A Report by the
Prisons and
Probation
Ombudsman
Nigel Newcomen CBE

Investigation into the death of a man at HMP & YOI Moorland in May 2014

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 who died of lung cancer in May 2014, at HMP Moorland. He was 65 years old. I offer my condolences to his family and friends.

A clinical review of the man's clinical care at Moorland was undertaken. The prison cooperated fully with the investigation.

The man was sentenced to 15 years in prison in February 2005 and transferred to Moorland in 2011. He suffered from severe anxiety problems but appeared to be in good physical health until August 2013 when he was diagnosed with bronchopneumonia. He was treated with antibiotics and appeared to recover but after abnormal blood test results in October, a prison GP referred him to a specialist. After further investigation, doctors diagnosed lung cancer on 22 November 2013.

The tumour was inoperable and the man declined chemotherapy. He did not want to apply for early release from prison and nurses looked after him on his usual wing for most of his illness, which was what he preferred. Later, he moved to the prison's palliative care suite and remained there until he died.

The clinical reviewers found that the clinical care the man received in prison was at least equal to that he could have expected to receive in the community. There was no delay in diagnosis, his care was well coordinated and he was well supported and nursed with sensitivity which took account of his anxiety. He was the first prisoner to be fully nursed in the palliative care suite at HMP Moorland, and I commend the staff at the prison for the good standard of care they provided.

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 **October 2014**

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SUMMARY

1. The man was sentenced to 15 years in prison in April 2005 for sexual offences. He had been at HMP Moorland since 12 December 2011. He suffered with asthma, depression and anxiety, but otherwise appeared to be in good general health until 14 August 2013, when he developed a chest infection. On 19 August, after abnormal blood test results, he went to hospital for a chest X-ray. Doctors diagnosed bronchopneumonia, and he was treated with antibiotics.

2. A blood test on 23 August showed a raised C-reactive protein level (CRP) indicating inflammation in the body. He had no other symptoms and a further blood test on 6 September showed his CRP levels had reduced. He appeared to improve and on 18 October, told a prison GP that he felt much better. However, blood tests on 29 October were abnormal. He went to hospital for a chest X-ray. The results, received on 11 November, indicated possible lung cancer.

3. A CT scan on 18 November showed a large inoperable tumour in the man's left lung. A tissue biopsy confirmed that the tumour was malignant (cancerous). He did not want chemotherapy. On 18 December, he told healthcare staff he did not want to attend hospital any more and said he wanted to be nursed at the prison until he died. He did not want to apply for compassionate release.

4. Healthcare staff liaised with a specialist cancer nurse about his care. The man remained on his wing for as long as possible but moved to the prison's palliative care suite on 8 May 2014, when he became more ill. He was well cared for, and died peacefully several days later. A nurse was with him at the time.

5. The man did not want the prison to contact his family before his death. On 16 May, they were informed he had died and a prison family liaison officer supported them.

6. We agree with the clinical reviewers that the man's care was at least equivalent to that he could have expected to receive in the community. His care was well coordinated and followed relevant end of life guidance. We make no recommendations.

THE INVESTIGATION PROCESS

7. The investigator issued notices to staff and prisoners at HMP Moorland informing them of the investigation and inviting anyone with relevant information to contact her. No one responded.

8. The investigator obtained copies of the man's prison medical records and relevant extracts from his prison records. She gave the prison written feedback about the preliminary findings of the investigation.

9. NHS England commissioned two clinical reviewers to review the man's clinical care at the prison.

10. We informed HM Coroner for South Yorkshire East District of the investigation, who provided the post-mortem report. We have sent the Coroner a copy of this investigation report.

11. One of the Ombudsman's family liaison officers contacted the man's daughter, his nominated next of kin, to explain the investigation. She asked why the prison had not informed his family of his illness before his death.

12. The investigation has assessed the main issues involved in the man's care, including his diagnosis and treatment, whether appropriate palliative care was provided, his location, security arrangements for hospital escorts, liaison with his family, and whether compassionate release was considered.

13. The family received a copy of the draft report. They pointed out a factual inaccuracy. This report has been amended accordingly.

HMP & YOI MOORLAND

14. HMP & YOI Moorland is a medium secure prison which holds up to 1000 adult and young adult men. Health services are commissioned by NHS England, Doncaster Area, and provided by Nottinghamshire Healthcare NHS Trust. Services cover primary care, mental health and substance misuse. There is a recently opened end of life care suite.

