Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Graham Wilson a prisoner at HMP Rye Hill on 24 January 2016

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 Graham Wilson died of bronchopneumonia caused by pancreatic cancer on 24 January 2016, while a prisoner at HMP Rye Hill. He was 71 years old. I offer my condolences to Mr Wilson's family and friends.

I am satisfied that Mr Wilson received a good standard of care in prison, equivalent to that he could have expected to receive in the community. He was well supported by staff at Rye Hill, who referred him to hospital care promptly, when necessary. However, I do not consider that the use of restraints in hospital, towards the end of Mr Wilson's life, was justified by a fully considered risk assessment.

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 **July 2016**

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Summary

Events

1. Mr Graham Wilson had been in prison since 13 November 2013 and was serving a sentence of 11 and a half years. He had been at HMP Rye Hill since 7 October 2014. Mr Wilson had several health problems, including type 2 diabetes, high blood pressure, heart disease and back pain. Healthcare staff frequently reviewed his medical conditions, in consultation with hospital specialists.

2. On 11 July 2015, Mr Wilson complained of feeling sick after eating fatty foods and he had signs of jaundice. Healthcare staff sent him to hospital and he was admitted for investigation. On 15 July, Mr Wilson was diagnosed with pancreatic cancer.

3. At the end of August, surgeons attempted to remove Mr Wilson's tumour, but it was too large and they inserted a stent to improve his digestion. He was discharged from hospital on 4 September. Later that month, Mr Wilson's oncologist told him that the cancer was inoperable and incurable and began palliative care.

4. Healthcare staff created a care plan, in consultation with a Macmillan nurse, to manage Mr Wilson's pain and diet. They reviewed him every day. On 15 December, after he reported a pain in his leg, he was admitted to hospital and doctors found that the cancer had spread. Mr Wilson remained in hospital and died on 24 January 2016.

Findings

5. Prison healthcare staff managed Mr Wilson's health problems appropriately and sent him to hospital quickly when he had concerning symptoms. There was good communication between the prison and hospital staff. Prison healthcare staff supported him well after his diagnosis. We are satisfied that Mr Wilson received a good standard of care at the prison, equivalent to that he could have expected to receive in the community.

6. However, we are not satisfied that the reasons to restrain him during his last admission to hospital were justified by fully considered risk assessments, which took into account his deteriorating medical condition and his risk of escape. While restraints were eventually removed, he remained restrained when he was assessed as unable to walk.

Recommendation

- The Director 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 Rye Hill 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 Wilson's prison and medical records.

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

10. We informed HM Coroner for Coventry 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 Wilson's named next of kin, to explain the investigation. His next of kin had no specific issues she wanted the investigation to consider.

12. The investigation has assessed the main issues involved in Mr Wilson'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 Wilson's next of kin received a copy of the initial report. His next of kin did not make any comments.

14. The prison considered our initial report and recommendations, which they have accepted. The prison has also submitted an action plan detailing what they have done to address the issues we raised and this is included at the end of the report.

Background Information

HMP Rye Hill

15. HMP Rye Hill is run by G4S and holds more than 600 men convicted of sex offences. G4S Forensic and Medical Services provides primary physical and mental health services, and Northamptonshire Healthcare NHS Foundation Trust (NHFT) provides secondary mental health services. The prison does not have an inpatient facility.

HM Inspectorate of Prisons

16. The most recent inspection of HMP Rye Hill was in August 2015. Inspectors noted that the prison held a complex mix of serious offenders and some frail older men who needed significant levels of care. The inspection found that the quality of healthcare services was the weakest area of the prison. Services had not sufficiently adapted to meet the needs of the new population, when the prison had changed its role to take sex offenders in 2014. There were staff shortages and the available staff were not deployed efficiently. There were long waiting times for most clinics. A small group of regular GPs had run daily clinics since January 2015, which had improved consistency and prisoners' perceptions of service provision. However, prisoners waited up to three weeks for routine GP appointments. Prisoners had good access to pharmacy staff for advice.

