Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Rodney Pylee a prisoner at HMP Bure on 31 October 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 Rodney Pylee died on 31 October 2015, of bronchopneumonia as a result of cancer, while a prisoner at HMP Bure. He was 64 years old. I offer my condolences to Mr Pylee's family and friends.

There was an initial delay of several weeks in referring Mr Pylee for an urgent specialist assessment when he first reported concerning symptoms. While this does not appear to have affected the outcome for Mr Pylee, in other cases such a delay could be crucial and it is important that healthcare staff follow national guidelines for suspected cancer. After his diagnosis, I am satisfied that Mr Pylee received appropriate treatment at the prison for his condition and appropriate end of life care. Although Mr Pylee was not restrained for his final admission for hospital, I am concerned that he was restrained for earlier hospital admissions and appointments without fully considered risk assessments, which took into account how his health and mobility affected his risk of escape.

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 **May 2016**

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Summary

Events

1. In March 2014, Mr Rodney Pylee was sentenced to five years in prison. He had been at HMP Bure since 1 October 2014.

2. On 10 October 2014, Mr Pylee reported that he had blood stained diarrhoea and told a prison doctor that he had been suffering from diarrhoea for six months. The doctor arranged a further appointment to examine him further, rather than referring him to a specialist. At the second appointment the doctor diagnosed diabetic diarrhoea but referred him to a specialist for further investigation. On 1 December, after a rectal examination, hospital doctors diagnosed a cancerous tumour in his bowel. The cancer appeared stable at the time and had not spread.

3. On 6 March 2015, Mr Pylee had an operation to remove the tumour. He was discharged to the prison on 31 March. Healthcare staff monitored him at the prison and he had further hospital admissions in April, May and July for a build up of fluid in his abdomen, pneumonia, a septic infection, and for dehydration.

4. On 29 August, Mr Pylee complained of back pain and after further tests, the hospital found that the cancer had spread to his spine. On 14 September, hospital doctors concluded that Mr Pylee's condition was incurable and treated him with palliative radiotherapy and pain relief. On 18 September, he went back to the prison and healthcare staff at the prison managed his care.

5. On 4 October, Mr Pylee was admitted to hospital again when his condition deteriorated further. He never recovered and he died in hospital on 31 October. His family were with him at the time.

Findings

6. There was an initial delay referring Mr Pylee to hospital for tests. In this respect, the clinical reviewer did not consider that Mr Pylee's care was equivalent to that he could have expected to have received in the community. While he did not consider this delay altered the outcome for Mr Pylee, it is important that healthcare staff follow national guidelines for suspected cancer. After his diagnosis he received appropriate treatment for cancer and appropriate end of life care. While Mr Pylee was not restrained in hospital for the final weeks of life, we are not satisfied that their use for earlier hospital admissions was fully justified.

Recommendations

- The Head of Healthcare should ensure that prison doctors follow NHS and NICE guidelines on urgent referral for suspected cancer.
- The Governor and Head of Healthcare 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.

The Investigation Process

7. The investigator issued notices to staff and prisoners at HMP Bure 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 Pylee's prison and medical records.

9. NHS England commissioned a clinical reviewer to review Mr Pylee's clinical care at the prison. In his review, he has some additional concerns, particularly about diabetic foot care and record keeping, which the Head of Healthcare will need to address. We do not include them in this report, as they were not directly related to Mr Pylee's terminal condition.

10. We informed HM Coroner for Greater Norfolk District of the investigation who gave us a copy of the post-mortem report. We have sent the coroner a copy of this report.

11. One of the Ombudsman's family liaison officers spoke to Mr Pylee's daughter and sent her information about the investigation process. His daughter did not identify any specific matters for the investigation to consider.

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

14. The initial report was shared with the Prison Service. The Prison Service pointed out some factual inaccuracies and this report has been amended accordingly.

