Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Robert English a prisoner at HMP Northumberland on 17 August 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 Robert English died in hospital on 17 August 2017 while a prisoner at HMP Northumberland. He died from liver cancer that had spread to other parts of his body. He was 54 years old. We offer our condolences to his family and friends.

We are satisfied that Mr English received a good standard of care at HMP Northumberland, equivalent to that which he could have expected to receive in the community.

We are, however, concerned that decisions to restrain Mr English while he was in hospital were not properly considered. Northumberland accepted a previous recommendation about the use of restraints and we now urge the Director to ensure a new risk assessment process is implemented quickly.

We are also concerned that staff did not consider whether Mr English should be released early on compassionate grounds, and about the management of family liaison.

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

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Elizabeth Moody
Acting Prisons and Probation Ombudsman **February 2018**

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Summary

Events

1. On 5 June 2017, Mr Robert English was convicted of a sexual offence and was sentenced to 14 months in prison. On 12 June, he was transferred to HMP Northumberland. He had been told in April 2017 that he had liver cancer and that there were no further treatment options for him. Mr English told a Macmillan palliative care specialist nurse at Northumberland that he did not have any cancer-related pain and did not want to know his prognosis.

2. Mr English moved to the houseblock for older prisoners in July and seemed to settle well. On 10 July, he complained of pain on the right side of his stomach. A GP thought the pain might be caused by the cancer spreading and prescribed codeine. Mr English continued to experience pain and asked for paracetamol to be prescribed with his current dose of codeine.

3. On 21 July, a family liaison officer was appointed and introduced herself to Mr English. He gave the name of one of his brothers as the person the prison should contact. However, no contact was made.

4. On 7 August, Mr English was unsteady on his feet and had generally become more unwell. The GP arranged for him to go to hospital, where he remained until he died. Mr English was escorted by two staff and restrained by means of an escort chain. Mr English remained in restraints over the next week.

5. On 14 August, the hospital told healthcare staff at Northumberland that Mr English was on an end of life care pathway. His restraints were removed. Mr English died on 17 August. The Coroner gave the cause of death as carcinomatosis (widespread cancer in the body) as a result of liver cancer. No post-mortem examination was carried out.

Findings

Clinical care

6. We agree with the clinical reviewer that Mr English was well supported by medical staff at Northumberland and received a good standard of care, at least equivalent to that which he could have expected to receive in the community. The prison healthcare department, MacMillan nurse and hospital staff worked co-operatively during Mr English's palliative treatment.

Restraints

7. We consider that the use of restraints after Mr English was admitted to hospital was inappropriate. Restraints should only be authorised if their use is proportionate to the risk the prisoner poses. Although Northumberland are implementing new arrangements for deciding about the use of restraints, they are not yet in place.

Compassionate release

8. While there is reference in Mr English's medical record to the palliative care nurse awaiting a letter about Mr English's prognosis, we cannot see evidence that this was received or chased up. No consideration was given to the case for early release on compassionate grounds.

Family liaison

9. Mr English had a terminal illness, and we are not satisfied that the prison's family liaison officer (or other nominated person in their absence) contacted Mr English's family members promptly.

Recommendations

- The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners in 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 Director should ensure that applications for early release on compassionate grounds are completed and progressed promptly.
- The Director should ensure that an appropriate member of staff is appointed promptly and engages with and supports the families of seriously ill prisoners. The Director should ensure appropriate managerial support is available for this work.

The Investigation Process

10. 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 did so.

11. The investigator obtained copies of relevant extracts from Mr English's prison and medical records. A second investigator subsequently took over the investigation when the first investigator left our office.

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

13. We informed HM Coroner for Northumberland South of the investigation who gave us the cause of Mr English's death. We have sent the Coroner a copy of this report.

14. Both investigators wrote to one of Mr English's brothers to explain the investigation and to ask if he had any questions or concerns for us to consider. He did not respond to our letters and therefore we did not send him a copy of the initial report.

15. We assessed the main issues in Mr English'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.

16. The initial report was shared with the Prison Service. The Prison Service pointed out one factual inaccuracy and this report has been amended accordingly. The action plan has been annexed to this report.

