Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Dean Cocks a prisoner at HMP Hewell on 19 November 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 Dean Cocks died of alcoholic liver disease and cancer of the liver on 19 November 2017 while a prisoner at HMP Hewell. Mr Cocks was 39 years old. I offer my condolences to his family and friends.

Mr Cocks received a good standard of care at Hewell, equivalent to that which he could have expected to receive in the community.

I am, however, concerned that Mr Cocks was unnecessarily restrained on one occasion while undergoing treatment.

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 **May 2018**

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Summary

Events

1. On 11 August 2017, Mr Dean Cocks was convicted of sexual offences and was sent to HMP Hewell.

2. During his initial healthcare induction, a nurse recorded that he had a history of depression, alcoholic liver disease, alcoholic hepatitis, cirrhosis, hypertension and swelling of the veins in his oesophagus. These conditions were managed with medication, and Mr Cocks was referred to community specialists.

3. On 4 September, Mr Cocks was admitted to hospital due to severe pain in his abdomen. He had his ascites (the accumulation of fluid in the peritoneal cavity, causing swelling in the abdomen) drained, and was discharged on 12 September.

4. On 16 September, when Mr Cocks' health deteriorated, he was admitted to hospital for diagnostic testing.

5. On 4 October, a specialist confirmed that Mr Cocks had liver cancer and liver disease. He was told that his conditions could not be treated, and that his life expectancy was a matter of months.

6. Care plans were put into place to address Mr Cocks' physical and mental health needs.

7. When his pain became unmanageable, his medication was reviewed and when appropriate, increased.

8. His health declined further and on 20 October, he was admitted to hospital, where he remained until 27 October when he was transferred to a hospice.

9. Mr Cocks' health stabilised in the hospice, and as medical staff no longer viewed him as nearing the end of life, he was returned to HMP Hewell on 16 November.

10. Mr Cocks' condition unexpectedly deteriorated and on 17 November, he was admitted to hospital, where he died on 19 November, with his family by his side.

Findings

11. We are satisfied that when Mr Cocks showed new symptoms, the healthcare department acted in a timely manner to make sure that diagnostic investigations took place. Once a diagnosis was made, the prison appropriately supported both Mr Cocks' physical and psychological needs. The clinical reviewer noted that Mr Cocks' care at Hewell was equivalent to that which he could have expected to receive in the community. We are, though, concerned that Mr Cocks was unnecessarily restrained while undergoing treatment.

12. When Mr Cocks was admitted to hospital on 20 October, the prison correctly appointed a family liaison officer who maintained regular contact with Mr Cocks' mother. The process for compassionate release was appropriately started as soon as Mr Cocks was given a short prognosis.

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

The Investigation Process

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

14. The investigator obtained copies of relevant extracts from Mr Cocks' prison and medical records.

15. NHS England commissioned a clinical reviewer to review Mr Cocks' clinical care at the prison.

16. We informed HM Coroner for Worcester of the investigation who provided us with a cause of death. We have sent the Coroner a copy of this report.

17. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies and their action plan is annexed to this report.

18. The investigation has assessed the main issues involved in Mr Cocks' 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.

Background Information

HMP Hewell

19. HMP Hewell is an amalgamation of two prisons, the former HMP Blakenhurst, and HMP Hewell Grange. The Hewell Grange site continues to operate as an open prison and the Blakenhurst site is a secure, local prison. Mr Cocks was at the Blakenhurst site, which comprises six house blocks, holding around 1,100 men. Care UK provide health services and there is an 18-bed inpatient unit.

HM Inspectorate of Prisons

20. The most recent inspection of HMP Hewell was in September 2016. Inspectors reported that the prison had many challenges and areas of serious concern. Inspectors acknowledged that Care UK had inherited a poor healthcare service which needed significant further improvement. They noted that healthcare staff shortages had significantly affected service delivery, and that agency staff had been recruited to cover shortages while recruitment campaigns were run to fill vacancies. Inspectors found that areas in the healthcare unit, including the inpatient area, were dirty and poorly ventilated. They noted that the waiting area for vulnerable prisoners had prominent racist and violent graffiti and what appeared to be blood on the walls. They said that the high rate of 'failure to attend' healthcare appointments had recently improved.

Independent Monitoring Board

21. 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 30 September 2016, the IMB was concerned that the newly appointed healthcare providers had not been able to provide an acceptable standard of care as they had promised. They noted that late provision of regular medication on the house blocks had caused considerable disruption and the use of a large number of agency nurses had led to a lack of continuity in patient care.

Previous deaths at HMP Hewell

22. Mr Cocks was the sixth prisoner to die from natural causes at Hewell since January 2015, and there has been one death since Mr Cocks' death. We have made previous recommendations about the improper use of restraints which Hewell agreed to implement.

