Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Terence O'Reilly a prisoner at HMP Leeds on 21 April 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 Terence O'Reilly died in hospital on 21 April of blood cancer, while a prisoner at HMP Leeds. Mr O'Reilly was 79 years old. We offer our condolences to Mr O'Reilly's family and friends.

We consider that Mr O'Reilly received a good standard of care at HMP Leeds. Healthcare staff managed a very complex case well, ensuring that Mr O'Reilly received a level of care that was equivalent to that which he might have expected to receive in the community.

However, we are concerned that Mr O'Reilly was handcuffed during several hospital transfers and hospital stays. We consider that the use of restraints was disproportionate, given Mr O'Reilly's advanced age and ill health. We have made a previous recommendation to Leeds about the unjustified use of restraints on elderly prisoners in poor health.

This version of my report, published on my website, has been amended to remove the names of staff and prisoners involved in my investigation.

Elizabeth Moody
Acting Prisons and Probation Ombudsman **November 2017**

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Summary

Events

1. On 16 January 2017, Mr Terence O'Reilly was sentenced to 26 years in prison and was sent to HMP Leeds.

2. Mr O'Reilly had a history of poor health dating back to 2013, and suffered from various forms of blood cancer as well as lymph cancer. Mr O'Reilly had also been hospitalised in 2016 on five occasions because of sepsis (an invasion of bacteria into the blood stream). On entering prison Mr O'Reilly informed staff that he had a prognosis of no more than nine months to live.

3. Prison nurses and doctors set up a number of care plans to support Mr O'Reilly, and he was accommodated in a single cell to reduce his risk of infection.

4. On 28 January, Mr O'Reilly had a fall in his cell due to an episode of dizziness. Mr O'Reilly went to hospital, where he received transfusions for his blood disorder and also treatment for sepsis. Hospital doctors referred Mr O'Reilly for further tests as they thought his dizziness may be a result of an inner ear infection. Mr O'Reilly returned to prison on 2 February.

5. As part of Mr O'Reilly's care plan, healthcare professionals regularly monitored his condition. After a regular blood test on 10 February, Mr O'Reilly attended hospital for a blood transfusion as his platelet count was low. Three days later, on 13 February, Mr O'Reilly was admitted to hospital with sepsis. He remained in hospital for 14 days until 27 February. Mr O'Reilly was restrained using handcuffs during his hospital transfers and during his time in hospital.

6. During a regular health check on 7 March, Mr O'Reilly's temperature was recorded as over 39 degrees and he was admitted to hospital for treatment for sepsis. No restraints were used. Mr O'Reilly remained in hospital until 30 March, when he was discharged back to prison. During the next day, 31 March, Mr O'Reilly's condition deteriorated and he was transferred back to hospital in an emergency ambulance. Again, no restraints were used. Mr O'Reilly died in hospital on 21 April.

Findings

7. Mr O'Reilly was in poor health when he entered prison. He was at a high risk of infection and required significant medical support. Upon reception into prison, healthcare staff identified Mr O'Reilly's clinical needs, made sure he had a single cell and created a number of care plans to support his care needs. Throughout his time in prison, healthcare staff liaised effectively with those treating Mr O'Reilly in hospital and set up bespoke arrangements with the haematology department. This ensured that Mr O'Reilly was able to receive rapid and effective treatment when he required emergency transfer to hospital.

8. We are satisfied that healthcare staff managed a very complex case well, ensuring that Mr O'Reilly received a level of care that was equivalent to that which he might have expected to receive in the community.

9. We are, however, concerned that, apart from Mr O'Reilly's final two admissions to hospital in March 2017, he was handcuffed during his hospital transfers and hospital stays. We consider that the use of restraints was disproportionate to the risk that Mr O'Reilly posed at the time, given his advanced age and poor health. We found no evidence that Mr O'Reilly's age and medical condition had been taken into account when assessing risk.

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

10. 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.

11. The investigator obtained copies of relevant extracts from Mr O'Reilly's prison and medical records.

12. NHS England commissioned a clinical reviewer to review Mr O'Reilly's clinical care at the prison.

13. 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.

14. The investigator wrote to Mr O'Reilly's next of kin, his wife, to explain the investigation and to ask if she had any matters she wanted the investigation to consider. We did not receive a response to our letter.

15. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies.

Background Information

HMP Leeds

16. HMP Leeds is a local prison holding up to 1,219 men. Care UK runs primary healthcare services. The prison has an inpatient facility with 24-hour nursing care.

