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 in July 2014 while a prisoner at HMP Hull

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 of a man from bronchopneumonia in July 2014, while a prisoner at HMP Hull. He was 64 years old. I offer my condolences to his family and friends.

A clinical review of the medical care the man received at the prison was undertaken. The prison cooperated fully with the investigation.

The man had been a prisoner at Hull since 2010 after receiving an 18 year prison sentence. He was in poor health when he first arrived and had a history of heart disease, high blood pressure, asthma and rheumatoid arthritis. He spent several periods in hospital and as an inpatient in the prison's healthcare unit. He was admitted to hospital on 5 July 2014. He remained there until he died.

I am satisfied that the man received very good care and support from staff at HMP Hull. However, I do not consider that the use of restraints when he was taken to hospital was based on fully considered risk assessments, which appropriately took into account his state of health and lack of mobility.

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 2015**

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SUMMARY

1. The man was in poor health when he arrived at Hull in 2010. He had a history of heart disease and three previous heart attacks. He had high blood pressure, asthma and rheumatoid arthritis. After a period of assessment in the prison's inpatient unit, he was allocated a cell on a standard prison wing.

2. In 2011, hospital doctors diagnosed the man with rheumatoid lung disease (a group of lung problems related to rheumatoid arthritis). In 2012, his health continued to deteriorate and he used a wheelchair as his legs were weak. In October 2013, his breathing deteriorated and he began 24-hour oxygen therapy.

3. On 3 July 2014, a doctor examined the man, who had breathing problems and considered he should be admitted to hospital for observation. He did not want to go and asked to try antibiotic medication first. The doctor prescribed the medication but warned him that he would need to go to hospital if his condition got worse.

4. The man's condition did not improve and, on the morning of 7 July, a nurse called an emergency ambulance to take him to hospital as he was having difficulty breathing. Officers used an escort chain to restrain him and escorted him to hospital. In the early hours of the following morning he was transferred to another hospital.

5. The man remained in hospital and his condition varied. On 19 July, he became very unwell and the prison agreed that the escort chain should be removed. The prison informed his wife that he was seriously ill and she joined him at the hospital. The next day, he recovered slightly and officers used the escort chain to restrain him again. A hospital doctor told the escorting officers that he was in the last hours of his life. The officers removed the escort chain at 2.55pm. He died at 6.53pm. His wife was with him at the time.

6. The clinical reviewer considered that the man received a high standard of care at Hull and the healthcare staff ensured he received appropriate specialist care when necessary. The clinical reviewer was satisfied that his care was equivalent to the care he could have expected to receive in the community. We agree that he received good care at the prison, but we do not consider that the use of restraints when he was in hospital was justified by fully considered risk assessments.

THE INVESTIGATION PROCESS

7. On 22 July 2014, the investigator issued notices to staff and prisoners at HMP Hull informing them of the investigation and inviting anyone with relevant information to contact her. No one responded.

8. NHS England commissioned a clinical reviewer to assess the man's clinical care in prison.

9. On 29 July, the investigator visited the prison and obtained copies of the man's prison medical records and relevant extracts from his prison record. She wrote to the Governor with the preliminary findings of the investigation.

10. We informed HM Coroner for Humberside of the investigation, who provided the cause of death. We have sent the Coroner a copy of this investigation report.

11. One of the Ombudsman's family liaison officers contacted the man's wife to explain the purpose of the investigation and invite his family to identify any relevant matters for the investigation to take into account. She did not have any specific issues for the investigation to consider.

12. The man's family received a copy of the draft report and they did not raise any issues that impacted on the factual accuracy. The prison also received a copy of the draft report. Their response to our recommendation and action plan is included at the end of this report.

HMP HULL

13. HMP Hull is a local prison, which holds up to 762 unconvicted and sentenced men in ten wings. NHS Hull provides health services at the prison. There is an inpatient unit with 24-hour nursing cover, which holds a mixture of prisoners with mental health conditions and physical health problems. GP surgeries are provided four days per week, with an out of hours service at other times. The inpatient unit includes a specialist palliative care suite.

HM Inspectorate of Prisons

14. The most recent published inspection report of Hull is of an inspection in February 2012. The report of a more recent inspection in October 2014, has yet to be published. In 2012, the Inspectorate found that healthcare had improved since their previous inspection in 2008 and included a specific member of staff to lead on the care of older prisoners and those with disabilities. Inspectors were concerned that some prisoners had been admitted to healthcare inpatient beds on 'Governor's orders', without a diagnosed physical or mental health need.

