Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Brian Gilbert a prisoner at HMP Northumberland on 19 March 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*

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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.

We carry out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

Mr Brian Gilbert died in hospital on 19 March 2017 of bronchopneumonia while a prisoner at HMP Northumberland. He was 83 years old. We offer our condolences to Mr Gilbert's family and friends.

We consider that Mr Gilbert received a good standard of clinical care at Northumberland equivalent to that which he could have expected to receive in the community.

However, we are concerned that Mr Gilbert was restrained when he was taken to hospital and during some of his time there, including when he was in the intensive care unit. Mr Gilbert was an elderly, unwell man and the use of restraints in these circumstances was clearly disproportionate.

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 **December 2017**

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Summary

Events

1. On 17 October 2014, Mr Brian Gilbert was sentenced to six years imprisonment for sexual offences against children. He was transferred to HMP Northumberland on 8 December.

2. Mr Gilbert's medical record shows that he was in good health for his age and his only prescribed medication was for ischaemic heart disease (narrowing of the arteries supplying the heart). On 15 November 2016, he was offered an influenza vaccination but he declined it.

3. On 3 March 2017, Mr Gilbert was admitted to Northumbria Specialist Emergency Care Hospital after he complained of shortness of breath and coughing up blood. He was escorted by two prison officers and restrained using a single pair of handcuffs. On 4 March, his condition deteriorated rapidly and he was moved to the intensive care unit. Mr Gilbert was restrained with handcuffs for the move, but he was subsequently restrained with an escort chain. On 6 March, a prison manager authorised removal of the chain after a doctor had complained that it was interfering with Mr Gilbert's treatment.

4. On 16 March, Mr Gilbert showed signs of improvement and was transferred to Wanesbeck General Infirmary. Restraints were reapplied for the move, but were removed the following day after Mr Gilbert's health deteriorated. Despite active treatment, Mr Gilbert's health declined further and he died at 12.10am on 19 March. The post-mortem report concluded that he died of bronchopneumonia as a result of an influenza infection.

Findings

5. During Mr Gilbert's time at Northumberland there was no evidence to suggest he had any cognitive impairment. The clinical reviewer noted that Mr Gilbert had the mental capacity to make his own decisions on treatments.

6. We agree with the clinical reviewer that the clinical care provided to Mr Gilbert was of a good standard and was equivalent to that which he could have expected to receive in the community.

7. We are concerned that prison managers authorised the use of restraints on Mr Gilbert when he was taken to hospital and during some of his time there, including when he was in a critical condition in intensive care. We consider the use of restraints in these circumstances was disproportionate.

Recommendations

- 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 the prisoner and are based on the actual risk the prisoner presents at the time.

The Investigation Process

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

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

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

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

12. The investigator wrote to Mr Gilbert's next of kin, a friend, 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.

13. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

Background Information

HMP Northumberland

14. HMP Northumberland can hold 1,300 men. Sodexo Justice Services manages the prison and G4S provide the healthcare services. Healthcare staff are on duty from 7.30am to 7.30pm Monday to Thursday and from 7.30am to 6.00pm on Friday. At the weekend and on bank holidays, healthcare staff are on duty from 8.00am to 6.00pm. Northern Doctors provide an out of hours service at other times.

HM Inspectorate of Prisons

15. The most recent inspection of HMP Northumberland was in September 2014. The report was critical of many aspects of the prison but found that the quality of healthcare was generally good and appreciated by prisoners. There was an appropriate range of clinics to meet prisoners' needs.

Independent Monitoring Board

16. 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 recently published report for the year to 31 December 2016, the IMB noted that direct prisoner feedback on their experience of healthcare services was generally positive. The Board also noted that while waiting times for urgent care were not of concern, waiting times for routine care had deteriorated.

Previous deaths at HMP Northumberland

17. Mr Gilbert was the sixth prisoner to die from natural causes at Northumberland since January 2015. There have been three deaths due to natural causes since. In one of the previous five deaths, we made a similar finding about the inappropriate use of restraints.

Key Events

18. On 17 October 2014, Mr Brian Gilbert was sentenced to six years imprisonment for historic sexual offences against children and was sent to HMP Holme House. On 8 December, he was transferred to HMP Northumberland as part of his sentence progression.

19. Mr Gilbert's medical record shows that he was prescribed Aspirin and Atenolol for ischemic heart disease (narrowing of the arteries supplying the heart) but was otherwise in good health for his age. Although he was past retirement age, Mr Gilbert enjoyed working in one of the workshops, packing breakfast bags.

20. Mr Gilbert had regular medication reviews and older person assessments throughout 2015 and 2016. Other than a urine infection, which was treated with antibiotics, he remained in reasonably good health.

21. On 15 November 2016, a nurse noted in Mr Gilbert's medical record that he refused an influenza vaccination.

22. On 3 March 2017, a nurse saw Mr Gilbert. He told the nurse he was short of breath and had been coughing up blood. His blood pressure and pulse were normal but his oxygen saturation level was low at 90% and his temperature was slightly raised at 37.6 degrees.

23. The nurse listened to Mr Gilbert's chest and heard respiratory crackles (abnormal lung sounds that can be indicative of respiratory distress). Following her assessment of Mr Gilbert's symptoms, the nurse arranged for Mr Gilbert to be transferred to Northumbria Specialist Emergency Care Hospital for further tests. He was accompanied by two prison officers and restrained using a single pair of handcuffs (which were replaced with an escort chain for the ambulance journey). Mr Gilbert was admitted and treated for a chest infection.