HM Inspectorate of Prisons

17. The most recent inspection of HMP Leeds was in December 2015. Inspectors reported that, overall, the prison had not kept up the improvements they had observed in January 2013, but they were confident that good leadership and a positive staff culture would lead to improvements. Inspectors considered that the healthcare services had declined, but outcomes for prisoners remained reasonable. They found that the management of long-term conditions was impressive, prisoners had good access to hospital appointments and liaison with specialist services was effective. The healthcare team had developed palliative care pathways, and used them well.

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 December 2016, the IMB noted that the new provider of healthcare provision, Care UK, appeared to be struggling, with prisoners complaining about the availability of healthcare and disruption to prescribed courses of medication. However, more recently there had been a steady improvement in Care UK's performance.

Previous deaths at HMP Leeds

19. Mr O'Reilly was the seventh person to die of natural causes at Leeds since January 2016. There has been one subsequent death due to natural causes. We have previously made recommendations to the prison about the need for properly considered risk assessments for the use of restraints.

Key Events

20. On 16 January 2017, Mr Terence O'Reilly was sentenced to 26 years for multiple counts of indecency with a child, rape and buggery. He was sent to HMP Leeds.

21. Mr O'Reilly was in poor health when he arrived at Leeds. In 2013, Mr O'Reilly was diagnosed with multiple myeloma (a treatable, but not curable, type of bone marrow cancer) for which he received chemotherapy and a stem cell transplant. In April 2014, Mr O'Reilly was diagnosed with myelodysplastic syndrome (an incurable cancerous condition of the bone marrow) for which he received regular red blood cell and platelet transfusions. In January 2015, Mr O'Reilly was told there had been a relapse of his multiple myeloma and he was also diagnosed with diffuse large B cell lymphoma (an aggressive cancer of the lymph glands). Mr O'Reilly received radiotherapy to treat this condition. During 2016, Mr O'Reilly was admitted to hospital on five separate occasions with sepsis (invasion of bacteria into the blood stream).

22. At his initial health screening on reception into prison, Mr O'Reilly told the nurse that he had terminal cancer and had nine months to live. She noted Mr O'Reilly's complex medical history, and that Mr O'Reilly attended Doncaster Royal Infirmary every Monday for blood tests to determine whether he needed a transfusion for his bone marrow cancer. (If his blood count was low then Mr O'Reilly would receive his transfusion the following day.) The nurse also noted Mr O'Reilly's record with an alert in respect of his increased risk of infection and sepsis (a condition that can cause a medical emergency due to low number of white blood cells). The nurse also noted that Mr O'Reilly was in possession of his regular medication which he had brought with him. As Mr O'Reilly had his medication with him, the nurse did not request a prison GP to see him. Mr O'Reilly was placed in a single cell after the nurse completed the cell sharing risk assessment indicating that due to Mr O'Reilly's increased risk of infection, and sepsis, he should not share a cell.

23. On the following day, 17 January 2017, Mr O'Reilly saw a nurse for a secondary health screening. He raised a concern about missing his regular hospital appointments but the nurse informed him that the administration team had already chased up any outstanding appointments. On the same day Mr O'Reilly had a social care assessment, during which he stated he did not need any help or support with daily activities, for example dressing or washing. However, given his complex care needs the nurse added Mr O'Reilly to the prison healthcare unit's complex case list. This meant that Mr O'Reilly's care needs would feature at the weekly multidisciplinary team meeting (a meeting of health professionals of different expertise).

24. On 20 January, Mr O'Reilly was due to have a blood test. However, the prison was in 'lock down' and as a result, Mr O'Reilly was unable to attend for a blood test. A further appointment was booked for 24 January. On the same day the prison GP contacted Doncaster Royal Infirmary where Mr O'Reilly had been receiving regular treatment. The doctor wanted to understand Mr O'Reilly's previous medical history and to discuss possible risk factors. The hospital indicated that the biggest risk for Mr O'Reilly was sepsis and that if his temperature spiked above 38 degrees he should be admitted to hospital immediately.

25. On 25 January, Mr O'Reilly saw a prison GP as a new patient referral. The doctor examined Mr O'Reilly and although he was feeling a 'bit groggy', his pulse, blood pressure and temperature were all within expected ranges. It was two weeks since Mr O'Reilly had received a blood transfusion. The doctor was awaiting blood test results, which were received later that day. The results identified significant abnormalities, including low levels of white blood cell count and high levels of red blood cell distribution. Given the results, the doctor made an urgent referral to the haematology department at St James's University Hospital, Leeds.

26. On 28 January, Mr O'Reilly collapsed in his cell in the toilet area. He reported having felt dizzy and that he had fallen. He sustained a small cut to his head, but otherwise was unhurt. Two nurses attended and requested an ambulance to take Mr O'Reilly to hospital after he told them that he had recently suffered a nose bleed and been coughing up blood for the past few days. Mr O'Reilly left prison in an ambulance and was admitted to St James's. Two prison officers accompanied him and restrained him using handcuffs during transfer and during his time in hospital. Officers used an escort chain during treatment having gained authority from the Duty Governor. (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.)

