensure that prisoners are treated fairly and decently. In its latest published annual report for the year to March 2013 the IMB noted that the nursing staff had gone above and beyond their normal duties to deliver palliative care on the wings throughout the past year.

Previous deaths at HMP Risley

19. There were three deaths from natural causes at HMP Risley in the year before the man died. There were no direct similarities in the circumstances of these deaths.

ISSUES

The diagnosis of the man's terminal illness and informing him of his condition

20. The man was diagnosed with chronic obstructive pulmonary disease (COPD) in 2001, before being sentenced to prison in 2005. He transferred to Risley in September 2011 and during his reception health screen, the nurse noted that he had no history of family heart disease and had never been diagnosed with heart problems or experienced any chest pains. He had not smoked for over 20 years. He had been prescribed a salbutamol inhaler to assist with air flow into his lungs. The man had mobility difficulties due to his shortness of breath and used a wheelchair.
21. The man was under the care of a consultant respiratory physician at Warrington Hospital. In January 2012, an X-ray showed he had marked emphysema (a lung disease which comes under the umbrella of COPD).
22. Between January and October 2012, the respiratory consultant and healthcare staff saw the man regularly to monitor his condition. They noted he was coping reasonably well. In October, he was admitted to hospital for two days with exacerbation of his COPD and a CT scan later that month again confirmed he had emphysema.
23. On 28 November 2012, a prison GP saw the man who reported that he had been suffering from diarrhoea for the previous six weeks. The GP made an urgent referral under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks. A specialist saw the man the next week and arranged an appointment for a scan and an X-ray on 11 December. That appointment did not take place as when they arrived at the hospital, the prison officers who were escorting the man refused to push his wheelchair and there was no hospital porter available. It is unacceptable that an important appointment should have been missed for this reason. We make the following recommendation:

The Governor should ensure that there are appropriate arrangements to take prisoners to hospital appointments and that appointments are not missed because of the actions of prison officers.

24. On 14 December, the GP saw the man after a routine blood test. The GP noted the man's cholesterol was high and his risk of cardiovascular disease was above 20%. An appointment was made for the man to discuss his results on 7 January 2013, but there is nothing to indicate that this appointment took place or that the results were ever discussed with him. The clinical reviewer notes that his heart disease was advanced at this stage and intervention would not have prevented his death. However, it is important that abnormal results are followed up. We make the following recommendation:

The Head of Healthcare should ensure that abnormal blood test results are discussed with patients and appropriately followed up.

25. On 11 January 2013, a hospital oncologist informed the man that he had bladder cancer. Later in January, he began to suffer from increasing breathlessness. On 8 February, he was admitted to hospital when the GP was concerned about his low oxygen saturation levels and believed he could have secondary lung cancer. The man remained in hospital for over a month during which time he had surgery to remove two bladder tumours. He was discharged to the inpatient unit at HMP Preston on 11 March and returned to Risley on 18 March.
26. The man spent a further five days in hospital with respiratory difficulties in early April, and again between 25 and 29 April.
27. On 3 May, the GP told the man that his life expectancy was between three and six months. The man said he was happy with the care he was receiving but he would like to die with his wife beside him.
28. The man had been diagnosed with COPD before he was sentenced to prison. We are satisfied that he was kept fully aware of the progress of his illness and fully informed when it reached a terminal stage in May 2013.

The man's medical treatment

29. On 10 May 2013, shortly after the GP told him about his prognosis, the man became very short of breath and his oxygen saturation levels could not be maintained. He was admitted to hospital where he remained for seven days.
30. The man was discharged back to Risley and an oxygen concentrator (a device which concentrates the oxygen from a gas supply) was installed in his cell to provide him with 24 hour oxygen therapy. On 17 May, the GP reviewed the man and referred him for palliative care (longer term care that is not curative but may extend life).
31. On 22 May, the man was transferred to a hospice. He was assessed by the palliative care team and remained at the hospice for seven days. His condition stabilised and on 29 May he returned to Risley. The GP assessed him and the man told him that he was exhausted but not in pain or any discomfort. The GP noted that the man was at the end stage of life and requested that he should be reviewed daily. Records show that the man was unable to mobilise or carry out daily living activities. He was seen daily and supported by carers to help with his hygiene and personal care.
32. On 3 June, a nurse saw the man and noted that he looked very ill. They discussed his end of life preferences. The man said that he did not want to die in prison. Later that day a member of staff from the hospice assessed the man but did not consider that he needed hospice care at that time. A plan was put in place to support him, which included increasing the number of visits by his carers and encouraging him to take his medication.
33. On 3 June, the man's condition deteriorated and he was admitted to Warrington Hospital for seven days and then admitted to the hospice on 10

June. At the hospice, the man agreed to and signed a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) form. (This means that in the event of cardiac or respiratory arrest no attempt at resuscitation will be made. All other appropriate treatment and care will continue to be provided).

