Prisons & Probation Ombudsman
Independent Investigations

Investigation into the death of Mr Kenneth Chandler a prisoner at HMP Whatton on 27 July 2015

A report by the Prisons and Probation Ombudsman
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Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*
Respectful: *we are considerate and courteous*
Inclusive: *we value diversity*
Dedicated: *we are determined and focused*
Fair: *we are honest and act with integrity*

The Prisons and Probation Ombudsman aims to make a significant contribution to safer, fairer custody and community supervision. One of the most important ways in which we work towards that aim is by carrying out **independent** investigations into deaths, due to any cause, of prisoners, young people in detention, residents of approved premises and detainees in immigration centres.

My office carries out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

Mr Kenneth Chandler died at HMP Whatton on 27 July 2015, of bowel cancer, which had spread to his liver and lungs. He was 78 years old. I offer my condolences to Mr Chandler's family and friends.

While I am concerned that, owing to an error at the prison, Mr Chandler missed the first urgent hospital referral to investigate his suspected cancer, this did not affect the outcome, as the cancer was well advanced at the time. Overall, I am satisfied that Mr Chandler received a very good standard of care at Whatton, including good access to health and social care, and a humane approach to security.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Nigel Newcomen CBE
Prisons and Probation Ombudsman **February 2016**

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Summary

Events

1. Mr Kenneth Chandler had been in prison since October 2009 and at Whatton since March 2011.

2. On 28 February 2013, Mr Chandler reported to a prison doctor that he had constipation and blood in his stools. His symptoms continued and, on 19 March, the doctor referred him to a specialist urgently for suspected cancer. The hospital made an appointment for 28 March, but Mr Chandler missed it because of an error at the prison. The appointment was rearranged for ten days later, on 7 April. Mr Chandler was diagnosed with bowel cancer, which had spread to his liver and lungs. Doctors estimated that he had 12 months to live.

3. Mr Chandler received periodic chemotherapy and other life-prolonging treatment over the next two years. In May 2015, the hospital planned surgery to remove a part of his liver. Doctors later cancelled the operation, as his cancer had spread and was inoperable.

4. Towards the end of his life, Mr Chandler moved to a specially adapted cell. He died on 27 July 2015.

Findings

5. The investigation found that Mr Chandler received a good standard of care, equivalent to that he could have expected to receive in the community. He had good access to health and social care, the prison managed his symptoms and pain relief well and there was effective communication with the hospital and wing staff. Prison staff did not use restraints for his hospital visits.

6. However, we were concerned that Mr Chandler missed an initial urgent appointment on 28 March 2013, to investigate the possibility of cancer. The prison was unable to explain the reason. Although they rearranged the appointment, this meant that he was not seen by a specialist within two weeks of referral, in line with the national guidelines for suspected cancer.

Recommendation

- The Governor should ensure that prisoners do not miss hospital appointments unless there are properly justified, exceptional and fully recorded reasons.

The Investigation Process

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

8. The investigator obtained copies of relevant extracts from Mr Chandler's prison and medical records.

9. NHS England commissioned a clinical reviewer to review Mr Chandler's clinical care at the prison.

10. We informed HM Coroner for Nottinghamshire and Nottingham City of the investigation who gave us the cause of death. We have sent the coroner a copy of this report.

11. One of the Ombudsman's family liaison officers contacted the friend Mr Chandler had named as his next of kin, to explain the investigation. He had no specific matters for the investigation to consider.

12. The investigation has assessed the main issues involved in Mr Chandler'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. Mr Chandler's friend was informed the initial report was available, but did not wish to receive a copy or make any comment.

14. The prison has submitted an action plan detailing what they have done to address the issues we raised.

HM Prison Whatton

15. HMP Whatton in Nottinghamshire is a medium security category prison holding up to 841 men convicted of sex offences.

16. Nottinghamshire Healthcare Foundation Trust provides healthcare services at the prison. The healthcare centre is open seven days a week. GPs from a local practice provide specialist clinics for older prisoners and those with chronic conditions and there is an out-of-hours service. There are no inpatient beds, but there is a palliative care suite for end of life care in the healthcare centre.

HM Inspectorate of Prisons

17. The most recent inspection of HMP Whatton was in February 2012. Inspectors reported that the quality of healthcare was good, and relationships between healthcare and prison staff were effective. They noted that the prison's palliative services were impressive.