Independent Monitoring Board

17. 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 March 2015, the IMB reported that health provision was inadequate, but hoped that a health needs analysis would result in extra resources to meet the additional needs of the changed population at the prison.

Previous deaths at HMP Rye Hill

18. Mr Wilson was the third person to die from natural causes at Rye Hill since January 2015. There were no significant similarities with the circumstances of the previous deaths.

Findings

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

19. On 13 November 2013, Mr Graham Wilson was sentenced to 11 years and six months in prison for sexual offences. He had been at HMP Rye Hill since 7 October 2014.

20. Mr Wilson had several longstanding health problems, including type 2 diabetes, high blood pressure, heart disease and neck, back and shoulder pain. Prison healthcare staff reviewed Mr Wilson's medical conditions frequently and sent him for several tests, to assess the possibility of other causes of his pain.

21. On 10 July 2015, Mr Wilson told a nurse that he felt sick after eating fatty foods. His eyes were yellow and the nurse thought he looked jaundiced. The nurse consulted a prison GP, who advised her to send Mr Wilson to the accident and emergency department at hospital for assessment. Mr Wilson refused to go when he was told that he would be handcuffed to an officer. The next day a manager reviewed his risk and reduced the level of restraint. A nurse manager then persuaded Mr Wilson to go to hospital.

22. The hospital admitted Mr Wilson and tests showed he had a tumour in his pancreas. On 16 July, hospital consultants told Mr Wilson he had pancreatic cancer.

23. We are satisfied that Mr Wilson received appropriate care at Rye Hill leading up to his initial diagnosis. Healthcare staff recognised the seriousness of his symptoms in July and quickly referred him to hospital, where he was informed of his condition.

Mr Wilson's medical treatment

24. After Mr Wilson was diagnosed with cancer, the nurse manager visited him in hospital and spoke to his consultants about his planned treatment. Mr Wilson agreed to have surgery to remove part of his pancreas and duodenum. On 17 July, Mr Wilson returned to Rye Hill. He told a nurse that, despite the tumour, he felt better and was not in any pain.

25. During the next few weeks, Mr Wilson had bouts of vomiting and diarrhoea and erratic blood sugar levels, which healthcare staff attempted to stabilise. Nurses reviewed Mr Wilson daily and asked him to keep a blood sugar diary, avoid fatty foods and eat small amounts.

26. On 22 July, a nurse, with advice from Macmillan specialist cancer nurses, created a cancer care plan, including multidisciplinary meetings to review his care. Mr Wilson was fully involved in decisions about his care and nurses reviewed him daily. Doctors prescribed painkillers as required.

27. On 26 August, Mr Wilson went back to hospital for surgery but during the operation, surgeons found that his tumour was too advanced to remove. Instead, they inserted a stent to improve his digestion.

28. On 4 September, the hospital discharged Mr Wilson back to Rye Hill, with a care management plan. Nurses checked and dressed his wound daily and gave him antibiotics to prevent infection. They advised him to exercise to increase his strength and mobility, in preparation for chemotherapy.

29. On 29 September, a nurse went with Mr Wilson the hospital to discuss his care. A consultant clinical oncologist told Mr Wilson that his cancer was inoperable and incurable. The consultant advised him to have palliative chemotherapy but did not say how long Mr Wilson was expected to live.

30. On 28 October, Mr Wilson complained that his food was not meeting his dietary needs. On 31 October, he refused to eat and was given sugar free protein shakes. A nurse subsequently arranged an appropriate soft food diet with the kitchen manager and Mr Wilson started eating again.

31. In November, Mr Wilson developed a rare abdominal infection. Prison doctors liaised with hospital microbiologists about the best course of treatment.

32. On 10 December 2015, a locum GP noted Mr Wilson had a painful swollen leg and prescribed creams to improve his circulation. Nurses monitored the swelling. On 15 December, when Mr Wilson again reported leg pain, he was admitted to hospital and doctors found that he had a deep vein thrombosis (DVT) and the cancer had spread to his liver.