HM Inspectorate of Prisons

15. The most recent inspection of Moorland was in December 2012. The Inspectorate found there was a wide range of wing based nurse led clinics (such as asthma and smoking cessation) and good access to healthcare services with short waiting lists. Prisoner healthcare representatives on some houseblocks actively supported older prisoners and those with disabilities.

Independent Monitoring Board

16. Each prison in England and Wales has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community, who help ensure that prisoners are treated fairly and decently. In its most recently published report for the year to February 2014, the IMB commented that a palliative care pathway had been developed with two beds in the end of life care suite. The IMB noted that prison officers had worked extremely well with healthcare staff to provide excellent well co-ordinated care for the terminally ill.

Previous deaths at HMP/YOI Moorland

17. The man was the fourth prisoner to die from natural causes at Moorland since 2012. There are no significant similarities of issues with those other cases.

ISSUES

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

18. The man had been at HMP Moorland since 12 December 2011. At his reception health screen a nurse noted that he had asthma, depression and anxiety. He was prescribed asthma inhalers, venlafaxine (an anti-depressant) and propranolol (for anxiety). He smoked 20-25 cigarettes a day, but declined advice about giving up.

19. The man suffered from extreme anxiety and did not like to leave his wing. The mental health inreach team saw him regularly, but he did not have any physical health concerns for some time. On 9 August 2013, a prison GP took a sputum sample for investigation.

20. On 14 August, a nurse practitioner saw the man, who complained of aching limbs, and a productive cough. She told him that the sputum sample had shown a bacterial chest infection and prescribed antibiotics.

21. On 17 August, a nurse saw the man who said he thought he had lost weight. She recorded his weight as 10 stone, one stone lighter than when he had arrived at Moorland in 2011. She told him it was likely that he had lost weight due to his chest infection and should be reviewed once he was over the infection. On 19 August, he told a nurse that he felt tired all the time and that he had been tired for a number of weeks before his chest infection. She took a blood sample to test for anaemia.

22. At 5.45pm the same day, the pathology department at hospital telephoned the prison as the man’s blood results were abnormal and advised that he should attend hospital for a review. He went to the hospital that evening and had a chest X-ray and blood tests. The hospital diagnosed anaemia and bronchopneumonia and advised him to continue to take his prescribed antibiotics.

23. On 21 August, a prison GP noted the man had finished his antibiotics but still had a chesty cough. He prescribed a second, seven day course and said that further investigation would be needed if his symptoms persisted.

24. A doctor saw the man in his cell on 6 September, after further blood tests showed raised C-reactive protein levels (CRP) which indicated inflammation in his body. (Doctors and other healthcare staff often went to see him in his cell because of his extreme anxiety.) The doctor noted his chest was crackly and he was occasionally short of breath. Another blood sample was taken and the doctor said a chest X-ray would be needed if his blood results remained abnormal. He was anxious about attending hospital and the doctor said he would prescribe a sedative to help him relax on the day of hospital appointments. The blood tests showed the CRP levels had fallen slightly and an X-ray was not needed.

25. Over the next few weeks, healthcare staff saw the man frequently and records show he had no significant cough, had put on some weight and said he felt much better.

26. On 18 October, the doctor examined the man and noted he had no significant cough and said that he was less tired and felt much better. The doctor requested blood tests. On 29 October, the doctor reviewed his blood test results and noted his CRP levels were high. On 8 November, he had a chest X-ray at hospital and was given a sedative to ease his anxiety.

27. The X-ray results revealed that the man's right lung had chronic fibrosis (scar tissue) and consolidation (lung tissue that has filled with liquid). On 13 November, a hospital consultant wrote to Moorland to say that he had requested an urgent chest clinic appointment for possible lung cancer.

28. On 18 November, the man had a CT scan. The next day, the doctor spoke to him and noted that he understood that the scan might show he had cancer, which he was expecting. On 22 November, the consultant and a nurse cancer specialist discussed the results with him at the hospital. The CT scan had shown a large inoperable tumour in his left lung. The consultant told him the lung cancer multidisciplinary team at the hospital would review him after a tissue biopsy. A nurse went to see him when he got back from the hospital and offered support and answered questions about his diagnosis. A member of the chaplaincy team also offered support.

