Prisons & Probation Ombudsman
Independent Investigations

Investigation into the death of Mr Robert Gallagher a prisoner at HMP Risley on 27 August 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 Robert Gallagher died of widespread cancer on 27 August, while a prisoner at HMP Risley. He was 58 years old. I offer my condolences to Mr Gallagher's family and friends.

I am satisfied that Mr Gallagher received a good standard of healthcare at Risley equivalent to that he could have expected to receive in the community. While further investigations into symptoms Mr Gallagher mentioned to a hospital doctor might have led to a slightly earlier diagnosis, the clinical reviewer did not consider that this affected the outcome.

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 **April 2016**

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Summary

Events

1. In 2005, Mr Robert Gallagher received a ten year prison sentence. He had been at HMP Risley since March 2014.

2. On 21 November, Mr Gallagher had blood tests, which showed a lack of vitamin B12 and slightly low iron. A prison GP prescribed ferrous sulphate and folic acid. Repeat blood tests, in February 2015, showed his iron levels were still low. The prison GP wanted to refer him urgently to a specialist for suspected cancer but Mr Gallagher refused to be referred.

3. On 31 March, a prison GP made an urgent referral with Mr Gallagher's agreement. On 21 April, a specialist examined him and referred him for further investigations. The specialist asked prison healthcare staff to refer Mr Gallagher, as appropriate, for other symptoms, including blood in his urine and coughing up blood. No one made any additional referrals.

4. On 5 June, hospital tests showed Mr Gallagher had a gastric ulcer. On 30 July, a prison GP sent Mr Gallagher to hospital, as he had abnormal blood tests, a swollen abdomen and had been vomiting daily.

5. Mr Gallagher was admitted to hospital and had a scan. The next day, 31 July, doctors diagnosed terminal liver, lung and peritoneal metastasis (cancer). Doctors told Mr Gallagher that he had between one and three months to live. Mr Gallagher remained in hospital and died on 27 August.

Findings

6. We consider that, overall, Mr Gallagher was well cared for in prison and his standard of healthcare was equivalent to that he could have expected to receive in the community. However, prison doctors should have considered further investigations when the hospital specialist suggested this on 21 April. While the clinical reviewer considered this would not have affected the outcome for Mr Gallagher, it might have led to a slightly earlier diagnosis.

Recommendation

- The Head of Healthcare should ensure that GPs review all hospital letters and, when necessary, refer prisoners promptly to appropriate specialists.

The Investigation Process

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

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

10. We informed HM Coroner for Cheshire of the investigation who gave us the results of the post-mortem examination. We have sent the coroner a copy of this report.

11. One of the Ombudsman's family liaison officers contacted Mr Gallagher's daughter to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She asked whether Mr Gallagher's condition could have been diagnosed earlier and why Mr Gallagher's ex-wife had been asked to accommodate him if he got compassionate release.

12. Mr Gallagher's family received a copy of the initial report. They pointed out a factual inaccuracy. This report has been amended accordingly. Mr Gallagher's family also raised a number of issues and questions that do not impact on the factual accuracy of this report and have been addressed through separate correspondence.

13. The investigation has assessed the main issues involved in Mr Gallagher'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.

14. The initial report was shared with the Prison Service. There were no factual inaccuracies and the action plan has been annexed to the report.

Background Information

HMP Risley

15. HMP Risley is a medium security training prison, which holds over 1,000 convicted men. Bridgewater Community Healthcare NHS Trust provides healthcare services in the prison. There is 24-hour healthcare cover. There is a doctor in the prison during the day and at night there are nurses on duty. There is no inpatient facility. Prisoners who need inpatient treatment are referred to other prisons (usually HMP Preston) or to hospital. Lifeline provides substance misuse services.

HM Inspectorate of Prisons

16. The most recent inspection of HMP Risley was in July 2013. The Inspectorate found that the overall standard of healthcare was good and that the health and social care needs of prisoners had become more complex. Some good levels of care and a wide range of clinics were provided. Prisoners complained about access to GPs and nurses and inspectors noted a high level of missed appointments and that some prisoners were not informed of appointments. Health promotion activities were impressive.

Independent Monitoring Board

17. 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 March 2013 the IMB commented there was a wide age range of patients visiting healthcare frequently. There were now two permanent doctors which had decreased the need for locum doctors.

Previous deaths at HMP Risley

18. Mr Gallagher was the third prisoner to die at Risley of natural causes since July 2014. There were no significant similarities with the circumstances of the previous deaths.

