Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Eric Rowe a prisoner at HMP Leeds on 17 January 2017

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 Eric Rowe died on 17 January 2017, of bronchitis and pneumonia at hospital. He was 75 years old. I offer my condolences to Mr Rowe's family and friends.

I am satisfied that Mr Rowe received a good standard of care at the prison, equivalent to that he could have expected in the community. However, I am concerned that restraints were used for three weeks while in hospital, without 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 **August 2017**

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Summary

Events

1. On 1 March 2011, Mr Rowe was sentenced to 15 years in prison for sexual offences and was sent to HMP Leeds.

2. Mr Rowe had type 2 diabetes, poor circulation, hypertension, leg ulcers on his right leg and was obese. He had previously contracted pneumonia and had a heart attack in 2014. Mr Rowe had leg oedema (a build up of fluid beneath the skin) and cellulitis (a bacterial infection). Prison GPs prescribed medication for hypertension, cholesterol, heart failure and antibiotics for infected leg ulcers.

3. On 24 July 2015, a nurse saw Mr Rowe in his cell because he had fallen over. He was unable to stand and incontinent of urine. He looked unwell; his oxygen saturation level was low and blood pressure high. She gave him oxygen and called an ambulance. Paramedics took him to hospital and doctors admitted him. Mr Rowe's condition deteriorated and, on 5 August, he was transferred to the intensive care unit and received intravenous antibiotics. His condition improved and he was returned to Leeds on 28 August. Healthcare staff regularly monitored his long term conditions during the next 12 months.

4. A nurse saw Mr Rowe in his cell on 18 July 2016. She said his right leg was swollen, his blood pressure high, his pulse high and he had a fever. She called an ambulance and paramedics said he might have sepsis (a life threatening widespread infection). They took him to hospital and doctors admitted him. He was returned to Leeds four days later. Healthcare staff regularly monitored his long term conditions for the remainder of the year.

5. A nurse saw Mr Rowe on 19 December 2016, because his legs were painful. She diagnosed cellulitis in his right leg. The lead nurse for wound care reviewed an ulcer on his right ankle. Healthcare staff admitted him to hospital.

6. Prison healthcare staff obtained regular updates regarding Mr Rowe's condition and treatment. His health remained poor and he died in hospital on 17 January 2017, of acute bronchitis and pneumonia.

Findings

7. We agree with the clinical reviewer that the care Mr Rowe received at Leeds was equivalent to that which he could have expected in the community. His long term conditions were managed satisfactorily in line with national standards.

8. On 19 December 2016, Mr Rowe was admitted to hospital. A nurse completed a healthcare risk assessment. The nurse indicated that Mr Rowe used a wheelchair, had poor mobility and that his condition restricted his ability to escape. She also noted that the use of double cuffs would hider his medical treatment but she did not object to the use of restraints. A prison manager considered the information he received from the nurse, and authorised the use of an escort chain. We do not consider this decision proportionate to the risks Mr Rowe posed at the time, given his very limited mobility and poor health and we

are disappointed that decision to remove the restraints was taken until 10 January, when healthcare staff gave a prison manager an update on his health.

Recommendation

- The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints 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

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

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

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

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

13. The investigator wrote to Mr Rowe's sister to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She did not respond to our letter.

14. We shared the initial report with the Prison Service. There were no factual inaccuracies.

Background Information

HMP Leeds

15. HMP Leeds is a local prison, which holds up to 1,149 men. On 1 April 2016, Care UK took over the primary healthcare services from Leeds Community Health. Leeds has an inpatient facility with 24 hour nursing care.

HM Inspectorate of Prisons

16. The most recent inspection of HMP Leeds was in December 2015. Inspectors noted that health provision had declined since the last inspection but outcomes for prisoners remained reasonable overall. Waiting times for most clinics were acceptable and chronic disease management arrangements were impressive.

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 December 2015, the IMB reported concerns at major changes to staffing levels and management structures. However, staff continued to show high levels of care and respect to prisoners. Overall, healthcare provision had improved over the last 12 months although there were concerns that these standards could deteriorate if staffing levels were affected by Care UK's takeover in April.

Previous deaths at HMP Leeds

18. Mr Rowe was the fifth prisoner to die of natural causes at Leeds since January 2016. We have previously made recommendations to the prison about the need for properly considered risk assessments for the use of restraints.

