A Report by the Prisons and Probation Ombudsman Nigel Newcomen CBE

Investigation into the death of a man in October 2014 while a prisoner at HMP Preston

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 sepsis and pneumonia in October 2014 at outside hospital. He was 79 years old. I offer my condolences to the man's family and friends.

One of my investigators carried out the investigation. A clinical reviewer reviewed the clinical care the man received at HMP Preston and HMP Wymott. Both prisons cooperated fully with the investigation.

The man was sentenced to life imprisonment in 1973. He had been at Wymott since 2007 and was moved to Preston shortly before he died. Doctors had diagnosed him with stomach cancer in 2013. In February 2014, specialists revised the diagnosis to oesophageal cancer and he began a course of radiotherapy and chemotherapy in March 2014. In August 2014, a consultant said that there were no longer any obvious signs of a tumour, although a further procedure would be needed to be absolutely sure. The man did not want this.

The man's general health continued to decline and he lost weight and continued to experience pain. In September, he moved to HMP Preston from Wymott for 24 hour health care. There appears to have been some uncertainty about his diagnosis at the time. Doctors made no further investigations into the cause of his declining health, but prescribed pain killers, usually used for terminally ill patients, to ease his discomfort. At the end of September, the man's temperature fluctuated and, in early October, he had a low temperature for several days. The prison doctor suspected he had hypothermia and underlying sepsis. On 8 October, he sent him to outside hospital. The man died in hospital, shortly thereafter.

I agree with the clinical reviewer that the man was appropriately diagnosed and received a good standard of care for cancer of the oesophagus. However, the clinical reviewer believed there should have been greater clarity about his subsequent diagnosis and treatment. He also noted that the possibility of pneumonia and sepsis should have been considered earlier, when the man's temperature was consistently low.

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 **May 2015**

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SUMMARY

1. In February 1973, the man was remanded to HMP Birmingham and later sentenced to life imprisonment for murder. He had a history or intestinal problems and had undergone surgery for a stomach ulcer. He transferred to HMP Wymott in 2007.

2. In February 2013, the man complained of stomach problems which doctors investigated. In August 2013, doctors diagnosed stomach cancer. In February 2014, after further investigations, specialists revised his diagnosis to oesophageal cancer. In March, he began a course of radiotherapy and chemotherapy which, by his own choice, he attended only intermittently. At the end of August 2014, his hospital consultant said scans showed no trace of a tumour and there was only a small chance that any residual tumour remained. Further tests would be needed to establish this for certain, but he was too frail for any invasive treatment and this would not alter his management. The consultant wrote to Wymott to inform healthcare staff of this.

3. The man's health continued to deteriorate and healthcare staff at Wymott and, subsequently, at Preston, treated him as if he might still have cancer. In August, nurses opened care plans to manage his continuing decline in health and, in September, he agreed he did not want to be resuscitated if his heart or breathing stopped. He continued to suffer pain and a doctor prescribed him pain relief. He was moved to Preston on 17 September.

4. From 27 September, nurses recorded the man's temperature as consistently low, but this did not lead to an urgent clinical review. On 8 October, a doctor suspected he might have hypothermia with underlying sepsis and sent him to outside hospital. The man died at the hospital shortly thereafter.

5. The clinical reviewer was satisfied that the man received appropriate care when his cancer was diagnosed but was concerned that there was no clear diagnosis when he transferred to Preston. Some of his treatment was more appropriate for someone who was terminally ill, although it was not evident that this was the case. However, it was apparent that he was very ill, in declining health, and did not want to prolong his life, whatever his diagnosis or prognosis. Nevertheless, we are concerned that he was not referred to hospital more quickly when he had a consistently low temperature in the days before he died. We make two recommendations.

THE INVESTIGATION PROCESS

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

7. The investigator obtained copies of the man's prison medical records and relevant extracts from his prison records. She spoke to his oncologist on 6 February 2015.

8. NHS England commissioned a clinical reviewer to review the man's clinical care at the prison.

9. We informed HM Coroner for Preston and West Lancashire District of the investigation, who provided the cause of death. There was no post-mortem. We have sent the Coroner a copy of this investigation report.

10. One of the Ombudsman's family liaison officers contacted the man's nominated next of kin, a prison chaplain, on 6 November, to explain the investigation. He did not identify any specific issues for the investigation to consider. He was informed the draft report was available, but did not wish to receive a copy or make any comment.