Background Information

HMP Northumberland

17. HMP Northumberland holds up to 1,300 adult, sentenced men. Sodexo Justice Services manages the prison and G4S provide the healthcare services. Healthcare staff are on duty from 7.30am to 7.30pm from 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. There are no inpatient beds.

HM Inspectorate of Prisons

18. The most recent inspection of HMP Northumberland was in August 2017. Inspectors reported that a significant percentage of prisoners felt unsafe. They noted that many of our recommendations in response to self-inflicted deaths had not been implemented. Inspectors commented that there was some excellent work being carried out in a residential unit for older prisoners (Houseblock 14).

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 31 December 2016, the IMB noted that prisoners were generally positive about healthcare services. The IMB noted that waiting times for routine care had deteriorated.

Previous deaths at HMP Northumberland

20. Mr English was the ninth prisoner to die at Northumberland since January 2016. Two more prisoners have since died. Northumberland accepted our previous recommendations about the inappropriate use of restraints when taking prisoners to hospital and while they are monitored by prison staff at hospital.

Findings

Diagnosing Mr English's terminal illness and informing him of his condition

21. Mr English was diagnosed with pancreatic cancer in 2007 and despite an operation to treat this, his cancer spread to his liver in 2011. Mr English also had type 1 diabetes. By 2016, Mr English's cancer had progressed further and, in March 2017, he received his first treatment as part of a clinical trial at the Freeman Hospital, Newcastle.

22. On 9 March, Mr English was recalled to prison for a further sexual offence and was remanded to HMP Durham. The hospital decided that Mr English could therefore no longer continue with his clinical trial treatment.

23. On 28 April, prison officers escorted Mr English to the Freeman Hospital, where he was told that there were no further standard treatment options for him, other than to control his symptoms.

Mr English's clinical care

24. On 5 June, Mr English was convicted of a sexual offence and was sentenced to 14 months in prison. On 12 June, he was transferred to HMP Northumberland.

25. On 27 June, a Macmillan palliative care specialist nurse talked to Mr English about his cancer diagnosis. He said he did not have any cancer-related pain and that his appetite was improving as he had resolved some dental issues. Mr English agreed that his care should be discussed at multidisciplinary team meetings but he said he did not want to know his prognosis.

26. On 6 July, Mr English told the Macmillan nurse that he had "some discomfort to his right side". She gave him pain relief medication that day. The nursing team helped Mr English to understand and manage his diabetes.

27. On 10 July, a nurse saw Mr English at the treatment hatch because he felt unwell and continued to complain of right-sided abdominal pain. Mr English was unsteady when walking and a wheelchair was used to take him to the healthcare department. A prison GP examined Mr English and arranged a chest X-ray. He prescribed codeine and thought the pain might be caused by the cancer spreading into Mr English's bones.

28. On 13 July, a clinical team manager saw Mr English because of his ongoing pain. He told her that the pain radiated into his back and was worse at night when lying down. He said he was not sleeping well, had been sick twice and said that the increased codeine was not controlling the pain. She liaised with the palliative care team who gave Mr English haloperidol (an antipsychotic medication). A prison GP saw Mr English the next day and continued the haloperidol as Mr English said it had been effective.

29. On 17 July, the healthcare team reviewed Mr English's diabetes management. They felt he had poor control of his diabetes and needed help with self-monitoring of his blood glucose. An appointment was scheduled for 2 August to review his diabetes management.

30. On 20 July, the Macmillan nurse met Mr English again. He said that he had not been sick for four days and that the haloperidol was helping him settle and sleep. Mr English said that he still had pain and the Macmillan nurse discussed stronger painkillers. Mr English declined these as he said he had felt "knocked out" when he had previously taken strong pain relief. The Macmillan nurse noted in Mr English's medical record that they were waiting for a letter from the hospital about Mr English's prognosis.

31. On 2 August, Mr English had a telemedicine consultation (a healthcare consultation conducted remotely) to review his diabetes. He was struggling with high blood sugar levels. The telemedicine doctor suggested changing Mr English's insulin to a more concentrated long-acting insulin (this did not happen before Mr English was admitted to hospital). A prison GP saw Mr English after his appointment because he was also struggling to manage his pain, and prescribed him paracetamol in addition to codeine.