Findings

The diagnosis of Mr Cocks' terminal illness and informing him of his condition

23. On 11 August 2017, Mr Dean Cocks was convicted of sexual offences and was sent to HMP Hewell, where Nurse A saw him for an initial health screen that day. Mr Cocks had a history of depression, alcoholic liver disease, alcoholic hepatitis (inflammation of the liver), cirrhosis (thickening of the liver tissue), portal hypertension (increased blood pressure in the vein that connects the liver to the intestines) and oesophageal varices (swelling of the veins in the oesophagus). At this appointment, Nurse A requested his community medical records.

24. As Mr Cocks was alcohol dependant, Nurse A requested that an out of hours GP prescribe a detoxification programme and another nurse administered diazepam and thiamine in the early hours of 12 August.

25. A prison GP saw Mr Cocks that day as part of his secondary health screening. He prescribed medication to address Mr Cocks' health needs.

26. On 29 August, a Sister saw Mr Cocks at the request of a mental health nurse. She recorded that he had ascites and that he was jaundiced (yellowing of the skin, a sign of liver disease). She arranged for blood tests. The results confirmed that his alanine aminotransferase (ALT) levels were high. (Inflamed or injured liver cells leak higher than normal amounts of certain chemicals, including liver enzymes, into the bloodstream. This can result in elevated liver enzymes in the blood, known as ALT.)

27. A nurse contacted a registrar at the hospital who advised her to compare Mr Cocks' test result to his most recent one in the community.

28. On 30 August, a prison GP reviewed the results and confirmed that Mr Cocks' liver function was poor. He recorded that he needed to be seen in hospital but that it was not urgent. Mr Cocks' community GP confirmed that he had been discharged from the hospital's care in June 2017 for not attending appointments. The prison GP requested a hospital appointment for Mr Cocks.

29. On 4 September, Mr Cocks told one of the wing staff that he had severe pain in his abdomen. Two nurses and a paramedic (who had been attending another incident in the prison) reviewed him. The paramedic confirmed that Mr Cocks needed to be admitted to hospital. Mr Cocks was admitted to the hospital that day as a non-emergency patient.

30. On 12 September, having had his ascites drained, Mr Cocks was returned to Hewell. A prison GP reviewed his records, and recorded that Mr Cocks had been admitted with liver disease. A plan was put in place to test his blood on a weekly basis.

31. Mr Cocks' health deteriorated, and on 16 September, a prison GP examined him and recorded that he was distressed as he was in pain, was retching and his abdomen was tender and swollen. The prison GP spoke to a doctor at the hospital, and they agreed that Mr Cocks should be admitted that day. He

remained in hospital until 25 September, during which time diagnostic investigations took place.

32. On 4 October, Mr Cocks attended an appointment with an oncologist at the hospital. He explained to Mr Cocks that tests had identified that he had metastatic hepatocellular carcinoma (liver cancer) and liver disease. Before Mr Cocks' appointment, a multidisciplinary meeting had taken place, where it had been agreed that his condition was not treatable. An oncologist advised him that they could manage his pain relief with morphine, and that he could be admitted for palliative drainage of his ascites. The oncologist discussed Mr Cocks' prognosis with him, and explained that his life expectancy was a matter of months.

33. A Macmillan nurse, attended the consultation to offer Mr Cocks support and to liaise with him after he returned to prison.

34. Mr Cocks returned to Hewell that day, and Nurse A booked him an appointment to see a prison GP the next day to discuss his diagnosis and prognosis. On 5 October, he recorded that Mr Cocks understood and accepted his diagnosis.

35. The period between Mr Cocks' arrival at Hewell and his diagnosis was short. When healthcare staff at the prison became aware that he had been discharged from the hospital's care in June 2017 for not attending appointments, they immediately arranged a hospital appointment. When Mr Cocks' health declined, he was admitted to hospital. Investigations confirmed that he had liver disease and liver cancer.

36. When he returned to the prison, healthcare staff appropriately discussed his diagnosis and prognosis with him and appointed a care co-ordinator.

37. The clinical reviewer felt that the care that Mr Cocks received at Hewell was of a high standard.

Mr Cocks' clinical care

38. On 6 October, a Sister saw Mr Cocks and introduced herself as his care co-ordinator. Mr Cocks was aware that his condition was not treatable and was concerned about managing his pain. She discussed pain management options and asked that a GP prescribe him PRN ora-morph (pain relief).

39. On 11 October, with Mr Cocks' involvement, the Sister put in place an end of life care plan, which addressed his physical and mental health needs. Mr Cocks discussed and agreed that in the event of cardiac or respiratory arrest, no attempt would be made to resuscitate him. The care plan noted that all other appropriate treatment would continue.

40. On 13 October, after the Sister tried unsuccessfully to call the Macmillan Nurse, she emailed her to ask for additional Macmillan support. She spoke to an oncologist that day who advised her that there would be no intervention unless his ascites needed to be drained, and agreed to liaise when needed for Mr Cocks' analgesic (pain relief) review.