11. The prison also considered our draft report and did not raise any inaccuracies. They submitted an action plan addressing our recommendations which is at the end of this report.

HMP PRESTON

12. HMP Preston is a local prison holding up to 842 adult men. Lancashire Care Foundation Trust provides healthcare services at the prison. There is an inpatient unit for up to 30 prisoners which is used as a regional facility, including for end of life care.

HM Inspectorate of Prisons

13. The most recent inspection of HMP Preston was in April 2014. The Inspectorate found that healthcare, overall, was safe and decent. The inpatient unit provided patients with complex needs good support. However, some aspects of the environment and regime needed improvement.

Independent Monitoring Board

14. Each prison 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 recent 2014 annual report, the IMB noted that the primary care team at Preston provided a wide range of services and care.

Previous deaths at HMP Preston

15. This man was the eleventh prisoner to die of natural causes at HMP Preston since the beginning of 2013. There are no significant similarities between those cases and this man's.

HMP WYMOTT

16. HMP Wymott is a medium secure prison holding over 1,100 adult men. Lancashire Care NHS Foundation Trust provides healthcare services at the prison. A private company provides GP services and out of hours medical cover. There are no inpatient beds.

HM Inspectorate of Prisons

17. The most recent inspection of Wymott was in July 2014. The Inspectorate found the quality of health care was reasonably good, but undermined by long delays and poor access to GPs and the dentist. The range of clinics provided reflected the needs of the prison population.

Independent Monitoring Board

18. In its most recently published report, for the year to May 2014, the IMB noted that waiting times for GP appointments was an issue, but a nurse-practitioner triage system had ensured that urgent cases were seen promptly. The IMB considered that management and staff had worked hard to ensure that Wymott held prisoners with safety, decency, respect and security.

KEY EVENTS

19. The man was serving a life sentence and had been at HMP Wymott since 2007. He had a history of stomach problems including surgery for a perforated duodenal ulcer in 1963. In February 2013, he complained of abdominal pain and in August, doctors diagnosed stomach cancer. In February 2014, after further investigations, specialists decided the cancer was oesophageal cancer.

20. The man started radiotherapy in March 2014 but it made him feel ill and he refused to complete the course or have chemotherapy. Prison healthcare staff spoke to him about his decision and its implications but he signed a treatment refusal form on 21 March. After this, he attended for some treatment intermittently.

21. On 13 June, a GP at the prison prescribed the man morphine sulphate (a strong pain killer for severe pain). At some point (it is unclear exactly when), he was also prescribed oramorph (liquid morphine) for breakthrough pain.

22. On 26 June, an officer noted in his escort record that hospital staff had told the man that his cancer was unlikely to be cured but they hoped to reduce the size of the tumour.

23. By July, the man had started to lose weight. On 2 July, he refused to see the GP but the GP and a nurse went to see him in his cell. They noted his weight loss (even though he had been prescribed nutrition supplement drinks) and arranged to see him the next week. On 3 July, he had a barium X-ray. This did not show any narrowing of his oesophagus, as would have been expected if a tumour were present. Two doctors saw the man several times in July to discuss his treatment, appetite and pain.

24. During the course of his illness, doctors prescribed the man a combination of medications, including tricyclic antidepressants (to address nerve pain) and opioid analgesics. The medication generally seemed to alleviate his pain.

25. On 4 August, a nurse noted the man looked frail and had lost more weight. She emailed his oncologist for advice about whether it was appropriate to begin palliative care. On 6 August, a GP agreed that the man had deteriorated. He noted that the man was due to see his oncologist that month, and he would wait for her advice about whether palliative treatment was appropriate.

26. On 11 August, the man's oncologist replied to the nurse's email. She explained that radiotherapy only cures about 25 percent of patients so it was possible that his cancer had spread. She had requested a CT scan and expected the results to be available by the time she was due to see him on 28 August. She offered help from dieticians, if needed. Unless he requested one, she did not consider it was appropriate at that stage to ask the man to sign an order saying that he did not want anyone to attempt resuscitation if his heart or breathing stopped.

27. On 12 August, a prison GP told the oncologist he was concerned that the man might have secondary cancer. The oncologist said she was prepared to admit him to hospital straight away but the man did not want to go. He also refused to consider moving to the healthcare unit at HMP Preston. A nurse began a number of care plans to help manage the man's mobility, mental health and nutrition.

