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 HMP Leeds in July 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 of a man who died on 23 July at HMP Leeds. The man died of lung disease, heart failure and an inflammation of the sac surrounding his heart. He was 65 years old. I offer my condolences to the man's family and friends

The man was sentenced to four years imprisonment in February 2011 and was sent to HMP Leeds. He had been diagnosed with heart failure and lung disease along with a number of other medical conditions before he was sentenced. Because of his poor health, the man was admitted to the prison's healthcare inpatient unit. In early July 2013, the man's condition worsened and it was determined that he was likely to have only a short time left to live.

The man remained in the healthcare unit to ensure that his needs could be met. In the latter stages of his illness, palliative care was offered although the clinical reviewer considers that he might have benefitted from a formal palliative care plan. I am also concerned that the use of restraints on the man for hospital visits was not always fully justified by a properly considered risk assessment. Nevertheless, I am satisfied that, overall, the man received a high standard of care at the prison.

Nigel Newcomen CBE
Prisons and Probation Ombudsman **March 2014**

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SUMMARY

1. The man was sentenced to four years imprisonment for sexual offences on 1st February 2011, at Leeds Crown Court. He was taken to HMP Leeds the same day.

2. The man had a number of existing medical conditions, including COPD, heart disease, diabetes, depression, eczema and ulcers on his legs. His mobility was restricted and he used a wheelchair.

3. The man's pre-existing conditions meant that his life expectancy was limited at the time he arrived at HMP Leeds. He went straight to the prison's healthcare unit and remained there as an inpatient throughout his time at Leeds.

4. On the morning of the 23 July 2013, the man was found in his cell, having difficulty breathing. Healthcare staff attended but he died shortly afterwards. A post-mortem examination found that the man died of lung disease, heart failure and an inflammation of the sac surrounding his heart.

5. We make two recommendations in this report. We consider the man received a good standard of care at the prison, although a formal palliative care plan would have helped ensure that the full range of his needs towards the end of his life were appropriately considered. We are not satisfied that the use of restraints for hospital visits was justified by a properly considered risk assessment.

THE INVESTIGATION PROCESS

6. Notices were issued announcing the investigation to staff and prisoners, inviting anyone who had relevant information to contact the investigator. No one came forward.

7. The investigator visited HMP Leeds on Thursday 25 July 2013 and interviewed six members of prison staff and one prisoner. The investigator gave the Governor initial feedback about the preliminary findings of the investigation, and followed this up in writing. The investigator obtained copies of the man's medical records and all relevant prison records.

8. NHS West Yorkshire Area Team appointed a clinical reviewer to review the man's clinical care at the prison.

9. HM Coroner for Leeds was informed of the investigation and provided the results of the post-mortem examination. The Coroner has been sent a copy of this report.

10. One of the Ombudsman's family liaison officers contacted the man's niece to explain the investigation. The man's niece received a copy of the draft report. She did not make any comments on its content.

11. 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 and whether compassionate release was considered.

12. A response to the recommendations is included at the end of this report.

HMP LEEDS

13. HMP Leeds, in West Yorkshire, is a local prison holding up to 1,120 male sentenced and remanded prisoners. Health services are commissioned by NHS Airedale, Bradford and Leeds and provided by NHS Leeds Community Foundation Trust and Leeds and Yorkshire Partnership Foundation Trust.

HM Inspectorate of Prisons

14. HM Chief Inspector of Prisons carried out a full announced inspection of HMP Leeds in January 2013. The Inspectorate found that the prison was successful in promoting good staff and prisoner relationships and prisoners were treated with respect. Inspectors found that the range of health services was good and that there were effective links with local Macmillan nurses and hospices. End of life training had started and a policy was being formulated.

Independent Monitoring Board

15. Each prison has an Independent Monitoring Board (IMB) made up of unpaid volunteers from the community who help ensure that prisoners are treated fairy and decently. In its annual report for the year to December 2012, the IMB noted that medical services were provided in suitable accommodation and that prisoners' opinions of the standard of care and treatment they received were very positive.

Previous deaths at HMP Leeds

16. The investigation into the death of a prisoner at Leeds in July 2012 resulted in a recommendation about the use of restraints for hospital escorts. The recommendation was accepted, but we make a similar one in this report.