Background Information

HMP Bure

15. HMP Bure is a medium security prison near Norwich, which holds over 600 men, convicted of sexual offences.

16. Virgin Care provides healthcare services. At the time of Mr Pylee's death, healthcare staff were on duty between 8.00am and 6.30pm on weekdays and between 8.00am and 5.30pm at weekends. Five GP clinics should be scheduled each week. There is an out of hours service.

HM Inspectorate of Prisons

17. The most recent inspection of HMP Bure was in May 2013. Inspectors reported that prisoners were positive about healthcare services and there was a good range of nurse-led clinics. Provision for older prisoners was well developed. Some cells were adapted for prisoners with mobility problems and to allow wheelchair access.

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 July 2015, the IMB reported that there had been some shortage of healthcare staff during the year and there was too much reliance on locum GPs. Sometimes this meant there had been no GP surgeries on Mondays and Fridays. Overall, the IMB found that the healthcare team was well led and dedicated.

Previous deaths at HMP Bure

19. Mr Pylee was the third prisoner to die of natural causes at HMP Bure since January 2014. We have previously made a recommendation about the need to refer prisoners promptly to specialists when their symptoms suggest.

Findings

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

20. In March 2014, Mr Rodney Pylee was sentenced to five years in prison for sexual offences. He had been at HMP Bure since 1 October 2014. At an initial health screen a nurse noted that Mr Pylee had heart disease, hypertension (high blood pressure) and diabetes. He had had a double heart bypass operation in 2012 and took medication to help manage his conditions. He did not identify any additional health concerns.

21. On 10 October, Mr Pylee told a nurse he had diarrhoea and blood in his stools and she referred him to a GP. On 14 October, Mr Pylee told a prison GP that he had experienced loose stools for more than six months, now had blood in his stools and had lost weight. The GP recorded that he would consider an urgent referral (under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks), but first wanted to carry out a full examination and arranged another appointment.

22. On 21 October, the prison GP examined Mr Pylee and diagnosed diabetic diarrhoea. He arranged a blood and stool sample but noted there were no other symptoms to suggest a more severe illness. He prescribed medication for diarrhoea. On 28 October, Mr Pylee had blood tests and the GP recorded that liver function tests were abnormal and Mr Pylee was slightly anaemic. He requested another stool sample as no results had been received from the previous sample.

23. On 17 November, the prison GP noted that the medication had helped Mr Pylee's diarrhoea. He reviewed the blood results and recorded these indicated chronic illness. The next day, the GP referred Mr Pylee to a colorectal specialist.

24. On 1 December, a sigmoidoscopy (an examination of the rectum and lower part of the bowel) showed that Mr Pylee had a large tumour in his bowel. Hospital doctors took biopsies and arranged an urgent colonoscopy. On 4 December, Mr Pylee told a prison GP that hospital doctors had told him that he had bowel cancer and he was waiting for an MRI scan. The prison received a discharge letter from the hospital, confirming the diagnosis, the next day.

25. National Institute for Health and Care Excellence (NICE) guidelines state that changes in bowel habits for people over 60 years of age should be referred to a specialist under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks. The clinical reviewer noted that medical records were patchy and made it difficult to follow some of the reasons for clinical decisions. However, he considered that, in October, when Mr Pylee first reported that he had suffered from loose stools for six months, the prison GP should have referred him urgently to a specialist for suspected cancer, in line with NHS and NICE guidelines. While this caused a delay of several weeks in diagnosis, the clinical reviewer did not consider this affected the outcome for Mr Pylee. However, early referral for suspected cancer is important and in some cases could be crucial. We make the following recommendation:

The Head of Healthcare should ensure that prison doctors follow NHS and NICE guidelines on urgent referral for suspected cancer.

Mr Pylee's clinical care

26. After his diagnosis, healthcare staff and hospital doctors monitored Mr Pylee and discussed his care with him. Scans showed that the cancer had not spread but doctors recommended an operation to remove the tumour. Mr Pylee was unsure whether to have the operation and discussed this with his wife. On 1 February 2015, a nurse reassured him that the prison would be able to look after him after the operation.

