Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Ms Tracey Burke a prisoner at HMP Peterborough on 2 May 2016

A report by the Prisons and Probation Ombudsman Nigel Newcomen CBE

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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.

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.

Ms Tracey Burke died on 2 May 2016 of pneumonia while a prisoner at HMP Peterborough. She was 52 years old. I offer my condolences to Ms Burke's family and friends.

I am satisfied that Ms Burke received appropriate care at the prison and doctors quickly referred her to hospital for further investigation when her condition deteriorated. However, I do not consider that a decision to restrain Ms Burke when she was taken to hospital fully took into account her health and actual risk at the time.

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 **December 2016**

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Summary

Events

1. On 10 December 2015, Ms Tracey Burke was remanded in custody for breach of a restraining order and sent to HMP Peterborough.

2. Ms Burke had a long history of mental health problems. She also suffered from type 1 diabetes, poor vision and needed a zimmer frame to assist her walking. Prison GPs prescribed anti-psychotic medication to manage her mental health condition and insulin to control her diabetes. Healthcare staff implemented appropriate care plans.

3. In January 2016, Ms Burke complained of a chesty cough, a reduced appetite and said that she sometimes coughed up blood. A prison GP prescribed antibiotics for a chest infection. Ms Burke had an abnormal liver function test and a GP referred her for an ultrasound scan, which did not reveal any abnormalities.

4. On 17 March, a prison GP admitted Ms Burke to the prison's inpatient unit after wing staff expressed concern about her physical health. The GP made an urgent referral to a specialist for suspected cancer.

5. On 25 March, Ms Burke's oxygen saturation level and blood sugar levels were low. Ms Burke said she had experienced chest pains but had not reported this to night staff. A prison GP arranged for an ambulance to take Ms Burke to hospital with a suspected pulmonary embolism. Officers restrained her with handcuffs for the journey and an escort chain once in hospital.

6. Hospital doctors treated Ms Burke with oxygen therapy and intravenous antibiotics, and diagnosed pneumonia. A prison manager authorised officers to remove restraints on 26 March. A CT scan revealed a growth on Ms Burke's neck. However, doctors were unable to investigate this further due Ms Burke's very poor physical condition.

7. Ms Burke remained in hospital and staff there implemented a palliative care plan. Ms Burke's condition continued to decline and she died in hospital on 2 May 2016.

Findings

8. Prison GPs appropriately investigated the deterioration in Ms Burke's physical health and quickly sent her to hospital for further investigation. We are satisfied that Ms Burke's care in prison was equivalent to that she could have expected to receive in the community

9. However, we are concerned that a prison manager authorised officers to restrain Ms Burke when she was sent to hospital on 25 March, despite her limited mobility and poor state of health. The restraints remained in place for the first day, while she underwent intravenous treatment. While we are pleased that Ms Burke was not restrained for the majority of her time in hospital, we do not consider that the initial decision to restrain her was based on carefully considered

risk assessments which took full account of Ms Burke's poor health and limited mobility, and how they affected her already low risk of escape.

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

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

11. The investigator obtained copies of relevant extracts from Ms Burke's prison and medical records.

12. NHS England commissioned a clinical reviewer to review Ms Burke's clinical care at the prison.

13. We informed HM Coroner for Cambridgeshire of the investigation who gave us a copy of the post-mortem examination. We have sent the coroner a copy of this report.

14. One of the Ombudsman's family liaison officers contacted Ms Burke's husband to explain the investigation. Mr Burke's husband had no specific matters for the investigation to consider.

15. Ms Burke's husband received a copy of the initial report. He did not raise any further issues, or comment on the factual accuracy of the report.

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

Background Information

HMP Peterborough

17. HMP Peterborough is privately operated by Sodexo Justice Services. It holds men and women in separate sides of the prison. The women's side of the prison holds over 300 women. There is 24-hour healthcare provision

HM Inspectorate of Prisons

18. The most recent inspection of the women's side of HMP Peterborough was in June 2014. Inspectors found that the standard of healthcare services was variable. Although women could see a GP shortly after arrival, reception and secondary health screenings did not adequately assure inspectors that all health risks were identified. Well Woman services were very good and women prisoners had reasonable access to the nurse triage clinic and GPs, including a female GP. Care for women with long-term conditions was developing. Inspectors considered that the purpose of the inpatient unit was unclear.