28. On 20 August, a nurse found the man in pain and clutching his stomach. She persuaded him to go to hospital. The outside hospital admitted him for three days and he had a CT scan while he was there.

29. On 28 August, the oncologist saw the man. She wrote to the prison doctor and said his CT scan showed a thickening of his oesophagus. She said it could not be determined whether this thickening was a result of the radiotherapy treatment but there was no obvious tumour present. There was no evidence of spread, as his lungs and liver were clear. She noted that the CT scan could not discriminate between the loops of the bowel because he was "so cachetic" (emaciation caused by cancer or other chronic disease) and recommended further investigation of his abdominal pain if he had on-going symptoms. She noted he had been referred to a urologist for prostrate problems and that he had emphysema. She said she had told the man that there was no obvious tumour but to know for certain whether there was any residual tumour he would need an endoscopy (a thin flexible tube with a camera to look inside the body). The oncologist had not arranged an endoscopy as this would not change his management. The man did not want an endoscopy.

30. On 3 September, against the advice of clinicians, the man signed a disclaimer saying he did not want to attend for treatment. It is not clear if this referred to a single appointment or future treatment.

31. On 14 September, a prison GP saw the man as his right leg was inflamed. He was concerned about his overall condition and asked for another GP and a nurse to review him the next day and consider a move to HMP Preston's inpatient unit.

32. On 15 September, a prison GP discussed with the man the possibility of moving to Preston. The man said he did not want to go as all his friends were at Wymott. He gave the GP a letter outlining his wishes after he died and said he just wanted to die peacefully. He indicated that he would not want to be resuscitated if his heart stopped. The GP said he should think about this for a couple of days and sign an order about this if he still felt the same later.

33. On 16 September, a nurse emailed the man's oncologist to tell her that he had deteriorated further and had pain in his abdomen. She noted the oncologist was not due to see him again until the end of October. The oncologist said she did not think the pain in his abdomen was caused by cancer. The next day, the man said he wanted to go to Preston, where he

would receive 24 hour care. He transferred to the inpatient unit at Preston that day.

34. When he arrived at Preston, the man told a nurse that he was fully aware of his diagnosis and prognosis, but there are no further notes explaining what he, or staff, believed this was. He seemed to settle well. His appetite was reasonable and he stayed mobile. A prison GP, who works at Preston as well as Wymott, prescribed oramorph for breakthrough pain. The man signed an order indicating he did not want to be resuscitated if his heart or breathing stopped. The records show that healthcare staff frequently reviewed his treatment and care.

35. On 27 September, a nurse assessed the man and recorded his National Early Warning Score as four, which was high. (National Early Warning Scores, NEWS, helps clinicians to assess the severity of a patient's condition and take action where necessary.) His temperature was less than 35 degrees, which was low. Nurses recorded his temperature several times over the next few days; it was generally low with one spike of 38.1 degrees on 3 October. The NEWS assessment guidance recommends that such temperature extremes should prompt an immediate and urgent clinical review, but there is no record that this happened.

36. On 6 October, a nurse noted that throughout the day the man had been very quiet and was cold. She took his temperature which was very low at 31.8 degrees and told him to stay wrapped up and have lots of hot drinks. Nurses continued to check on him over the next two days. Sometimes he refused extra blankets and said he was okay.

37. At 10.30am on a day in October, a nurse saw the man and noted he was weary, and was only managing to take small amounts of food and liquid. His temperature was only 31.6 degrees. She asked a GP to review him.

38. At 3.04pm, a prison GP saw the man and noted that his temperature and blood pressure were low. He considered he might have hypothermia and sepsis and arranged for him to go to hospital. He was taken to hospital at approximately 4.15pm. No restraints were used. Before he went, he agreed with a nurse that he would allow hospital staff to give him treatment to warm him and raise his blood pressure. At hospital, the man was treated and given antibiotics and oxygen, although a nurse said that he kept removing the oxygen mask. He died in hospital at 11.36pm. A chaplain from Wymott was with him at the time.

39. The man had nominated another prison chaplain as his next of kin. The prison told him when the man was admitted to hospital and he asked to be informed by telephone if he died. After the man died, the prison family liaison officer telephoned the chaplain. An officer at HMP Wymott told his close friend there in person and offered him support. Wymott arranged and paid for the man's funeral.

Cause of death

40. The Coroner gave the cause of death as 1a) Sepsis, 1b Bilateral pneumonia and 2) Oesophageal cancer. There was no post-mortem.