Findings

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

19. On 15 March 2005, Mr Robert Gallagher received a ten year prison sentence for a violent offence and was sent to HMP Manchester. He was transferred to HMP Risley on 4 March 2014. Mr Gallagher had coronary heart disease, high blood pressure and chronic back pain. On 13 June 2014, he suffered a heart attack.

20. On 23 October, Mr Gallagher told a nurse that he had experienced one episode of diarrhoea with bleeding. His clinical observations were normal. On 4 November, another nurse reviewed him and he had had no further problems.

21. On 10 November, a prison GP saw Mr Gallagher in the hypertension (high blood pressure) clinic. His blood tests showed slightly low iron levels and the doctor ordered repeat tests, which showed a lack of vitamin B12 and iron. The GP prescribed iron tablets and folic acid and arranged for follow-up blood tests in three months.

22. On 2 March, the follow-up blood tests still showed low iron levels and Mr Gallagher told the GP that he had been bleeding from his rectum over the last month. The GP wanted to refer him urgently for further tests for suspected cancer. Mr Gallagher did not want this, but said he would agree to a referral if further blood tests showed his iron levels were still low.

23. On 31 March, the GP reviewed Mr Gallagher after blood tests showed that his iron levels had dropped. Mr Gallagher said he had been experiencing intermittent diarrhoea with fresh blood for the last five months. He said he had a pain in his lower left side, but had no lost any weight and his appetite was normal. The GP referred Mr Gallagher urgently under the NHS pathway for suspected cancer.

24. On 21 April, a colorectal specialist at hospital examined Mr Gallagher and referred him for a gastroscopy (a test to look inside the oesophagus, the stomach and the small intestine) and flexible sigmoidoscopy (a procedure used to look inside the rectum and lower part of the large bowel). He noted that Mr Gallagher had also mentioned having blood in his urine, bleeding from the nose and coughing up blood. He asked the prison GP to refer these matters as appropriate. No one from the prison made any further referrals.

25. The hospital arranged the gastroscopy and flexible sigmoidoscopy for 6 May. The tests should be carried out on an empty stomach and the appointment had to be re-booked for 22 May, after Mr Gallagher ate some food just before.

26. On 18 May, a nurse contacted the hospital to confirm that Mr Gallagher took ticagreloror (a heart medication which prevents clots forming but can cause bleeding and could put the patient at risk during a surgical procedure). The hospital advised that Mr Gallagher could continue taking this medication.

27. The same day, Mr Gallagher told the prison GP that he had stomach pains, vomited almost every day, and was not able to eat much. The GP noted Mr

Gallagher's blood pressure, heart rate, oxygen levels and temperature were all stable. His chest was clear, but his abdomen was slightly tender. The GP stopped Mr Gallagher's prescription for naproxen (anti-inflammatory medication that can cause stomach ulcers) which he took for his back pain, and prescribed lansoprazole to reduce the level of acid in the stomach.

28. On 22 May, the hospital telephoned the prison and said that the colorectal consultant had now decided that Mr Gallagher should stop taking ticagreloror for a week before the gastroscopy and flexible sigmoidoscopy. The hospital rescheduled them for 5 June. The gastroscopy showed he had a gastric ulcer. His sigmoidoscopy results were normal.

29. On 30 July, a prison GP told Mr Gallagher that recent blood tests showed low iron and abnormal liver function. Mr Gallagher said he had suffered abdominal swelling for the previous two weeks, was still vomiting and had little appetite. The GP recorded that Mr Gallagher looked gaunt, with a swollen, tender abdomen and sent him to hospital for urgent investigation.

30. The hospital admitted Mr Gallagher and he had an urgent CT scan. On 31 July, a consultant surgeon told the prison GP that Mr Gallagher was suffering from multiple metastasis (cancer) including lung, liver and peritoneal cancer from an unknown primary source with ascites. (Ascites is a build up of fluid in the abdomen when the liver is damaged.) The surgeon said Mr Gallagher's condition was terminal and he had between three and six months to live. Hospital staff informed Mr Gallagher of his terminal condition.

31. The clinical reviewer noted that the type of cancer Mr Gallagher died from can be very aggressive and it is extremely difficult to identify the primary site. She was satisfied that the response to Mr Gallagher's symptoms was generally appropriate but noted that no one followed up the colorectal specialist's recommendation, on 22 April, that Mr Gallagher had additional symptoms, which might need investigation. It is not clear that GPs saw the hospital letter and a GP said that Mr Gallagher never reported these symptoms after that referral.