27. On 6 March, Mr Pylee had surgery to remove the tumour and for a temporary ileostomy (when the bowel is diverted through an opening in the abdomen). On 31 March, the hospital discharged him back to the prison. My Pylee's mobility was noted to be poor after the operation.

28. On 8 April, a locum GP sent Mr Pylee back to hospital after he had vomited. His oxygen levels were low and his temperature and pulse rate were high. In hospital, doctors treated him for a build up of fluid in his abdomen and prescribed antibiotics. On 15 April, Mr Pylee went back to the prison. He had lost weight and now needed a wheelchair to get around.

29. On 22 May, Mr Pylee was shaking and unwell. His temperature was high and the nurse sent him to hospital where doctors diagnosed pneumonia and streptococcal septicaemia from a diabetic foot ulcer. A hospital consultant noted that the foot infection could have been avoided by better monitoring. On 28 May, Mr Pylee went back to the prison.

30. On 12 July, Mr Pylee complained of loose stools, kidney pain and a headache. His temperature was high and he was treated for dehydration in hospital. While he was in hospital, doctors closed Mr Pylee's ileostomy. On 20 July, he went back to the prison where healthcare staff continued to monitor him.

31. On 29 August, Mr Pylee said he had been suffering from back pain for two days. He was admitted to hospital again and investigations revealed he had a metastatic cancer deposit in the spine (where cancer has spread from another site). The hospital treated this initially with radiology. On 14 September, doctors said that the cancer could not be cured but would be managed palliatively. Doctors said it was difficult to give a clear prognosis and Mr Pylee could live for months or even years.

32. On 18 September, Mr Pylee went back to the prison. He was prescribed zomorph (opioid pain relief) and a fentanyl patch (strong pain relief which is released over a period of time) to manage his pain. A nurse noted that he was able to move around his cell but arranged an extra mattress and an assessment by social services. On 22 September, an occupational therapist assessed Mr Pylee's social care needs and arranged for him to have some aids to help with his mobility and daily living tasks.

33. On 28 September, Mr Pylee was admitted to hospital with a suspected deep vein thrombosis (DVT). Investigations ruled out a DVT, and the consultant considered the pain Mr Pylee was experiencing in his leg, was related to his cancer. Mr

Pylee returned to prison that day. The consultant wrote to the prison recommending a change in pain relief medication but this letter was not received until 8 October, by which time Mr Pylee was back in hospital. On 2 October, a prison GP, referred Mr Pylee to palliative care services

34. On 4 October, Mr Pylee was admitted to hospital again after he had vomited blood and complained of a 'rattly' chest. He received palliative radiotherapy and doctors diagnosed pneumonia. Mr Pylee decided that he did not want to be resuscitated if his heart or breathing stopped. A nurse noted that Mr Pylee was now on an end of life plan with just weeks to live. He was receiving continuous pain relief through a syringe driver. The hospital had expected to discharge Mr Pylee back to the prison but his condition got worse and he died in hospital on 31 October.

35. A post-mortem examination concluded that Mr Pylee had died of bronchopneumonia as a result of oesophageal cancer - rather than rectal cancer from which he had also suffered. It appears this primary site of the cancer had not been identified while Mr Pylee was alive.

36. After his diagnosis, most of Mr Pylee's treatment was the responsibility of secondary services at the hospital, which are outside the remit of this investigation. The clinical reviewer found that healthcare staff at the prison closely monitored Mr Pylee's condition, identified problems when indicated and referred him back to hospital when this was necessary. While the clinical reviewer had some concerns that his treatment for his other conditions, such as diabetes, was not well coordinated, we are satisfied that Mr Pylee received satisfactory care at the prison for his cancer and was appropriately referred for hospital treatment as required.