ISSUES

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

17. When the man arrived at HMP Leeds, healthcare staff recorded in his reception health screen that he suffered from the following conditions:

- Asthma and Chronic Obstructive Pulmonary Disease (COPD)
- Type 2 diabetes (insulin dependent)
- Left ventricular heart failure
- Eczema and ulcers to both legs
- Obesity
- Drug induced osteoporosis
- Depression
- Significant mobility problems (wheelchair user)
- Drug induced Osteoporosis

18. When the man arrived at Leeds he was already aware that he had a short life expectancy. He regularly attended specialist hospital clinics in respect of his COPD and diabetes and was taking numerous medications to manage his symptoms.

19. A prison doctor noted in the man's medical records on 6 July that they had discussed his preferred place of death. This appears to be the first formally recorded conversation with the man that his condition was terminal and that his death would be soon. The clinical reviewer found that the doctor and other healthcare staff had made efforts to ensure that the man understood his diagnosis and prognosis. However, the clinical reviewer noted that it was difficult to distinguish the point at which the man's care officially became palliative, partly due to the lack of a palliative care plan, which we discuss later.

20. We are satisfied that the man was aware of his conditions when he arrived at the prison and was kept fully informed about the progression of his illnesses and the treatment that was available to him.

The man's medical treatment

21. The clinical reviewer found that the man received regular COPD assessments and appropriately attended hospital appointments at specialist clinics. He was also seen in prison by the City Wide (Lifelong Conditions) Team, a team of nurses with expertise in long term and chronic disease management, who monitored and advised on his heart failure, COPD and asthma. He was referred to a Rapid Access Heart Failure clinic at Leeds General Infirmary but did not meet their criteria.

22. Between January and May 2013 the man experienced several episodes where he had difficulty breathing. These were appropriately managed with oxygen therapy.

23. The man's condition deteriorated significantly in early July. He described feeling generally unwell and having pain in his right lung. Oxygen therapy was used to treat the man's symptoms. On 6 July, the GP asked him whether he would consider an admission to hospital but the man declined.

24. On 22 July, the GP prescribed the man Oramorph (a morphine based medication) to help reduce his discomfort and anxiety. This is the first time morphine was administered to the man and it appears that, up to this point, he had been successfully managing his pain through oxygen therapy.

25. Once it becomes evident that a serious medical condition will not be responsive to active treatment, it is appropriate for a palliative care plan to be put into place. The NHS document 'The route to success in end of life care – achieving quality in prisons and for prisoners' sets out how an end of life care pathway might be implemented in prisons. Among the benefits of an end of life pathway are that it helps carers plan when and how care will be delivered and helps patients make choices about how they are cared for towards the end of their lives.

26. During his conversation with the man on 6 July, the GP offered to make a referral to a Macmillan nurse, which the man declined. The clinical reviewer considers that formal end of life and palliative care plans should have been initiated earlier, with support from external palliative care services, such as Macmillan. While this does not appear to have had any detrimental effect on the clinical treatment the man received, it would have improved the co-ordination of other aspects of his care.

27. On 21 July, the man told a nurse that he had been awake during the previous night as he was afraid to close his eyes and frightened that he might die. Staff in the healthcare unit knew the man well and were able to offer him ongoing support and comfort, but did not make a mental health referral. The clinical reviewer does not criticise the fact that no mental health referral was made, but this is an example of an area where formal end of life care planning would have helped ensure that all aspects of the man's care were fully considered. We make the following recommendation:

    The Head of Healthcare should ensure that a palliative care plan which encompasses all aspects of their care is initiated for all prisoners who are recognised to be terminally ill

28. A Do Not Attempt Resuscitation (DNAR) order 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. The GP asked the man for his views on being resuscitated and he said that he did not want to be. The GP noted that he believed the man had capacity to make this decision regarding his end of life and a formal record of the order was signed by the GP.

29. At around 6.10am on 23 July, two prison staff who were based in the healthcare unit, two members of staff responded when the man rang his cell

bell. He was having difficulty breathing and died a short while afterwards, just before nursing staff arrived at his cell. In line with his wishes, there was no attempt to resuscitate him.

The man's location

30. During conversations with healthcare staff at the beginning of July, the man said that he wanted to die in a prison. However, he appeared to change his mind and on 8 July he told the GP that he wanted to transfer to a hospice. It does not appear that any action was taken about this and there is no further mention of this in his medical notes until 16 July, when the GP told the man that he intended to look into the possibility of a release on compassionate grounds.