29. On 2 December, the man went to hospital for the lung biopsy and on 3 December, had a lung function test. Each time he was given a sedative. He was due to attend hospital on 18 December to receive his biopsy and lung function test results. However, he became extremely anxious and refused to attend. To avoid further distress, the hospital nurse cancer specialist arranged to visit him at the prison the next day to discuss his test results. She explained to him that the biopsy had confirmed that the tumour was malignant.

30. The clinical reviewers found that the initial treatment of the man's chest infection in August 2013 was appropriate. Abnormal blood tests were monitored carefully and followed up. The clinical reviewers noted that there are usually no signs and symptoms in the early stages of lung cancer and that diagnosis was timely. Hospital staff informed him of his condition and staff at the prison were supportive, including ensuring he had appropriate treatment for anxiety when attending hospital.

The man's clinical treatment

31. The doctor saw the man on 22 November after his initial diagnosis. He told him that he had made peace with God and did not want to extend his life. He did not want chemotherapy and was not sure that he wanted any further hospital investigations. The doctor discussed the type of pain relief he would be able to have. They discussed and implemented a care plan and the doctor noted that he seemed calm and accepting of his condition.

32. After the man refused to go to hospital on 18 December, he told a nurse that he had tremendous respect for the healthcare staff at Moorland and wanted to be nursed at the prison. He signed a disclaimer to that effect. He now weighed 9 stone 5lbs and nurses began to check his weight weekly.

33. On 29 December, a nurse reviewed the man who said that he was generally well and free of pain, but he could not walk long distances and was short of breath. The nurse recorded that he did not want any further active treatment and preferred to have palliative care at the prison. He did not attend any further hospital appointments.

34. On 2 January 2014, the man's weight had stabilised and he appeared to be managing well on the wing. Another prisoner helped him with day to day tasks. He was prescribed high calorie milkshake drinks to help maintain his weight.

35. On 15 January, the Head of Healthcare, a modern matron and a custodial manager met the man to discuss his condition and future care at the prison. He said that he had come to terms with his diagnosis and wanted to remain at Moorland. He explained that he had built up a good relationship with staff and other prisoners and was extremely anxious at the thought of moving. They discussed his preferences about resuscitation and, on 21 January, he signed an order to indicate that he did not want resuscitation to be attempted if he had a cardiac or respiratory arrest. Healthcare staff reviewed him every day. On 23 January, a physiotherapist assessed him and gave him a single elbow crutch and a walking stick to help his mobility.

36. The hospital nurse cancer specialist visited the man again on 24 January and offered him palliative chemotherapy to help control his symptoms. He refused and said he was pain free and his only symptoms were tiredness and shortness of breath. She said she would continue to review him regularly. He was now given three high calorie drinks a day.

37. On 31 January, a doctor examined the man, who said he had been coughing up phlegm. The doctor noted that his chest was "dull with reduced breath sounds". On 4 February, the doctor ordered anticipatory palliative medication, which includes anti-sickness and strong pain relief, in preparation for end of life care.

38. Throughout February and March, a member of healthcare staff saw the man at least daily and he became increasingly weak and confused. On 22 March, a nurse noted he was sleeping for long periods of the day but he was awake at night and he had occasional bouts of confusion. From 24 March, a night nurse was employed to care for him.

39. On 3 April, the hospital nurse cancer specialist visited and discussed with the man the possibility of pain relief and medication to help him sleep at night. Although she and prison nurses tried to reassure him that this would not

happen, he refused sleeping tablets as he was afraid that he would be moved to hospital or away from the familiarity of his wing while he was asleep.

40. On 7 May, the modern matron noted that the man was increasingly losing his short term memory and was sleeping for long periods of the day. His mobility had reduced and he was incontinent of urine. On 8 May, he moved to the palliative care suite.

41. On 9 May, the man complained of back pain but declined pain relief. Later that evening, he agreed to take some paracetamol, but refused anything stronger. Raised side rails were added to his bed to reduce the risk of him falling out and from 13 May he had a pressure relieving mattress.

42. A doctor and the hospital nurse cancer specialist reviewed the man on 12 May and noted that he continued to suffer bouts of agitation and was in pain. After some discussion he agreed to receive pain relief and staff gave him diamorphine (pain relief) and midazolam (a sedative) by injection. Healthcare staff implemented an end of life care pathway to cover his final days and hours of life.

43. The man continued to receive pain relief and medication to help him breathe more easily. His health deteriorated over the following days. A nurse was with him when he died peacefully.