34. The man's condition stabilised and he returned to his adapted cell at Risley on 18 June. A prison GP reviewed the man's wishes regarding resuscitation and a further DNACPR form was completed.
35. Healthcare staff saw the man daily and monitored his oxygen saturation levels. Records show he was well supported by staff and prisoners.
36. The man's appetite fluctuated daily and he sometimes did not take his medication. On 21 July, he told a nurse he was not eating as he lacked enthusiasm and was often too tired to lift his cup. The nurse was concerned that it was difficult to estimate how much fluid the man had consumed. We were told that one of the man's carers, another prisoner, was asked to encourage him to take fluids and medication.
37. On 22 July, the man was admitted to Warrington Hospital and later moved to the hospice. However, his condition improved and he returned to Risley again on 31 July.
38. Throughout August and September, healthcare staff saw the man daily and carers supported him.
39. On 23 October, the man experienced a reduction in his oxygen saturation levels. An ECG test recorded no abnormalities.
40. On 31 October, the GP reviewed the man. He discussed his prognosis with him and his wishes about resuscitation. His condition continued to fluctuate and his life expectancy was difficult to predict. The man accepted that his health was deteriorating and again agreed that he did not want staff to attempt resuscitation if he stopped breathing.
41. Just after 9.00am on 14 November, the nurse saw the man, and noted that he looked ill, lacked appetite and felt tired but did not appear to be in pain or discomfort. She saw him again later in the morning and noted that he looked a little better and brighter. Professional carers attended to him twice that day and his prisoner's carer also assisted him.
42. At 4.53am on 15 November, an officer was carrying out a morning roll check. She checked on the man through the observation hatch on his cell door, and put on the cell light. She could see that the man was not breathing as his chest was not moving. He was pale and had a blue tinge to his lips. The officer believed that the man had died. She went into the cell and was joined by another officer and the Night Orderly Officer. The officer could find no signs of life. The nurse arrived shortly afterwards and noted that the man's pupils were fixed and dilated. He had no pulse and was cold. The staff did

not attempt resuscitation, in line with the man's wishes. At 6.55am an out of hours GP confirmed the man's death.

43. We are satisfied that the man received good care at Risley. The staff were aware of the terminal nature of his condition and respected his wish not to be resuscitated when he was found unresponsive.

The man's location

44. The man lived in a large modified cell on the ground floor of G wing at Risley, less than ten metres from the wing office. The man was able to get in and out of bed but was unable to move even short distances in his wheelchair without assistance. A prisoner carer was assigned to help the man with his daily tasks and movement around the prison in his wheelchair.
45. For the last nine months of his life, the man received additional assistance twice a day from carers provided by Allied Healthcare (private care providers). The man was given an adapted bed with a specialist mattress. This was positioned in his cell to allow easy access to the cell bell in case of emergency or if he needed to summon staff during the night.
46. After his release from hospital on 31 March 2013, the man spent a week as an inpatient at HMP Preston. He was admitted to the hospice three times and the staff there remained involved in the man's care until he died.
47. The man repeatedly said he did not want to die in prison, but remained adamant that unless he was released or transferred to hospice care, he did not want to move to another prison and preferred to stay at Risley. The clinical reviewer says that as the man's condition deteriorated, consideration should have been given to transferring him to a more suitable location which provided 24 hour healthcare, such as HMP Preston. However, the man continued to insist that he did not want to move.
48. We are satisfied that prison and healthcare staff respected the man's wish either to remain at Risley or transfer to a hospice. He moved to the hospice, several times, but on each occasion stabilised and came back to Risley. The prison provided additional carers and an adapted cell to ensure the man was as comfortable as possible.

Restraints, security and escorts

49. When prisoners have to travel outside prison to a hospital or hospice, a risk assessment is conducted to determine the nature and level of any security arrangements, including any restraints.
50. The National Offender Management Service (NOMS) has a duty to protect the public but this has to be balanced with a responsibility to treat prisoners with humanity and maintain their dignity. The level of restraints used should be necessary in the circumstances and based on a risk assessment which

considers the risk of escape, the risk to the public and which also takes account of factors such as the prisoner's health and mobility.

51. The prison was unable to provide relevant documents for the early part of 2013, which included person escort records and risk assessments relating to the man's hospital visits. We obtained all records from April 2013 onwards. While it is of concern that earlier records were unavailable, we are satisfied that from April 2013 onwards, appropriate risk assessments were undertaken and the man was not restrained.