Key Events

19. On 1 March 2011, Mr Rowe was sentenced to 15 years in prison for sexual offences and was sent to HMP Leeds.

20. Mr Rowe had complex medical needs, with chronic health conditions. At his initial health screen, a healthcare assistant noted that Mr Rowe was obese and had leg ulcers on his right leg. A nurse also noted that Mr Rowe had type 2 diabetes, poor circulation, hypertension (high blood pressure), shortness of breath and high cholesterol. He had previously contracted pneumonia and had a heart attack in 2014. He had leg oedema (a build up of fluid beneath the skin) and cellulitis (a bacterial infection).

21. Mr Rowe said he had been to his GP three times a week to have his ulcers treated, that he had difficulty bending over to put on his socks that he walked with a stick and regularly slept in a chair.

22. A prison GP prescribed enalapril, lercanidipine, bisoprolol and aspirin for hypertension, simvastatin for cholesterol, furosemide for heart failure and antibiotics for infected leg ulcers.

23. Between March 2011 and December 2015, healthcare staff created care plans for diabetes, wound and leg ulcer care, cellulites and hypertension. They gave him advice and encouraged him to lose weight.

24. On 24 July 2015, a nurse saw Mr Rowe in his cell because he had fallen over. He was unable to stand and was incontinent of urine. He looked unwell, his oxygen saturation level was low (78%) and blood pressure high (180/100). She gave him oxygen and called an ambulance. Paramedics took him to hospital and doctors admitted him. Mr Rowe's condition deteriorated and on 5 August, he transferred to the intensive care unit and received intravenous antibiotics. His condition improved and he returned to Leeds on 28 August.

25. Healthcare staff regularly took Mr Rowe's clinical observations which included his blood pressure and pulse which they recorded as being within the normal limits. The wound care team dressed his leg ulcers three times a week. Prison GPs frequently reviewed Mr Rowe.

26. On 18 July 2016, a nurse saw Mr Rowe in his cell. She noted his right leg was swollen, his blood pressure high, his pulse high and he had a fever. She called an ambulance and paramedics said he may have sepsis (a life threatening widespread infection). They took him to hospital and doctors admitted him. He was returned to Leeds four days later. Hospital staff said he must have compression on his right leg and see the Tissue Viability (TV) service. Healthcare staff applied compression dressings and followed the wound care plan. It is not clear if he saw the TV service as the contract for two nurses to manage wound care ended in April 2016.

27. On 11 August 2016, a prison GP reported at a complex case review meeting that Mr Rowe was being managed well in view of his condition. There were no complex issues and those present at the meeting agreed that he did not need to be on the complex case list.

28. Mr Rowe did not always comply with his treatment plans. Healthcare staff talked to him about his care pans and treatment and monitored his long term conditions. They said his ulcers were mainly healed and dry.

29. On 19 December, a nurse saw Mr Rowe, who said his legs were painful. She noted his right leg was cellulitic, painful and sore. The lead nurse for wound care reviewed the ulcer on his right ankle. She said it was very inflamed and sore and his oxygen saturation level was not within the normal level. Healthcare staff admitted him to hospital with cellulitis.

30. Prison staff completed a risk assessment for Mr Rowe's escort to hospital. A nurse completed the medical section. She said that his medical condition restricted his ability to escape unaided but also said that restraints did not need to be removed for treatment. She said he used a wheelchair and had poor mobility and double cuffing would hinder medical treatment. She said the escorting officer would need to stand in the ambulance which could prevent venous access (access to the bloodstream through the veins).

31. A prison manager authorised the use of restraints; comprising a single standard cuff for escort and 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) to facilitate the use of the toilet while in hospital. He said restraints must be applied at all times. He also said any change to the instruction must be through the duty manager.

32. The escort officers recorded that Mr Rowe was not mobile, and that nurses had lifted him onto the ambulance trolley. They spoke to the prison manager, who reviewed his decision and authorised the use of an escort chain. The escort officers applied the escort chain. While at the hospital officers continued to restrain Mr Rowe. On 10 January 2017, following an update from healthcare staff, a prison manager reviewed the level of restraints and authorised their removal.

33. On 7 January 2017, because Mr Rowe was receiving end of life care, prison staff started the process for Release on Temporary Licence (ROTL – release granted for specific activities which cannot be provided in the prison) and Compassionate Release. Prisoners can be released from custody 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.