32. On 7 August, a nurse became concerned about Mr English's poor diabetes management. She felt that Mr English would need to go to the medication hatch on the houseblock every morning to have his blood sugar monitored by the nurse. Later that morning, wing staff told the nurse that they felt Mr English was unsteady on his feet and had generally become more unwell. The nurse arranged for Mr English to be taken to the healthcare department in a wheelchair.

33. A prison GP saw Mr English and felt he needed to go to hospital because of his abdominal swelling and general decline. A palliative care ambulance was called, and Mr English was taken to Northumbria Specialist Emergency Care Hospital.

34. While Mr English was in hospital, the Macmillan nurse stayed in contact with the ward. On 8 July, hospital staff told her that Mr English was not on end of life care and would undergo further investigations. Hospital staff adjusted Mr English's diabetes care and management.

35. On 11 August, a nurse wrote in Mr English's SystmOne medical record that the hospital was planning to discharge Mr English with a new insulin regime. However, his pain level had increased, and he was prescribed slow-release morphine (a strong painkiller to help control severe pain).

36. On 12 August, a hospital doctor decided that Mr English should remain in hospital and that he would not be resuscitated if he went into cardiac arrest.

37. On 14 August, a nurse telephoned the hospital and was told that Mr English had been placed on an end of life care pathway. His pain was being managed with a syringe driver.

38. On 15 August, the Macmillan nurse visited Mr English who was settled and responsive to her voice but was unable to communicate. She noted that the plan was for him to remain in hospital for end of life care and support.

39. At around 4.30pm on 17 August, two officers were with Mr English when he stopped breathing. One of the officers found a nurse immediately who examined Mr English. A doctor confirmed his death at 5.28pm.

40. The Coroner accepted Mr English's cause of death as carcinomatosis (widespread cancer in the body) as a result of liver cancer. There was no post-mortem examination.

41. We agree with the clinical reviewer that Mr English was well supported at Northumberland and received a good standard of care, at least equivalent to that which he could have expected to receive in the community. The prison healthcare department, MacMillan nurse and hospital staff worked co-operatively during Mr English's palliative treatment. They modified his pain control as required and helped Mr English to manage his diabetes.

Mr English's location

42. Mr English lived in Houseblock 11, a standard residential unit, when he first arrived at Northumberland. An officer noted that Mr English was very poorly with terminal cancer. She thought that he felt more relaxed after talking to some prisoners in the unit who he had known at Durham.

43. When Mr English met the Macmillan nurse on 27 June, he said he felt vulnerable on the houseblock. He had previously been offered a move to another houseblock but had turned it down. Mr English was moved to Houseblock 14, a unit for elderly prisoners, on 5 July. The next day, Mr English told the Macmillan nurse that he felt better after his move and she said that Mr English seemed less emotional and tearful, and, overall, seemed much happier.

44. Just over a month later, on 7 August, Mr English was admitted to the hospital. The initial plan was to stabilise his diabetes and for him to be discharged. Prison staff arranged to transfer Mr English to HMP Holme House as they had an inpatient medical unit. However, Mr English was not able to leave hospital and remained there until his death, ten days later. We are satisfied that Northumberland located Mr English appropriately throughout the different stages of his illness.

Restraints, security and escorts

45. 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 he has 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.

46. When Mr English was taken to hospital on 7 August, 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 English was able to escape unaided. A prison manager completed the risk assessment to show that because of his conviction for sexual offences, Mr

English posed a risk to the public and to females, but was not felt to be an escape risk. The Head of Security spoke to Mr English's lead nurse and decided that Mr English should be escorted by two staff and 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) would be used.

47. Although we note that Mr English was seriously ill at the time and barely mobile, given the character of his offending history, we think it was reasonable for Northumberland to use restraints as Mr English passed through the Accident and Emergency Department and other public spaces before being admitted.

48. However, once he was admitted, restraints should have been removed. The escorting staff recorded that although Mr English was able to get out of bed to use the toilet, he was unable to grip a knife and fork properly. His condition deteriorated further and on 12 August the escorting staff made entries in the bedwatch log which indicated that he struggled to sit up or take his tablets and that he could not get out of bed to use the toilet. An escort chain continued to be used. The next day, Mr English needed nursing staff to help him leave his bed to use the toilet. It was not until 14 August that restraints were removed. They were not reapplied.