44. A post-mortem examination found that the man died from disseminated lung cancer.

45. The clinical reviewers found that the man received good treatment at HMP Moorland. There was detailed and careful planning to support him, with well coordinated specialist input. Forward planning for pain relief and other palliative care drugs ensured there was no delay in him receiving medication. There were frequent case conferences, in line with guidance for managing end of life care. These kept all staff involved in his care well informed. Plans took into account his anxiety disorder, and the matron established a core team to care for him to ensure he had a familiar group of people around him.

46. The clinical reviewers were satisfied that the man received high quality care, in line with National Institute for Health and Care Excellence (NICE) guidance and other palliative care guidance, which was at least equal to that he could have expected to receive in the community. We consider that healthcare staff at the prison provided commendable, high quality care.

The man's location

47. After his diagnosis, the man said he wanted to remain in his cell on his usual wing for as long as possible. He did not want to go to a hospice or hospital for end of life care. Prison and healthcare staff worked together to ensure he could remain on the wing for as long as possible, and another prisoner helped with daily living tasks.

48. On 14 February, the man moved to a larger cell on his wing to allow room for a hospital bed. From 20 February, his cell was unlocked 24 hours a day to allow healthcare staff to attend to his needs easily.

49. On 8 May 2014, when the man's mobility was reduced and he started to show signs of confusion he moved to the prison's palliative care suite. On 9 May, a custodial manager confirmed with him that he still preferred to stay at Moorland and did not want to go to hospital or a hospice.

50. We are satisfied that prison and healthcare staff worked well together to ensure that, throughout his illness, the man's preferences about his location were met.

Restraints, security and escorts

51. 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. Prisons have 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.

52. The man attended hospital six times from 19 August until 13 December 2013, for investigations. For all of these appointments he was mobile. A member of healthcare staff completed the appropriate section of the risk assessments on each occasion and said that there was no medical objection to the use of restraints and that his medical condition did not restrict his ability to escape. The assessments indicated that restraints would be removed for treatment.

53. When the man went to hospital for a lung biopsy on 2 December, healthcare staff appropriately objected to the use of restraints because of his reduced mobility and poor health and he was not restrained. He did not go to hospital again after that, but the prison continued to assess his risk in case he needed to go to hospital or changed his mind about treatment. On 23 January 2014, it was agreed that he would not be restrained for any future hospital visits.

54. We are satisfied that when the man was restrained, there was appropriate healthcare input including how his medical condition impacted on his risk of escape. It is commendable that the prison kept his risk under review, in anticipation of a change of circumstances.

Liaison with the man's family

55. The man did not give next of kin contact details when he arrived at Moorland. His offences were against members of his family and he had no contact with them during his time in prison. After he was told he had inoperable lung cancer, a prison family liaison officer asked him if he wanted him to inform his family but he did not want this and would not give a next of kin contact.

56. On 27 November, the family liaison officer asked the man if there was anyone else he wanted to contact but he did not want him to inform anyone. The family liaison officer spoke to him several more times, but he was clear he did not wish his family to be informed of his illness. This was also recorded in his care plan.

57. A Police Victim Liaison officer held confidential details of the man's next of kin. The family liaison officer told him that the man did not want his family informed of his illness but agreed to let him know when he died, so that he could inform his family.

58. After the man died on 16 May, the prison informed the Police Victim Liaison Officer and he contacted the family that day. On 19 May, the man's daughter contacted the prison to ask for further details about her father's death. A prison family liaison officer spoke to her and arranged for his family to visit the prison so they could speak with the staff who had cared for him during his last months.

59. The funeral was held on 2 June. The prison contributed towards the funeral costs, in line with national policy. Staff and prisoners who had known the man were appropriately supported.

60. We are satisfied that the prison appropriately respected the man's wishes about contacting his family. We consider that family contact after his death was handled sensitively through the victim liaison officer. Once his daughter contacted the prison, the prison offered appropriate guidance and support.

Compassionate release

61. Prisoners can be released from custody before their sentence has expired on compassionate grounds for medical reasons. This is usually when they are suffering from a terminal illness and have a life expectancy of less than three months.

62. On 22 November, a doctor spoke to the man about the possibility of compassionate release. He wanted to remain at Moorland and did not want to apply for compassionate release. A case conference on 20 February 2014, confirmed with him that he did not want early release. We are satisfied that the prison handled the issue appropriately and in line with his wishes.