24. On 4 March, Mr Gilbert's condition deteriorated rapidly and he was assessed as being in respiratory distress. He was moved to the intensive care unit, where he was sedated and in a critical condition. He was restrained with handcuffs for the move, but these were replaced with an escort chain once he was in intensive care. On 6 March, a doctor complained to prison staff that the escort chain was causing the cannulas in Mr Gilbert's arms to bleed (a cannula is a thin tube that is inserted into a vein and used to administer medication). The same day, a prison manager authorised the removal of the escort chain.

25. On 10 March, Mr Gilbert showed some signs of improvement and was taken off sedation. On 13 March, after a discussion with doctors, he signed a Do Not Attempt Cardiopulmonary Resuscitation (DNACPR) order. This meant that in the event of cardiac or respiratory arrest no attempt at resuscitation would be made.

26. On 16 March, Mr Gilbert was transferred to Wanesbeck General Infirmary. He was again restrained using handcuffs for the move but an escort chain was then applied. On 17 March, following deterioration in Mr Gilbert's health, a prison manager authorised the removal of the escort chain. Despite active treatment, there was a further decline in Mr Gilbert's health and he died at 12.10am on 19 March.

Contact with Mr Gilbert's family

27. On 3 March, a prison manager contacted Mr Gilbert's next of kin and arranged for her to visit Mr Gilbert in hospital.

28. On 5 March, a prison officer was appointed as a family liaison officer. At 2pm, he went to the hospital and spoke to Mr Gilbert's next of kin. He explained his role and the support he could offer. The officer remained in contact with Mr Gilbert's next of kin over the following days.

29. On 13 March, hospital staff told Mr Gilbert's next of kin that his condition was deteriorating and he would no longer be resuscitated. As Mr Gilbert died during the early hours of 19 March, hospital staff telephoned his next of kin to inform her of his death.

30. At 9am, another family liaison officer spoke to Mr Gilbert's next of kin to offer her condolences and support, and remained in regular contact. On 21 March, Mr Gilbert's next of kin visited Northumberland and Mr Gilbert's cell.

31. A memorial service was held on 30 March in Mr Gilbert's house block. Mr Gilbert's funeral took place on 3 April. The prison contributed to the costs of Mr Gilbert's funeral in line with national instructions.

Support for prisoners and staff

32. Following Mr Gilbert's death, bed watch staff were supported by the night orderly officer. The staff care team also offered support.

33. The prison posted notices informing other prisoners of Mr Gilbert's death, and offering support.

Post-mortem report

34. The post-mortem report showed that Mr Gilbert died from bronchopneumonia as a result of an influenza infection. It also showed that Mr Gilbert had chronic lung diseases in the form of pulmonary emphysema and pulmonary fibrosis, which represented the underlying cause of death.

Findings

Clinical care

35. Mr Gilbert refused the influenza vaccination offered to him on 15 November 2016. As Mr Gilbert did not give his consent, the vaccination could not be administered. During Mr Gilbert's time at Northumberland there was no evidence to suggest any cognitive impairment. During a review on 23 February 2016, a prison doctor noted that Mr Gilbert was coherent and showed no signs of acute mental illness. The clinical reviewer noted that Mr Gilbert had the mental capacity to make his own decisions on treatments.

36. Prior to his admission to hospital on 3 March 2017, Mr Gilbert was in good health, living independently on a standard residential wing. Mr Gilbert had no nursing or medical needs so this was an appropriate location for him.

37. The clinical reviewer noted that appropriate monitoring and assessment processes were in place to manage Mr Gilbert's pre-existing conditions. He accessed services that met his individual health needs within the prison setting.

38. Healthcare staff responded appropriately to the deterioration in Mr Gilbert's health on 3 March. They arranged a timely transfer to hospital, so that a full assessment of Mr Gilbert's medical condition could be undertaken by specialists.

39. We agree with the clinical reviewer that the clinical care provided to Mr Gilbert was of a good standard and was equivalent to that which he could have expected to receive in the community.

Restraints, security and escorts

40. 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.

41. 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.

42. When Mr Gilbert was taken to hospital on 3 March, a nurse completed the healthcare section of the escort risk assessment to show that there were no medical objections to the use of restraints and that medically, in their opinion, Mr Gilbert was able to escape unaided. A prison manager completed the risk assessment to show that apart from his conviction for sexual offences, there was no evidence that Mr Gilbert posed any risk, including a risk to the public or risk of escape.

43. While we accept that Mr Gilbert was mobile when he left the prison on 3 March and was not seriously ill at that time, he was nevertheless a very elderly, unwell man. Given that he was accompanied by two prison officers, we consider that the use of restraints on Mr Gilbert for his hospital transfer was disproportionate.

44. We are concerned that once in hospital, Mr Gilbert continued to be restrained, even when his condition deteriorated. It is unacceptable that Mr Gilbert was restrained while in a critical condition in intensive care, and that it was not until a doctor complained that the escort chain was causing Mr Gilbert's cannulas to bleed, that a prison manager authorised that restraints could be removed. We are surprised and disappointed that restraints were reapplied when Mr Gilbert was moved to a different hospital, although they were removed the following day when it became clear that Mr Gilbert was seriously ill.

45. Prison staff and healthcare staff must follow the findings of the High Court judgment when they complete escort risk assessments. Proper consideration of a prisoner's risk of escape should take into account the prisoner's health and mobility, and ensure that restraints are authorised only where their use is proportionate to the risk they pose. 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 the prisoner and are based on the actual risk the prisoner presents at the time.

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