34. A prison manager classed Mr Rowe as a restricted prisoner for ROTL in line with PSI 13/2015. Restricted prisoners are not granted ROTL from closed prisons, unless there are exceptional circumstances. She said that she started a compassionate release application but because his health fluctuated she never submitted it.

35. Prison healthcare staff obtained frequent updates regarding Mr Rowe's condition and treatment. His health remained poor and he died in hospital on 17 January, of bronchitis and pneumonia.

Contact with Mr Rowe's family

36. On 9 January, when Mr Rowe's condition deteriorated, Leeds appointed an officer as the family liaison officer. He spoke to Mr Rowe's next of kin, his sister, and told her he was in the acute unit at hospital. The following day he met Mr Rowe's sister at the hospital. He remained in contact with the family.

37. Mr Rowe's family were at his bedside when he died. On 18 January, the officer spoke to Mr Rowe's sister and offered his condolences and support.

38. Mr Rowe's funeral was on 28 February. The prison contributed towards the costs in line with national policy.

Support for prisoners and staff

39. After Mr Rowe's death, a prison manager debriefed the staff on escort at the hospital to ensure they had the opportunity to discuss any issues arising, and to offer support. Staff said that they did not require the support from the Staff Care and Welfare Team.

40. The prison posted notices informing other prisoners of Mr Rowe's death, and offering support. Staff reviewed all prisoners assessed as being at risk of suicide or self-harm in case they had been adversely affected by Mr Rowe's death.

Post-mortem report

41. A post mortem examination found that the cause of Mr Rowe's death was acute bronchitis and bronchopneumonia (bronchitis and pneumonia) caused by chronic obstructive pulmonary disease (difficulty in breathing). Chronic ischaemic heart disease (blocked coronary arteries) and hypertensive heart disease (a group of heart disorders) contributed to his death.

Findings

Clinical Care

42. The clinical reviewer is satisfied that, overall, the care Mr Rowe received at Leeds was equivalent to that which he could have expected in the community. His long term conditions were managed satisfactorily in line with national standards. Healthcare records gave good detail and were completed on time.

43. The clinical reviewer said that HMP Leeds and Care UK should confirm the level of external Tissue Viability Nurse Support, and issues surrounding it. The Head of Healthcare should address this.

Restraints, security and escorts

44. 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.

45. 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. The judgement found that the using of handcuffs or other restraints on terminally ill or seriously ill prisoners was inhumane, unless justified by security considerations.

46. On 19 December 2016, Mr Rowe went to hospital. Before Mr Rowe's departure from Leeds, a nurse completed the medical section of the risk assessment. She said there were no medical objections to the use of restraints but his medical condition restricted his ability to escape unaided. She said that restraints did not have to be removed for treatment. She said that Mr Rowe suffered from impaired mobility and was a wheelchair user, and double cuffing would hinder medical treatment. She said the escorting officer would need to stand in the ambulance which could prevent venous access.

47. A senior prison manager, initially did not have medical information from healthcare staff and said he based his decision on Mr Rowe's prisoner category (Cat B), the offence, the length of sentence, the risk to the public, and his incentive and earned privileges (IEP) level. He advised the level of restraint as a standard double cuff.

48. The escorting officers questioned the level of restraint. They gave a senior prison manager a verbal assessment of Mr Rowe's physical capability. He asked healthcare staff to review their initial assessment, resulting in the information from the nurse. Despite reviewing the assessment, he said that there were still

no medical objections to the use of restraints. However he reduced his original decision to the use of an escort chain.

49. On 10 January 2017, following an update from healthcare staff, a prison manager reviewed the level of restraints and told staff to removed them.

50. Public protection is fundamental, but security measures must be proportionate to a prisoner's individual circumstances. It is difficult to see how, despite the in depth medical information provided by the nurse and the escort officers, the prison manager decided to restrain Mr Rowe. It is then difficult to understand why a very ill, immobile man with a low risk of escape was restrained for a further three weeks.

51. We are concerned that Mr Rowe's risk was not assessed using the tests required by the High Court judgement. The senior prison manager agreed to the use of an escort chain despite the contrary information provided to him by the nurse. We are concerned that despite prison healthcare staff obtaining frequent updates regarding Mr Rowe's deteriorating condition prison officers continued to restrain Mr Rowe for a further 22 days.

The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints 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.

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