Mr Pylee's location

37. Mr Pylee lived on a wing at the prison for older people with health problems. He was able to move around in his cell and had aids to help him with daily living and mobility. He was admitted to hospital when necessary.

38. On 5 October, healthcare staff arranged that Mr Pylee should transfer to HMP Norwich for end of life care when he was discharged from hospital, as Norwich has an inpatient unit with 24-hour healthcare cover. However, Mr Pylee's condition deteriorated and he died at the hospital. We are satisfied that staff appropriately considered Mr Pylee's location throughout his illness.

Restraints, security and escorts

39. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. 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 takes into account the prisoner's health and mobility. A judgment in the High Court in 2007 made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. The judgment 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.

40. When Mr Pylee went to hospital for planned surgery on 6 March 2015, he was assessed as an overall 'normal' risk of harm to himself, others and of escape. The healthcare section of the risk assessment noted no objections to the use of restraints and, although he was going for surgery, noted that there were no treatments likely to mean that restraints should be removed. It did not comment on his ability to escape. Prison managers decided that Mr Pylee should be restrained by an escort chain. (An escort chain is a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer.) The escort officers removed the chain while Mr Pylee had surgery, but reapplied it afterwards. Mr Pylee remained restrained in hospital until he returned to prison on 31 March, although he found it difficult to walk after the operation, and needed to use a wheelchair. No one reviewed his risk while he was in hospital.

41. When Mr Pylee went to hospital on 29 August, he was again in a wheelchair. A prison manager decided he should be restrained by an escort chain. The security department assessed him as a normal level of risk of escape, but a high level of risk to the public and children. There was no healthcare input into the risk assessment. Again, no one reviewed his risk while he was in hospital.

42. On 4 October, when Mr Pylee was admitted to hospital again a prison manager decided he should be restrained by handcuffs and an escort chain while having treatment. The security assessment indicated that he was a normal risk of escape and to the public, but a medium risk to children. The healthcare input indicated no objections to the use of restraints and did not comment on how his health and mobility affected his risk of escape. On 6 October, a prison manager decided that restraints should be removed and they were not used again.

43. While restraints were removed for the final weeks of Mr Pylee's life, we are concerned that risk assessments for previous hospital admissions when Mr Pylee's health and mobility was poor, did not comment on how this affected his risk of escape, as per the 2007 High Court judgment. We are particularly concerned that there was a lack of meaningful healthcare input into the risk assessments. We make the following recommendation:

    The Governor and Head of Healthcare 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.

Liaison with Mr Pylee's family

44. After Mr Pylee was diagnosed with cancer of the bowel, he discussed his condition with his family and his wife visited him several times. On 5 October, after Mr Pylee had learnt two weeks before, that the cancer could not be cured, the prison appointed two family liaison officers. They telephoned Mr Pylee's wife and met her at the hospital to offer support. At the time of the terminal diagnosis, Mr Pylee had no clear prognosis and doctors had said he might live for months or years.

45. Members of Mr Pylee's family were with him when he died. The family liaison officers stayed in contact with Mr Pylee's wife and family and offered condolences and support. Mr Pylee's funeral was on 20 November. The prison contributed to the costs in line with national policy. We are satisfied that there was appropriate family liaison.

Compassionate release

46. 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.

47. In October, Mr Pylee told prison staff that he wanted to apply for release on compassionate grounds. A prison doctor completed the medical section of the compassionate release application on 9 October. The completed form was sent to the Public Protection Casework Section of the National Offender Management Service on 23 October. Prison and probation staff sent further updates on 29 October.

48. When the prison submitted the application, Mr Pylee had not been given a definitive prognosis and hospital staff were planning to discharge him back to the prison. Mr Pylee's condition deteriorated quickly and he died sooner than expected. We are satisfied that the prison appropriately considered and applied for compassionate release on behalf of Mr Pylee. Sadly the application was still being considered when Mr Pylee died.

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