49. On 16 August, the prison's family liaison officer spoke to a nurse about the role of the escort staff. The nurse asked if the family could have privacy with Mr English during their visits. The family liaison officer said that this was not possible for security reasons. We accept that there were concerns about the behaviour of family members towards hospital and prison staff, and it was appropriate for prison staff to remain next to Mr English at all times, including during family visits.

50. We made a recommendation about restraints in an investigation issued earlier this year and note that Northumberland said that they would implement new arrangements by November 2017. We understand that the revised risk assessment has not been put in place yet. We therefore make the following recommendation:

The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners in 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.

Compassionate release

51. Prisoners who are seriously ill, usually with a life expectancy of less than three months can be permanently released from custody before their sentence has expired on compassionate grounds. A clear medical opinion of life expectancy is required. The criteria for the early release for prisoners serving indeterminate sentences are set out in Prison Service Order (PSO) 4700, including that the risk of reoffending is expected to be minimal, further imprisonment would reduce life expectancy, there are adequate arrangements for the prisoner's care and treatment outside prison, and release would benefit the prisoner and his family. An application for early release on compassionate grounds must be submitted to

the Public Protection Casework Section (PPCS) of HM Prison and Probation Service.

52. In April 2017, Mr English was told there were no further treatment options for his cancer although he was not given a clear indication of his life expectancy. Mr English told the Macmillan nurse that he did not want to know his prognosis. However, a prognosis should have been sought by the healthcare department. The Macmillan nurse said that the prison was waiting for a letter about Mr English's prognosis on 20 July. We have seen no evidence that this letter was received or that prison healthcare staff chased this up.

53. While we do not know whether Mr English would have met the criteria for early release, staff should have started and considered an application. We make the following recommendation:

The Director should ensure that applications for early release on compassionate grounds are completed and progressed promptly.

Liaison with Mr English's family

54. Prison Service Instruction (PSI) 64/2011 requires prisons to ensure that, "arrangements are in place for an appropriate member of staff to engage with the next of kin or a nominated person of prisoners who are either terminally or seriously ill." Doctors told Mr English that there was no further treatment for his cancer in April 2017. It was not until 21 July that prison managers allocated a family liaison officer. She met Mr English that day and they discussed which brother it would be best for the prison to liaise with. She subsequently went onto night shifts and was not back on the houseblock until 9 August (by which time Mr English was already in hospital). She thought another member of staff had assumed responsibility for family liaison while she was away, but this did not happen.

55. On 8 August, Mr English's two brothers visited him in hospital. One brother became abusive towards hospital and prison staff and was told that he would not be allowed to visit again. The family liaison officer spoke to Mr English's mother on 10 August when she telephoned the prison and explained her role. After this, the relationship between the family and prison seems to have broken down. The family liaison officer said she was told by someone who answered one of her phone calls not to contact Mr English's mother or any other family member again. One of the palliative care nurses from the hospital spoke to one of Mr English's brothers on 14 August to tell him about the deterioration in Mr English's condition. Both his brothers visited the next day.

56. When Mr English died, hospital staff told his family and Northumberland decided not to send a family liaison officer to visit the family because of the difficult nature of their relationship with the prison. The family liaison officer subsequently spoke to one of Mr English's brothers on 18 August and he apologised on behalf of his family for their outbursts towards staff. Later that day, the brother asked that the family not be contacted again and said that they would organise the funeral. Northumberland did not therefore contribute to the costs of Mr English's funeral.

57. We are not satisfied that the prison's family liaison officer was in contact with Mr English's family members soon enough. A family liaison officer should be appointed as soon as it becomes known that a prisoner has a life-threatening or terminal illness and discussion about contacting family members should take place at that time. We also think the family liaison role would have benefitted from more support and oversight by a senior manager who could have become involved with the family when the relationship with them became strained. We make the following recommendation:

The Director should ensure that an appropriate member of staff is appointed promptly and engages with and supports the families of seriously ill prisoners. The Director should ensure appropriate managerial support is in place for this work.

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