Independent Monitoring Board

18. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. In its latest annual report, for the year to May 2015, the IMB reported that the number of daily escorts to hospital affected the operation of the prison. The Board noted an increasing demand for healthcare services, the result of a higher proportion of elderly prisoners.

Previous deaths at HMP Whatton

19. Mr Chandler was the eighth prisoner to die at Whatton since July 2014. Generally, our investigations have found a high standard of end of life care at the prison. We have not previously identified a problem with prisoners missing hospital appointments.

Findings

The diagnosis of Mr Chandler's terminal illness and informing him of his condition

20. Mr Kenneth Chandler was serving a 14-year prison sentence and had been at HMP Whatton since 30 March 2011. He had a history of tuberculosis and a tremor in his left hand. He saw doctors and nurses for pain relief and other minor issues.

21. On 28 February 2013, Mr Chandler told a prison doctor that he had been constipated for four weeks and had noticed some fresh blood in his stools. The doctor ordered blood tests, prescribed medication to relieve his constipation and arranged to review him in two weeks. Mr Chandler's symptoms persisted and on 19 March, the doctor referred him urgently to hospital for suspected cancer, under the NHS pathway that requires patients with suspected cancer to be seen by a specialist within two weeks.

22. The hospital arranged the appointment for 28 March, but Mr Chandler did not attend. An administrator recorded that it was due to a prison error, but did not give the exact reason. No one could explain to the investigator why this had happened.

23. The hospital rearranged the appointment for 7 April, almost three weeks after the original referral. Hospital doctors found a mass in his rectum, which was possibly cancer and told Mr Chandler. They took a biopsy and planned scans to investigate further. On 12 April, the biopsy results showed he had cancer of the rectum (bowel cancer) which had spread to his liver and lungs. The hospital referred him to a cancer specialist to consider palliative chemotherapy and radiotherapy. Hospital doctors informed Mr Chandler of his diagnosis of bowel cancer and told him that he had 12 months to live.

24. The investigation found that the prison GP promptly referred Mr Chandler to a specialist. While we accept that it did not affect the outcome for Mr Chandler, as the cancer was well advanced at the time of his diagnosis, we are concerned that the prison did not prioritise the initial urgent appointment. This meant that he was not seen within the timescale specified in national guidelines for suspected cancer. We make the following recommendation:

    The Governor should ensure that prisoners do not miss hospital appointments unless there are properly justified, exceptional and fully recorded reasons.

Mr Chandler's medical treatment

25. On 19 April, a nurse introduced herself to Mr Chandler as the lead prison nurse in his care and they discussed his diagnosis and treatment. The hospital prescribed a five-week course of oral chemotherapy, which he began on 1 May and took at the prison. Prison officers were aware of his condition and monitored Mr Chandler on the wing. Throughout his illness, records show good communication between officers and healthcare staff.

26. Mr Chandler attended the hospital frequently for radiotherapy, and intermittent three-weekly courses of chemotherapy. He suffered some side effects from the treatment, but remained active on his wing. On 9 October, hospital staff recorded that Mr Chandler had responded well to the treatment and some of the tumours had reduced in size or disappeared. On 11 December, doctors postponed further chemotherapy treatment until March 2014, because he was very tired and unwell from taking the medication. At the next hospital review in March, doctors agreed a further three-month break from chemotherapy, as some blood tests had shown good results.

27. Prison and hospital staff continued to monitor Mr Chandler. A CT scan on 11 June, showed that the cancer had spread again through his lungs and liver and he restarted chemotherapy on 25 June. His cancer specialist planned a minimum of four cycles, over three to six months.

28. On 15 October, hospital doctors told Mr Chandler that his liver cancer had spread, but his bowel cancer had not changed. He continued to have chemotherapy and some radiotherapy, but reported feeling unwell during treatment. He had a break from treatment for three months from January 2015.

29. On 25 March, a specialist cancer nurse from the hospital told the nurse (who had taken over as Mr Chandler's lead nurse), that they had cancelled all further treatment but surgery on his liver might be an option. At a hospital appointment on 1 April, he agreed to have surgery. When he got back to the prison that day, he said he felt unwell. His clinical observations were within normal range and the lead nurse prescribed a nutritional drink, as Mr Chandler said his appetite was poor.