33. After initially being stabilised, Mr Wilson developed sepsis (a life-threatening condition, triggered by an infection or injury, when the body's immune system goes into overdrive). He was treated with intravenous antibiotics. Doctors spoke to him about resuscitation and he said he did not want to be resuscitated if his heart or breathing stopped. At 10.27am on 24 January, Mr Wilson died of bronchopneumonia and pancreatic cancer.

34. We are satisfied that Mr Wilson's clinical care after his diagnosis was equivalent to that he could have expected to receive in the community. Staff at the prison supported him, in consultation with hospital staff and Macmillan nurses. When Mr Wilson's condition deteriorated, doctors referred him to hospital appropriately.

Mr Wilson's location

35. Apart from when he was in hospital, Mr Wilson remained in his cell in a standard wing at Rye Hill throughout his illness, which was what he wanted. He was given a panic alarm so he could call for help if necessary.

36. Mr Wilson was admitted to hospital on 15 December 2015 and on 24 December, he was well enough to be discharged. However, the prison was unable to accommodate him, as he was bed bound. He did not meet the admission criteria for a hospice at the time, so he remained in hospital. When his condition deteriorated in late January, the prison asked about the possibility of transferring him to a hospice, but hospital staff said he was unlikely to survive a move.

37. We are satisfied that Mr Wilson was appropriately accommodated throughout his illness.

Restraints, security and escorts

38. 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.

39. On 10 July 2015, Mr Wilson refused to go to hospital when healthcare staff told him he would be double handcuffed. (This is when the prisoner's hands are handcuffed in front of him and one wrist is attached to a prison officer by an additional set of handcuffs.) A prison manager reviewed the risk assessment and decided that officers should use 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).

40. On 15 December, when Mr Wilson's was admitted to hospital for the final time, officers used an escort chain. Later that day, a prison manager decided restraints were unnecessary. On 18 December, he was restrained again when his condition improved and he became mobile. On 11 January 2016, the escort chain was removed. However, on 12 January, he was restrained again when the hospital was considering discharging him, although an assessment that day indicated he could not walk. Despite his immobility and advanced terminal condition, Mr Wilson remained restrained until 14 January.

41. Public protection is fundamental, but security measures must be proportionate to a prisoner's individual circumstances. Mr Wilson was an elderly man with end stage cancer that left him with very limited mobility and he was escorted by two officers. It is difficult to see how managers concluded that he was a risk of escape or a risk of re-offending. Although prison managers later reviewed and eventually removed restraints, there had previously been little consideration of how his poor health and mobility affected his risk of escape, as the 2007 High Court judgment requires. We make the following recommendation:

    The Director 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 Wilson's family

42. On 8 September 2015, the prison appointed an officer as Mr Wilson's family liaison officer. On 22 September, at Mr Wilson's request, she telephoned his

next of kin to introduce herself and answer any questions about his care in the prison. She frequently visited Mr Wilson and kept in touch with his next of kin.

43. On 8 October, the officer met Mr Wilson's next of kin during a visit. She notified her when his health declined and supported her while he was in hospital. As agreed, she telephoned Mr Wilson's next of kin to inform her when he died, and offered her condolences and ongoing support.

44. Mr Wilson's funeral was held on 15 February. In line with national instructions, the prison offered a contribution to the funeral expenses, but his family declined.

45. We are satisfied the prison appropriately appointed a family liaison officer, who contacted Mr Wilson's next of kin in accordance with his wishes.

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. On 14 January 2016, a prison nurse telephoned the hospital, and asked them to fax the details of Mr Wilson's prognosis and life expectancy. On 22 January, after receiving the hospital's response, the prison sent an application for early release to the Public Protection Casework Section of the National Offender Management Service. Sadly, Mr Wilson died before the application could be considered. Although we consider that an application could have been made slightly earlier, we are satisfied that the prison applied appropriately for consideration of compassionate release.

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