32. The clinical reviewer noted that it was possible that a slightly earlier diagnosis could have been made if Mr Gallagher had had a chest X-ray, which had identified concerns leading to a further suspected cancer referral. However, we cannot know that this would have been the case. The clinical reviewer noted that this would have been unlikely to change the outcome for Mr Gallagher. Nevertheless, we consider some action should have been taken in response to the hospital letter. We make the following recommendation:

The Head of Healthcare should ensure that GPs review all hospital letters and, when necessary, refer prisoners promptly to appropriate specialists.

Mr Gallagher's clinical care

33. After his diagnosis, Mr Gallagher remained in hospital and the cancer had spread too extensively for any active treatment. On 12 August, there was a multidisciplinary meeting at the hospital which included a prison GP and the Head of Healthcare, when clinicians planned tests to decide what, if any,

palliative chemotherapy was possible. (Palliative chemotherapy is not a cure but can prolong life and ease symptoms.)

34. However, on 22 August, Mr Gallagher's condition deteriorated significantly and very quickly. On 26 August, he became unresponsive and hospital staff set up a syringe driver to provide continuous pain relief medication. On 27 August Mr Gallagher died in the hospital. A post-mortem examination showed that Mr Gallagher died from metastic adenocarcinoma (an aggressive cancer which had spread to his liver, lung and abdomen).

35. All of Mr Gallagher's clinical care after his diagnosis was in hospital, and thus we conclude, equivalent to the care he would have received in the community. Hospital treatment is outside the remit of this investigation, but we are satisfied that Mr Gallagher received an appropriate standard of healthcare at the prison, before his diagnosis.

Mr Gallagher's location

36. We are satisfied that doctors sent Mr Gallagher to hospital, as soon as his symptoms indicated a serious condition on 30 July. Mr Gallagher remained at the hospital until he died.

37. In August, Mr Gallagher said that his preferred place of death was the Primrose Suite, a palliative care facility at the prison. Staff at the prison began to make plans to transfer Mr Gallagher to the Primrose Suite, but sadly he died before this could take place. We are satisfied that Mr Gallagher was appropriately located when he became ill, and that staff at the prison considered his preferences.

Restraints, security and escorts

38. When prisoners 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 and the risk to the public. It should take into account factors such as the prisoner's health and mobility.

39. When Mr Gallagher went to hospital on 30 July, he was assessed as low risk to the public, with no risk of hostage taking. There were no medical objections to the use of restraints. At the time, Mr Gallagher was able to move around without difficulty and healthcare staff did not consider that his medical condition restricted his ability to escape unaided. A senior prison manager decided that officers should use handcuffs to restrain him.

40. On 3 August, a prison manager reviewed the risk assessment and decided that restraints should not be used, because of Mr Gallagher's deteriorating condition. Mr Gallagher was not restrained again. We are satisfied that this was an appropriate and humane decision.

Liaison with Mr Gallagher's family

41. On 30 July, a prison manager took on the role of family liaison officer. Both she and the Head of Healthcare at the prison visited Mr Gallagher in hospital on 6 August. She telephoned Mr Gallagher's daughter to introduce herself, offer support and facilitate visits. She met Mr Gallagher's two daughters at the home of Mr Gallagher's ex-wife on 20 August. Mr Gallagher's family was with him when he died.

42. The prison manager kept in contact with Mr Gallagher's daughter both before and after his death. Mr Gallagher's funeral was on 8 September, and the prison contributed to the costs in line with national policy.

43. We are satisfied that there was appropriate liaison with Mr Gallagher's family after his diagnosis.

Compassionate release

44. 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.

45. Hospital doctors confirmed Mr Gallagher's terminal diagnosis on 31 July and the prison started an application for compassionate release. The prison sent the application to the Public Protection Casework Section (PPCS) of the National Offender Management Service on 10 August. The PPCS was still considering the application at the time of Mr Gallagher's death.

46. The prison explored a number of accommodation options if Mr Gallagher's application was approved, including a local hospice. Mr Gallagher's daughter was concerned that a probation officer had asked his ex-wife whether she was prepared to accommodate him her if his application for compassionate release was successful. The probation officer did this at Mr Gallagher's suggestion. His ex-wife had visited him in hospital, and subsequently told the probation officer that she would not be able to offer Mr Gallagher accommodation. The matter was left there.

47. We are satisfied that the prison started the application for compassionate release as soon as Mr Gallagher received a terminal diagnosis. There was a delay while efforts were made to find suitable accommodation, which had not been resolved when the application was submitted. Sadly, the PPCS had not taken a decision before Mr Gallagher died.

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