30. On 1 May, hospital doctors told Mr Chandler that they planned surgery on 12 May, to remove a quarter of his liver. He understood that this would prolong his life but was not curative. On 5 May, the hospital called the prison to postpone the operation as his consultant had decided that Mr Chandler should have an MRI scan before surgery. Later that day, Mr Chandler discussed his care with a prison doctor. He decided that as he was still receiving active treatment, he wanted staff to try to resuscitate him if his heart or breathing stopped.

31. On 16 May, a nurse told Mr Chandler that she had spoken to a hospital doctor, who said it was unlikely he would have the operation, as a scan had shown his cancer had spread. On 5 June, a prison doctor confirmed with Mr Chandler that surgery was no longer feasible. Mr Chandler decided that as the cancer had spread rapidly and was at an advanced stage, he did not want staff to attempt resuscitation. Healthcare staff continued to monitor him and he received pain relief medication.

32. On 19 June, Mr Chandler's condition worsened. He felt cold, he had chest and arm pain, and his blood pressure was low. Nurses called an ambulance and paramedics took him to hospital. The hospital discharged him the same day, as hospital investigations showed no additional concerns.

33. On 8 July, hospital doctors told Mr Chandler that they intended to stop all active treatment because he was too weak. Prison healthcare staff continued to

monitor him and prescribed morphine for pain relief. On 10 July, agency carers were employed for 24-hour social care, in addition to his medical care.

34. On 21 July, healthcare staff fitted a syringe driver (a small pump that gives pain relief continuously under the skin) as Mr Chandler found it difficult to swallow his medication. His condition continued to deteriorate over the next few days. At 2.00am on 27 July, a doctor recorded that Mr Chandler had died.

35. After his original diagnosis, Mr Chandler attended all his hospital appointments. Healthcare staff appropriately reviewed his care and managed his pain and other symptoms effectively. There was good communication between the prison and hospital. We are satisfied that Mr Chandler received a very good standard of care at the prison.

Mr Chandler's location

36. Initially, Mr Chandler was independently mobile and remained in his cell on a higher landing. However, as his health deteriorated, he began to find it more difficult to move around. On 1 April 2015, he moved to a cell on the ground floor, and said he was happy with the move. The next day, an occupational therapist assessed Mr Chandler and found that, although he was frail, he could move around independently and needed no changes to his cell. He agreed he would move to a cell on another wing, more suitable for palliative care, when he thought that the time was right.

37. Mr Chandler moved wings on 10 June. His friends from the other wing were able to visit him. From 20 July, prison managers agreed that his door could be left open at all times to facilitate his care. Mr Chandler moved once more to another cell on the same wing because it was quieter. He remained there until he died.

38. We are satisfied that the prison appropriately considered Mr Chandler's location in line with his care needs and discussed and agreed moves with him.

Restraints, security and escorts

39. When prisoners have to travel outside prison, a risk assessment is conducted to determine the nature and level of any security arrangements, including any restraints. The Prison Service has a duty to protect the public but this has to be balanced with a responsibility to treat prisoners with humanity. 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. It should takes into account factors such as the prisoner's health and mobility.

40. The investigation found that after Mr Chandler was diagnosed with cancer, no restraints were used when he went to hospital appointments, even when he was more mobile. This was in line with national guidance, and was humane and appropriate.

Liaison with Mr Chandler's family

41. A supervising officer (SO) acted as Mr Chandler's family liaison officer from 12 June 2015 and frequently went to see Mr Chandler. Before this, prison staff had spoken to Mr Chandler about family contact and he had asked them to try to

contact his ex-wife. Despite help from the police, they were unable to trace her. Mr Chandler said he had no other family and would think about contacting friends when his condition got worse. When he was ready, the prison contacted the friend he had nominated as his next of kin.

42. Mr Chandler's friend lived a long distance from the prison, and was unable to visit, so the prison arranged phone calls between them. The family liaison officer agreed with Mr Chandler's friend that he would telephone him when Mr Chandler died. He called him at 8.20am on 27 July. Mr Chandler had made provision for his funeral, which the prison organised for 1 September. The prison contributed towards the costs, in line with national policy.

Compassionate release

43. Prisoners can be released 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.

44. On 1 May 2015, Mr Chandler's offender supervisor discussed the possibility of compassionate release with him. He said he did not want to apply for this before his liver operation. After the hospital cancelled the operation, Mr Chandler said he did not want to be released, as he had no family.

45. We are satisfied that staff at Whatton appropriately discussed compassionate release with Mr Chandler.

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