ISSUES

Clinical Care

41. The clinical reviewer concluded that the clinical care the man received in relation to his end of life care or in the early identification and treatment of his pneumonia, was not equivalent to that he could have expected to receive in the community.

42. The clinical reviewer considered that the man received appropriate treatment for cancer of the oesophagus and was able to make informed decisions about his treatment. He found no evidence that the man's cancer was terminal and that radiotherapy appears to have been more successful than anticipated, despite his erratic participation in his treatment.

43. The clinical reviewer was concerned that some healthcare professionals at Wymott and Preston seemed to have assumed that the man's declining health was a direct result of cancer, when it was probable it was not. He was surprised that doctors prescribed medication such as oramorph for pain relief, which is often used for conditions such as terminal cancer. He noted that the man had a history of emphysema but there was little evidence of it featuring in his treatment and care at either prison. He recognised that it did not appear to be at an advanced stage but there were some occasions when the man was recorded as having ankle oedema. This can be associated with heart failure caused by emphysema but was not investigated.

44. There appears to have been some lack of clarity about the man's condition after his treatment. A prison GP told us that the CT scan had been inconclusive, whereas the oncologist said in her opinion it was reasonable to assume there was no tumour left. However, she told us that the man's overall condition was very poor and he had told her he had no desire to prolong his life. She recognised that a nurse had seemed very worried about him and was in touch with her often for advice about his care.

45. It was evident that the man was very ill and did not want to prolong his life unnecessarily, whatever his diagnosis or prognosis. He suffered from pain, was very frail and his condition was steadily declining. It is not necessary for someone to have a terminal diagnosis before making a decision about resuscitation and we are satisfied that the prison GP properly discussed the issues with the man when he indicated he did not want to be resuscitated. However, the lack of clarity about his diagnosis and treatment is a concern. We make the following recommendation:

    The Heads of Healthcare at Wymott and Preston should ensure that treatment and care plans for prisoners nearing the end of their lives are based on an established diagnosis.

46. The clinical reviewer was also concerned that healthcare staff should have reacted more quickly to the man's decline in health in the days before his death, when his temperature was very low. Not all the nurses who monitored

him used the National Early Warning Scores. Those who used NEWS did not act on the high scores recorded. Such scores should have prompted urgent monitoring and intervention. The clinical reviewer said the scores indicated that the man was very sick and staff should have monitored and reviewed him hourly, documented a plan of care and carried out an urgent clinical evaluation. Because of the man's very frail state, it is not certain that earlier intervention would have altered the outcome, but it is possible that had this been done, his pneumonia would have been identified sooner and sepsis avoided. We make the following recommendation:

The Head of Healthcare at Preston should ensure that healthcare staff are trained to use the National Early Warning Scores (NEWS) system to assess the severity of acute illness, use it consistently and escalate care when indicated.

RECOMMENDATIONS

1. The Heads of Healthcare at Wymott and Preston should ensure that treatment and care plans for prisoners nearing the end of their lives are based on an established diagnosis and prognosis.

2. The Head of Healthcare at Preston should ensure that healthcare staff are trained to use the National Early Warning Scores (NEWS) system to assess the severity of acute illness, use it consistently and escalate care when indicated.

ACTION PLAN: [man's name] – HMP Preston

No	Recommendation	Accepted/Not accepted	Response	Target date for completion and function responsible
1	The Heads of Healthcare at Wymott and Preston should ensure that treatment and care plans for prisoners nearing the end of their lives are based on an established diagnosis and prognosis.	Accepted	On receipt of a patient with a suspected terminal diagnosis, both HMP Preston and HMP Wymott now contact the relevant consultant directly to establish an accurate diagnosis before proceeding to a care plan. All GPs are aware of this requirement, and a Band 6 manager will be allocated to inpatient units to lead on the shared care of all patients.	July 2015 Heads of Healthcare HMP Wymott & HMP Preston
2	The Head of Healthcare at Preston should ensure that healthcare staff are trained to use the National Early Warning Scores (NEWS) system to assess the severity of acute illness, use it consistently and escalate care when indicated.	Accepted	Inconsistencies in the use of and escalation of the NEWS scoring system were identified as part of a local investigation report. Action is being taken to highlight the correct use of the scoring system to all healthcare staff and scoring charts have been placed within relevant areas. The competency assessment for this system is now included in induction packs for new starters.	July 2015 Head of Healthcare HMP Preston