Independent Monitoring Board

19. 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 2016, the IMB reported that the healthcare unit continued to offer appropriate support to residents. The Health Promotion Action Group met regularly to plan awareness raising events for conditions including breast cancer, diabetes and oral health. Prisoners were able to access screening programmes for breast and cervical cancer.

Previous deaths at HMP Peterborough

20. Ms Burke was the second woman prisoner to die from natural causes at Peterborough since January 2015. There were no significant similarities with the circumstances of the other death.

Key Events

21. On 10 December 2015, Ms Tracey Burke was remanded in custody for breach of a restraining order and sent to HMP Peterborough.

22. Ms Burke had a long history of mental health problems and received treatment in hospital for persistent delusional disorder. She suffered from insulin controlled type 1 diabetes, poor vision and needed a zimmer frame to assist her walking. Prison GPs prescribed anti-psychotic medication and insulin and nurses created a care plans to manage both her mental health needs and diabetes. Ms Burke lived in a single cell on the ground floor of the wing. The prison identified a prisoner carer (a fellow prisoner who provides support with daily living) to help Ms Burke.

23. On 25 January 2016, a prison nurse saw Ms Burke, who said she had coughed up blood. The nurse made a GP appointment for the next day but Ms Burke did not attend because she had a legal visit.

24. On 28 January, a prison GP assessed Ms Burke, who complained of a chesty cough, reduced appetite and that she had sometimes coughed up blood. The doctor diagnosed a chest infection and prescribed antibiotics.

25. On 2 February, Ms Burke told the GP she was now coughing up blood every morning. He arranged a full set of blood test and liver function tests. He received the results on 8 February, which revealed an abnormal liver function. He arranged to see Ms Burke on 11 and 15 February to discuss the results but again she did not attend because she had legal visits.

26. On 17 February, the GP saw Ms Burke, who said she did not have any abdominal pain, her cough had improved but her appetite was still poor. He referred Ms Burke for an ultrasound scan of her abdomen. Ms Burke's weight was recorded as 96kg

27. On 11 March, Ms Burke went to hospital for an ultrasound scan, which did not reveal any abnormalities.

28. On 17 March, the GP admitted Ms Burke to the prison's inpatient unit after wing staff expressed concern about her physical health. Ms Burke had an offensive smell to her breath, the vision in her right eye had deteriorated and she had lost 11kgs in weight since February. He prescribed medication for acid reflux.

29. On 21 March, the GP noted that Ms Burke's condition had not improved. Ms Burke was weak, not eating and her fluid intake was minimal. He made an urgent referral to a gastroenterologist under the NHS pathway which requires patients with suspected cancer to be seen by a specialist within two weeks.

30. On 25 March, a prison GP assessed Ms Burke in the inpatient unit. Her oxygen saturation level was low (79%) and Ms Burke said she had experienced chest pain during the night but had not reported it to anyone. Ms Burke's blood sugar level was also very low. Nurses gave Ms Burke oxygen and glucogel (a sugar gel used to treat hypoglycaemia). He arranged for an ambulance to take Ms Burke to Peterborough Hospital with a suspected pulmonary embolism (a

blockage in the pulmonary artery, the blood vessel that carries blood from the heart to the lungs). Officers restrained Ms Burke with handcuffs for the journey and an escort chain in hospital. (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.)

31. Ms Burke remained in hospital and doctors diagnosed pneumonia. They treated Ms Burke with oxygen therapy, intravenous fluids and antibiotics. A prison manager approved officers to remove the escort chain during the evening of 26 March.