Independent Monitoring Board

15. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who monitor all aspects of prison life to help ensure that proper standards of care and decency are maintained. There are no recent published IMB annual reports.

Previous deaths at HMP Hull

16. Four prisoners have died of natural causes at Hull since 2013, one on the same day as the man and one subsequently. There were no significant similarities between the circumstances of the deaths we have investigated.

KEY EVENTS

17. On 27 October 2010, the man was sentenced to 18 years imprisonment and sent to HMP Hull. This was his first time in prison. At an initial health screen, a nurse noted that he had poor health. He suffered from heart disease and had had three heart attacks. He also had high blood pressure, asthma and rheumatoid arthritis.

18. The man was initially located in the inpatient ward of the healthcare unit for observation. He moved to I wing when his medication regime had been established and healthcare staff had developed care plans.

19. The man's health continued to decline and in 2011, he was admitted to hospital for observation and tests. The results indicated that he was suffering from rheumatoid lung disease.

20. The man's health declined further during 2012. He was admitted to hospital and treated for cardiac and chest problems. After his discharge, he was able to care for himself, but his mobility gradually deteriorated due to a loss of strength in his legs and shortness of breath and he began to use a wheelchair to get about.

21. In October 2013, the man's breathing worsened and he was admitted to hospital again. After treatment, he returned to the prison's inpatient unit and received 24-hour oxygen therapy. Healthcare staff ordered an oxygen concentrator, which enabled him to go back to his cell on I wing. (An oxygen concentrator filters oxygen from the air and delivers it to the patient through a plastic tube to a mask or to a nasal cannula.)

22. The man attended the healthcare unit for help his personal hygiene. He received nursing in line with agreed care plans. The prison doctor saw him regularly and he attended hospital outpatient appointments.

23. On 3 July, a doctor examined the man, who had chest pain. He told him that he should go to hospital. However, he asked to stay at the prison. The doctor prescribed an antibiotic, but warned him that he would need to go to hospital if his condition got worse. He agreed.

24. About 8.45am on 7 July, officers on I wing were concerned about the man's health and asked a nurse to see him. The nurse found him in pain, breathless and pale. She took his observations and recorded a low pulse rate, blood pressure and oxygen saturation levels. At 8.49am, the nurse requested an emergency ambulance.

25. Staff completed an emergency risk assessment and two officers escorted the man in the ambulance to hospital, restrained by an escort chain. (An escort chain is a 1.8-metre length of chain with a handcuff at each end, one attached to the prisoner and the other to an officer.)

26. At hospital, doctors admitted the man to the acute assessment unit. At 0.50am the next day, he transferred to another hospital, still restrained by an escort chain.

27. Prison healthcare staff kept in daily contact with the hospital while the man underwent tests. On 10 July, his medical record noted that he was very poorly and the hospital had diagnosed a pulmonary embolism (a blood clot in the lung).

28. On 16 July, the hospital said that the man's condition was now stable and began arrangements to discharge him. However, there were problems arranging suitable transport because he needed continuous oxygen therapy.

29. On 18 July, the man remained in hospital as his blood pressure was low. During the course of the next day, his health deteriorated and by 8pm, his condition was critical. The duty governor authorised the escort officers to remove the escort chain. The prison contacted the man's wife to let her know he was seriously ill. His wife stayed at his bedside throughout the night.

30. Around 8.30am on 20 July, the man's condition stabilised. He was able to talk and was breathing better. His wife remained with him. At 12.34pm, officers restrained him with the escort chain again. At 2.30pm, a custodial manager visited him and checked the use of restraints. He agreed with the use of the escort chain, as his condition had improved.

31. The man's condition was stable, but he did not improve. At 1.30pm on 21 July, a nurse told him that his wife planned to visit that afternoon and could visit at any time. Twenty minutes later, a doctor told the escort officers that he was gravely ill and could die at any time. An officer asked a duty manager to attend the hospital for a new risk assessment and he removed the escort chain.

32. The duty manager went to the hospital at 2.55pm and formally authorised the removal of restraints. He agreed that the man's wife could stay with him at any time. At 3.00pm, she arrived at the hospital to be with her husband. At 5.45pm, a prison family liaison officer (FLO) phoned the man's wife to offer support and arranged to meet her at the hospital, the next day.