Liaison with the man's family

52. Prison Service guidance requires prisons to engage with families of seriously or terminally ill prisoners. In April 2013, when the serious nature of the man's condition became clear, the Reverend from the prison chaplaincy acted as the prisons' family liaison officer. He visited the man's wife, at her home, on 28 April 2013.
53. The Reverend maintained contact with the man and his wife and also visited him when he was in hospital. The man's wife was able to visit him frequently both in prison and when he was in hospital. As his health deteriorated, his wife was allowed to visit him in his cell. The last time she visited was on 14 November, the day before he died.
54. When the man died on 15 November, the Reverend visited his wife at home at 8.00am. The man's wife said she was grateful for the support her husband had received from staff and prisoners at Risley.
55. The Reverend conducted the man's funeral on 4 December. The prison had offered financial assistance in line with national guidance.
56. We are satisfied that the man and his wife were appropriately supported and recognise that the early appointment of a family liaison officer ensured good support and reassurance through a difficult time.

Compassionate release

57. Release on compassionate grounds is a means by which prisoners who are seriously ill, usually with a life expectancy of less than three months can be permanently released from custody before their sentence has expired. A clear medical opinion of life expectancy is required. The criteria for early release for determinate sentenced prisoners are set out in Prison Service Order (PSO) 6000. Among the criteria is that the risk of re-offending is expected to be minimal, further imprisonment would reduce life expectancy, there are adequate arrangements for the prisoner's care and treatment outside prison, and release would benefit the prisoner and his family. An application for early release on compassionate grounds must be submitted to the Public Protection Casework Section (PPCS) of the National Offender Management Service (NOMS).

58. In cases of prisoners who have reached their parole eligibility date, compassionate circumstances are considered as part of the general parole process with early or special reviews as necessary. In such circumstances, the Parole Board Secretariat must be advised by the parole clerk at the prison so that the case can be expedited if necessary. The man became eligible for parole on 2 February 2012 and therefore an application for release on compassionate grounds became part of his general parole process.
59. The man had Parole Board hearings in December 2011 and December 2012 and on each occasion parole was refused. His case was referred to the Parole Board again on 1 May 2013 for consideration of release on compassionate grounds after his health severely deteriorated and he was admitted to hospital. The panel decided they could not complete a full risk assessment for the man without a current risk management plan from Cheshire Probation Trust and further medical guidance. His application was deferred for additional information.
60. On 17 July, the Parole Board considered the man's case again. After consideration of the additional information, the panel concluded that it could not fully assess the risks posed by the man without further evidence from medical practitioners and the Probation Service for his care options after release. The panel directed an oral hearing, as a priority, to consider all issues.
61. Four months later, on 7 November, the Parole Board met at HMP Risley for an oral hearing. The man did not attend because he was too ill. Evidence was provided by the GP, his deputy offender manager and a senior probation officer, about the man's state of health, prognosis and proposals to manage his care in the community. The Parole Board adjourned the hearing again until the 18 November for further information.
62. The man died three days before the oral hearing was due to resume. We note the prison appropriately referred the man's case to the Parole Board as a priority in May, but by the time of his death in November, the Parole Board had not yet reached a decision. The actions and decisions of the Parole Board are not within the remit of the Ombudsman and we are satisfied that, although there was a delay in obtaining some information from the probation service, probation, prison and healthcare staff provided information as requested by the Parole Board.

RECOMMENDATION

1. The Governor should ensure that there are appropriate arrangements to take prisoners to hospital appointments and that appointments are not missed because of the actions of prison officers.
2. The Head of Healthcare should ensure that abnormal blood test results are discussed with patients and appropriately followed up.

ACTION PLAN

| No | Recommendation | Accepted/Not accepted | Response | Target date for completion and function responsible | Progress (to be updated after 6 months) |
|----|---|-----------------------|---|---|---|
| 1 | The Governor should ensure that there are appropriate arrangements to take prisoners to hospital appointments and that appointments are not missed because of the actions of prison officers. | Accepted | Closer ties have been established between different departments at HMP Risley to ensure that there are suitable arrangements for prisoners to attend hospital appointments. This will allow potential issues to be identified and ensure that any lack of clarity between staff roles is managed effectively so that appointments are not missed. | 31 May 2014 Healthcare and Security | |
| 2 | The Head of Healthcare should ensure that abnormal blood test results are discussed with patients and appropriately followed up. | Accepted | Healthcare staff will conduct a review of the process of how patients are informed of blood test results and how they are recorded on SystemOne to ensure that appropriate measures are in place. | 31 July 2014 Head of Healthcare | |