31. On 22 July, the man told the GP that he now wanted to die in prison. The GP emailed the security department to ask that permission be given for the man's cell door to be left open at night. No one in the department had acted on the request before the man's death the following morning.

32. We are satisfied that throughout his time at Leeds, the man's location in the healthcare unit was appropriate to meet his health needs. The clinical reviewer notes that a rail was fitted in the man's cell to help him to move around without falling. However, it is surprising that no arrangements were made to keep the man's door open in the final stages of his life should have been made at an earlier stage. Again this is something that is likely to have been identified if there had been a formal palliative care plan.

Restraints, security and escorts

33. 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 also deemed that restraining by handcuffs of 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.

34. The man had many hospital appointments during his time at the prison and on each occasion restraints were used. The risk assessments for his visits did not change between 2011 and 2013 to reflect his failing health and increasing lack of mobility. His last hospital visits were on 30 March and 11 June and both times he was restrained using an escort chain (a long chain

with a handcuff at each end, one of which is attached to the prisoner and the other to an officer). This was against the advice of healthcare staff and took little account of his very poor health and the fact that the man used a wheelchair and was unable to escape. We do not consider that the level of restraints used when escorting the man to hospital were justified by a fully considered risk assessment and make the following recommendation:

The Governor should ensure that risk assessments for prisoners taken to hospital fully take into account individual circumstances and are based on the actual risk the prisoner presents

Liaison with the man's family

35. The man's niece was recorded as his next of kin. Until 6 July 2013, when there is a note in his medical records that gave his permission for the family liaison officer to contact his next of kin there is no record that any consideration was given to contacting his family about his declining health.

36. The family liaison officer told the investigator that the man had not wanted his family to be contacted before 6 July and he was aware that his family also did not want to have any contact with him. We agree it was appropriate that the man's wishes about family contact were respected, but it would have been good practice for a record to have been made at an earlier stage that staff had given him the opportunity to contact his family and that he had refused. Again this is something that an overarching palliative care plan would have covered.

37. After the man gave permission for his family to be informed of his illness, the family liaison officer contacted his niece and remained in contact with her until after the man's death. The prison arranged and paid for the man's funeral in line with national guidance. We are satisfied that there were appropriate arrangements to liaise with the man's family.

Compassionate release

38. 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).

39. On 8 July, the man said that he would prefer to die in a hospice or care home. The GP talked to the man about moving to a hospice on 16 July and told him that he would consider making an application for early release

on compassionate grounds but that this might not be approved because of the nature of his offence. There is no record that any application was made.

40. On 22 July, the man changed his mind about wanting to die in a hospice and the GP recorded that the man now wished to remain in prison. It is not clear that the man would have met the criteria for early release on compassionate grounds and he appears to have been unsure about his preferred options. However, we would have expected to see a record that compassionate release had been considered with the reasons for any decision. As with other aspects of the man's care, a formal palliative care plan would have helped ensure that this was given proper consideration and that an appropriate record was kept.

RECOMMENDATIONS

1. **The Head of Healthcare should ensure that a palliative care plan which encompasses all aspects of their care is initiated for all prisoners who are recognised to be terminally ill**

2. **The Governor should ensure that risk assessments for prisoners taken to hospital fully take into account individual circumstances and are based on the actual risk the prisoner presents**

ACTION PLAN

No	Recommendation	Accepted/Not accepted	Response	Target date for completion and function responsible	Progress (to be updated after 6 months)
1	The Head of Healthcare should ensure that a palliative care plan which encompasses all aspects of their care is initiated for all prisoners who are recognised to be terminally ill.	Accepted	All patients who are considered terminally ill will now have an individual care plan developed to encompass all aspects of their care. Patients are now cared for through Leeds Community Healthcare end of life care pathway. The primary care nursing team have had 'end of life' pathway training through the Trust's end of life team. There is also a dedicated nurse who is the nominated nurse lead within the prison. Individual care plans are developed using a template through the SystmOne IT system and the Macmillan team are available 24 hours for additional advice.	Completed and ongoing Healthcare	
2	The Governor should ensure that risk assessments for prisoners taken to hospital fully take into account individual circumstances and are based on the actual risk the prisoner presents.	Accepted	HMP Leeds will review the process of risk assessments for prisoners taken to external hospital to ensure that future assessments fully take into account individual circumstances and are based on the actual risk the prisoner presents at the time.	31 January 2014 Security and Risk	