27. During his time in hospital, Mr O'Reilly received a number of transfusions of red blood cells and platelets and also received intravenous antibiotics to treat his sepsis. Doctors examining Mr O'Reilly considered he may have an inner ear infection, which could have caused the fall in prison, and made a referral for further tests as an outpatient. During his admission, prison healthcare staff set up arrangements for Mr O'Reilly to receive blood transfusions on a weekly basis, if needed, and established a named point of contact with a haematology nurse specialist. Mr O'Reilly returned to prison on 2 February.

28. On 3 February, a nurse assessed Mr O'Reilly to check whether he needed help to manage day to day tasks. He indicated that he did not need help to dress or with his personal hygiene, but he agreed that a move closer to the healthcare unit would probably be helpful. On 6 February, Mr O'Reilly was moved to the healthcare unit. To support his mobility needs, the toilet area in the cell was modified with grab rails. Nurses also assessed Mr O'Reilly's skin integrity and his weight. Healthcare staff ordered pressure ulcer prevention equipment to address any risk of Mr O'Reilly deteriorating and getting bed sores. Healthcare staff placed a medical hold on Mr O'Reilly's records so that he would not be transferred to another prison, thus ensuring continuity of care.

29. On 9 February, results from Mr O'Reilly's regular blood tests were outside normal expected levels, and there was a concern that his platelets levels were low. A nurse made immediate contact with the haematology nurse specialist at St James's to make arrangements for Mr O'Reilly to have a blood transfusion. Mr O'Reilly went to hospital in an emergency ambulance at 12.53am on 10 February, once a bed had become available at the hospital. He was accompanied by two prison officers and restrained throughout with handcuffs. Mr O'Reilly returned to prison, having received blood transfusions, just before midnight on 10 February.

30. On 12 February, Mr O'Reilly was seen by a nurse in his cell as he was incontinent of urine and confused. Mr O'Reilly could not sit up in bed and said he could not

walk. Mr O'Reilly had a high temperature (39.1 degrees) and his pulse and breathing rates were raised. Healthcare staff immediately requested an emergency ambulance and Mr O'Reilly was transferred to St James's. Two officers accompanied Mr O'Reilly who was restrained using handcuffs. A review by the Prison Governor on 17 February authorised the use of an escort chain from that point forward. While in hospital, Mr O'Reilly received treatment for sepsis, and blood transfusions for red blood cells and platelets.

31. Mr O'Reilly was returned to prison at 9.00pm on 27 February. On 28 February, Mr O'Reilly saw a nurse for a regular assessment. During the conversation, Mr O'Reilly informed the nurse that hospital doctors had given him a prognosis of approximately one month to live. The nurse assured Mr O'Reilly that the nursing team would support him and ensure he was comfortable. Mr O'Reilly acknowledged this but indicated he had good support from his family and a cancer specialist nurse. During the following week, Mr O'Reilly's condition remained stable.

32. On 7 March, officers alerted a nurse that Mr O'Reilly looked unwell. The nurse carried out routine observations and gave Mr O'Reilly oxygen. She noted that Mr O'Reilly had a high heart rate and his temperature was 39.3 degrees. The nurse called for an emergency ambulance and Mr O'Reilly was taken to St James's, where he received treatment for sepsis, and blood transfusions. The Prison Governor authorised no restraints and a two officer escort. During his admission in hospital Mr O'Reilly signed a do not attempt cardiopulmonary resuscitation (DNACR) order. Mr O'Reilly later signed a similar DNACR order in prison on 31 March after a discussion with the prison GP.

33. Prison nurses regularly visited Mr O'Reilly during his time in hospital. A nurse discussed with medical staff the process of early release on compassionate grounds for prisoners with a prognosis of less than three months. On 10 March, the nurse left the form with medical staff for completion. On 24 March, the Prison Governor chased up this form but as Mr O'Reilly was still receiving treatment and his prognosis was unclear medical staff could not complete the early release application.

34. Mr O'Reilly was returned to prison on 30 March but was required to return to hospital every three days for transfusions. Nurses had noted this on Mr O'Reilly's record prior to his discharge and arrangements were made to accommodate this requirement.

35. On 31 March, at 7.03pm, during a routine clinical observation, a nurse noted that Mr O'Reilly seemed drowsy, that his blood pressure was low and that his oxygen levels were also low (oxygen saturation levels of 92%). The nurse set half hourly observations and notified prison security that Mr O'Reilly may need an emergency admission to hospital if his health did not improve.