32. On 31 March, a CT scan revealed a growth in Ms Burke's neck and doctors said that she would require surgery to determine if it was malignant. Doctors explained Ms Burke's condition to her and said surgery would take place when her physical condition had improved. Doctors inserted a naso-gastric tube to give Ms Burke food. Ms Burke remained on oxygen therapy and confined to bed.

33. On 15 April, Ms Burke's condition deteriorated and she was having difficulty maintaining her oxygen saturation levels. She said she did not want anyone to resuscitate her if her heart or breathing stopped.

34. Ms Burke's condition continued to deteriorate and her physical condition meant doctors were unable to investigate the growth in her neck. Hospital staff implemented a palliative care plan. Ms Burke was unable to communicate verbally and instead communicated to doctors in writing that she did not want any treatment if the growth in her neck was malignant.

35. At 2.30am on 1 May, hospital doctors noted that Ms Burke's oxygen saturation levels had dropped significantly and her breathing had become laboured. Nurses continued with palliative care to ensure Ms Burke remained comfortable and pain free. At 4.43pm on 2 May, a nurse noted that Ms Burke was no longer breathing and a hospital doctor confirmed her death.

Contact with Ms Burke's family

36. On 25 March 2016, the prison appointed a prison manager as the family liaison officer. He contacted Mr Burke's son, her nominated next of kin, and arranged for him and Ms Burke's husband to visit her in hospital.

37. When Ms Burke's condition deteriorated, the prison manager immediately contacted Ms Burke's son and he visited her in hospital with other family members. He remained in contact with Ms Burke's son and provided regular updates on her condition. At his request, the prison manager phoned Ms Burke's son to let him know when she died. Ms Burke's son said he would inform his father, who, from that point forward, would act as the main point of contact for the family.

38. Ms Burke's funeral was on 25 May. The prison contributed to the funeral costs in line with national policy.

Support for prisoners and staff

39. After Mr Ms Burke’s death, a prison manager debriefed the staff involved in the Ms Burke’s care to ensure they had the opportunity to discuss any issues arising, and to offer support. The staff care team also offered support.

40. The prison posted notices informing staff and prisoners of Ms Burke’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 Ms Burke’s death.

Post-mortem report

41. The post mortem report indicated that Ms Burke had died from pneumonia. Ms Burke also had a retropharyngeal abscess which was not malignant (an abscess in the tissues at the back of the throat).

Findings

Clinical care

42. We agree with the clinical reviewer that Ms Burke's care in prison was equivalent to that which she could have expected to receive in the community. Doctors referred her to specialists appropriately and healthcare staff monitored her condition. Her mental health and diabetes were well managed. The clinical reviewer noted that prison nurses provided excellent support to Ms Burke throughout her illness.

43. Ms Burke spent the last six weeks of her life in hospital and, as her condition declined, she was nursed palliatively. Prison staff were included in multidisciplinary meetings at the hospital and received regular updates on her condition.

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. 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.

45. Ms Burke used a zimmer frame to aid her walking and was unable to walk long distances. The risk assessment completed before she was taken to hospital on 25 March indicated that she was a low risk in all areas, including the risk of escape and to the public. The medical section of the form stated there was no objection to the use of restraints but noted that Ms Burke had poor mobility. A prison manager authorised the use of restraints. Two officers escorted Ms Burke and used handcuffs for the journey to hospital and then an escort chain in hospital.

46. At 5.35pm on 26 March, a prison manager gave the escorting officers permission to remove Ms Burke's escort chain and it was not reapplied.

47. Public protection is fundamental, but security measures must be proportionate to a prisoner's individual circumstances. While we are pleased to note that Ms Burke was not restrained for the majority of time she was in hospital, we are concerned that she was restrained at all. Ms Burke had limited mobility and received oxygen therapy before she went to hospital. A manager authorised the use of restraints despite Ms Burke being assessed as being a low risk in all areas. Restraints remained in place for the first day, during which time hospital doctors treated Ms Burke with intravenous drugs and antibiotics. We are not satisfied that prison managers appropriately considered how Ms Burke's poor physical

health impacted on her already low risk of escape. 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.

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