33. At 6.50pm, the man's wife told the escort officers that her husband had stopped breathing. The officers immediately informed the hospital staff and at 6.53pm a doctor confirmed that he had died.

34. At 8.10pm, the FLO arrived at the hospital to support the man's wife who was already being assisted by an operational manager. The man's wife had arranged transport home and the FLO checked that a neighbour would be there to comfort her when she got back.

35. The prison issued notices to prisoners and staff informing them of the man's death and offered support to anyone affected.

36. The FLO helped the man's wife over the following days with funeral arrangements and the prison contributed to the costs in line with national guidance. On 25 July, the FLO and an operational manager visited her and arranged to return her husband's property. The funeral service took place on 30 July. The prison held a memorial service in the chapel.

ISSUES

Clinical care

37. The clinical reviewer noted that the man had serious and complex medical problems when he arrived at Hull. Healthcare staff managed these well and developed care plans in line with national guidelines.

38. Healthcare staff knew that the man preferred to stay in his cell on the wing and helped him stay there by providing appropriate equipment which allowed him to maintain his independence as long as possible. They ensured he received suitable care in hospital or the inpatient unit when his health deteriorated. He was aware of his serious medical conditions and healthcare staff discussed these with him. Although there was no formal end of life care plan, the clinical reviewer said that this did not affect the standard of his care.

39. We are satisfied that the man received a good standard of care at Hull and staff helped him to live an independent life within the limits of his condition. The staff ensured that appropriate specialist medical staff saw him when necessary. We agree with the clinical reviewer that his care was equivalent to that he could have expected to receive in the community.

Restraints, security and bed watch

40. 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.

41. 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 the risks posed by the same prisoner when suffering from a serious medical condition. The judgement indicated that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change. It found that handcuffing a prisoner receiving chemotherapy (and, by implication, other life saving treatment) was degrading and also likely to be regarded as inhumane unless justified by other relevant considerations.

42. An escort and transfer form for the man was stored on Hull's computer system. The form included a full risk assessment for hospital escorts. An administrative officer in security completed the escort risk assessment with a small section about medical health completed by a nurse. There was no information on the form about his medical conditions, other than he used a wheelchair. A nurse had added that the use of restraints was 'OK'.

43. The man was assessed as a medium risk of escape and to the public (on a scale of low, medium, high). A custodial manager authorised the assessment and noted that two officers should accompany him for his appointments using double handcuffs.

44. The personal escort form prepared for the man's emergency transfer to hospital on 7 July noted that the escorting officers would accompany him using an escort chain and he would not be double handcuffed. In hospital, he continued to be restrained by an escort chain. The chain was removed on 19 July, but reapplied the next day when his condition stabilised. Nevertheless, he remained bed bound and very ill at the time.

45. When the man went to hospital on 7 July, he was extremely unwell with breathing problems. He had poor mobility and had been reliant on a wheelchair for some time when he left his cell. His lack of mobility was not taken into account in his risk assessments and it is difficult to see how he could be assessed as a medium risk of escape. Three reviews of his risk took place while he was in hospital, but there was no reference to his poor mobility of the fact that his need for continuous oxygen restricted his movement. When the escort chain was used again on 21 July, this did not take into account that his condition had deteriorated from previously or his continued weak condition.

46. Prison Service guidance states that restraints are not normally necessary on an escort when the prisoner's mobility is severely limited. The man had very restricted mobility and relied on a wheelchair. He was 64 years old and used oxygen continuously. While his offences were of a serious nature, the circumstances did not suggest that he was a risk to the general public. We are not satisfied that the risk assessments properly considered these factors or that there was appropriate healthcare input, as the court judgement requires. We make the following recommendation:

    The Governor should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

RECOMMENDATION

The Governor should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

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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 all staff undertaking risk assessments for prisoners taken to hospital understands the legal position and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.	Accepted	All Governors and staff undertaking risk assessments for prisoners taken to hospital have been fully briefed and fully understand the difference between the risk of escape posed by a prisoner when fit and the risk posed by the same prisoner when suffering from a serious medical condition, the legal position and that the assessments must take into account the health of a prisoner and must be based on the actual risk the prisoner presents at the time.	Completed Governor	