36. At 8.00pm, the nurse requested an emergency ambulance and Mr O'Reilly was taken immediately to St James's. The nurse spoke to the haematology nurse specialist contact and alerted the hospital to Mr O'Reilly's imminent arrival. Two prison officers accompanied Mr O'Reilly who was not restrained. Mr O'Reilly remained in hospital until his death at 10.58pm on 21 April.

Contact with Mr O'Reilly's family

37. On 6 February, the prison appointed a supervising officer (SO) as the prison's family liaison officer. The SO introduced himself to Mr O'Reilly on 3 March and advised him that updating his approved visitor log would allow family members to be granted access if he was hospitalised again. The SO regularly carried out bed watch shifts while Mr O'Reilly was in hospital. During a bed watch shift on 22 March, the SO introduced himself to the family who were visiting Mr O'Reilly.

38. On 25 March, the SO provided the family with paperwork about the assisted visits scheme, a scheme that provides financial assistance for visits to families of prisoners in certain circumstances. The family were finding travelling to Leeds from Doncaster to visit Mr O'Reilly a financial strain.

39. During Mr O'Reilly's time in hospital, his family and prison healthcare staff attended multidisciplinary meetings at the hospital, to discuss arrangements for Mr O'Reilly's end of life care. The prison healthcare team discussed options with the family for transferring Mr O'Reilly to a hospice nearer home. They started this process on 20 January but did not proceed following advice from hospital doctors that any attempt to move Mr O'Reilly would not be safe as it could hasten his death. Mr O'Reilly therefore remained in St James's where he died.

40. Mr O'Reilly's family were at his bedside when he died. As the SO was going on holiday he had handed over family liaison duties to a prison officer. The officer had introduced himself to the family on 31 March and had been in regular contact with the family about moving Mr O'Reilly to a hospice. On the evening of Mr O'Reilly's death, the officer contacted the family to offer condolences and support.

41. The officer remained in contact with Mr O'Reilly's family in the immediate period after Mr O'Reilly's death to offer support. The prison offered financial support for the costs of the funeral in line with national policy, but Mr O'Reilly's family declined support as they had arrangements in place.

Support for prisoners and staff

42. After Mr O'Reilly's death, a prison governor debriefed the staff involved in the emergency response to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support.

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

Post-mortem report

44. The coroner concluded that the cause of death was multiple myeloma and myelodysplastic syndrome (blood cancer).

Findings

Clinical care

45. Mr O'Reilly suffered from a number of chronic medical conditions. When he arrived at HMP Leeds, his previous medical history was noted and he was accommodated in a single cell to reduce the risk of infection. Prison healthcare staff ensured that clear and effective care plans were in place. In line with good practice, Mr O'Reilly was subject to NICE endorsed 'sepsis safety netting' practices (a process that reduces a patient's risk of developing sepsis and identifies triggers and signs).

46. Throughout his time in prison, Mr O'Reilly was subject to complex care pathway arrangements, which ensured that he was subject to regular health checks and observations. Through effective care plans staff were aware of risk triggers and knew when to refer Mr O'Reilly for emergency specialist treatment. The prison healthcare unit established an effective point of contact with the local hospital. When Mr O'Reilly was in hospital, prison staff maintained daily contact with the hospital, attended multidisciplinary team meetings and also visited Mr O'Reilly to check on his health and progress.

47. Mr O'Reilly had complex health and care needs these were recognised. Staff treated Mr O'Reilly with dignity and compassion.

48. We agree with the clinical reviewer's conclusion that the standard of care Mr O'Reilly received was equivalent to that which he could have expected in the community.

Restraints, security and escort

49. While the Prison Service has a fundamental responsibility to protect the public, security has to be legally justified and balanced 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.

50. Mr O'Reilly was restrained using handcuffs on three occasions when he was taken to hospital on 28 January, 10 February and 12 February 2017. He was also handcuffed in hospital, apart from when he was receiving treatment, when an escort chain was applied instead. The risk assessment for 28 January showed that the prison considered Mr O'Reilly was a medium risk to the public and a low risk of escape. The February risk assessments showed Mr O'Reilly was assessed as a low risk to the public and a low risk of escape. Healthcare staff did not raise any objections to the use of restraints.

51. We acknowledge that restraints were not used during Mr O'Reilly's final two hospital admissions during March 2017. However, we are still concerned that prison managers authorised the use of restraints prior to that. Mr O'Reilly was aged 78 at the time, and was suffering from blood cancer that required frequent blood transfusions. We found no evidence that Mr O'Reilly's advanced age and medical condition had been taken into account when deciding that the use of restraints was appropriate. We consider that prison managers failed to justify the

use of restraints on Mr O'Reilly and that their use was disproportionate. 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 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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