41. Over the following week, the Sister and healthcare staff saw Mr Cocks regularly. When his pain was unmanageable, his medication was reviewed and appropriately increased.

42. On 19 October, a prison GP and a nurse reviewed Mr Cocks. Mr Cocks said that he was disorientated but denied being in pain. He declined the offer of being transferred to hospital to have his ascites drained

43. Mr Cocks' health declined further, and on 20 October, he was admitted to the hospital.

44. On 26 October, hospital doctors considered that Mr Cocks was nearing the end of life, and it was agreed that he should be moved to a hospice for palliative care. He was transferred to a hospice at the hospital the next day, where his health stabilised. On 16 November, he was returned to the healthcare department at Hewell.

45. At 4.00pm on 17 November, a nurse saw Mr Cocks vomiting blood, and noted that he was disorientated and confused. The nurse asked the control room to call an ambulance. Mr Cocks' observations were taken at 10-minute intervals on three occasions and did not cause concern. At 4.30pm, paramedics arrived and took Mr Cocks to the accident and emergency department at the hospital, where he received palliative care.

46. Mr Cocks died in hospital at 1.20pm on 19 November, with his family by his side.

Mr Cocks' location

47. On 12 October, the Sister advised Mr Cocks that he should be moved to a room in the healthcare department. Mr Cocks declined but agreed to move to a lower bunk bed at her request.

48. On 13 October, after experiencing pain throughout the night, Mr Cocks saw the Sister and agreed to move to the healthcare department, where his pain could be managed more appropriately.

49. On 19 October, the Head of Residence authorised Mr Cocks' door to be unlocked at all times as he needed continuous palliative care.

50. On 20 October, Mr Cocks was admitted to the hospital as he became increasingly unwell.

51. On 25 October, a nurse met Mr Cocks' mother, and they discussed referring him to a local hospice as Mr Cocks was now expected to live for two weeks. A referral was made, and on 27 October, Mr Cocks was transferred to a hospice at the hospital.

52. On 31 October, Mr Cocks' health stabilised, and a doctor in the hospice concluded that he had several weeks to live. The consultant contacted the healthcare department at Hewell and spoke about potentially moving him to a nursing home or returning him to prison until a hospice place was needed again. Mr Cocks was returned to the healthcare department at Hewell on 16 November.

53. On 17 November, Mr Cocks was taken to hospital, where he died on 19 November.

54. The clinical reviewer noted that the decision to move Mr Cocks from the hospice was not unreasonable as the Macmillan consultant's medical opinion was that he had several weeks to live. She said that while it would have been better for him to have remained in the hospice, his rapid deterioration after he returned to Hewell could not have been predicted.

Restraints, security and escorts

55. 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.

56. On 4 September, when Mr Cocks was admitted to hospital, he was assessed as a low risk to staff, of taking hostages, escaping and obtaining external help and a medium risk to the public and females. He was restrained with a single handcuff for the journey, then an escort chain when at hospital. The assessment noted that restraints should remain in place during treatment, which was authorised by the Head of Reducing Re-offending.

57. On 4 October, Mr Cocks was assessed as the same risk as on 4 September, and was again restrained by a single cuff for the journey, and an escort chain at hospital which was to remain in place during treatment. This was authorised by the Head of Refurbishment.

58. Mr Cocks did not receive treatment on 4 October, but the investigator contacted the Head of Refurbishment and asked him to explain why he would have reached the conclusion that Mr Cocks should remain on an escort chain during treatment. He said that a letter was sometimes attached to the medical assessment which outlined the treatment plan, and this should have indicated to the manager whether to remove the restraints. Mr Cocks underwent treatment on 4 September and there was no letter from healthcare attached to the risk assessment to say whether to restrain him.

59. The prison based the decision to restrain Mr Cocks during his admission on 4 September on his offence alone, and not his ability to escape at that time. The Prison Service has a responsibility to protect the public, but security must be balanced with humanity and measures must be proportionate to a prisoner's individual circumstances. When undergoing treatment, any risk assessment should fully take into account the prisoner's health, their mobility and the impact of their health conditions on their ability to escape at that time, and no evidence

was provided to suggest that this was done when Mr Cocks was admitted on 4 September.

60. From the 19 October onwards, Mr Cocks was not restrained for any transfers.

61. We are satisfied that when Mr Cocks' health deteriorated the prison appropriately decided not to restrain him. However, we are concerned that an escort chain and single cuff was used to restrain Mr Cocks during treatment, with no evidence to explain why. When restraints are used, the risk assessments must accurately reflect the risk posed at that time to ensure proportionality and to maintain human dignity. 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 the prisoner and are based on the actual risk the prisoner presents at the time.

Liaison with Mr Cocks' family

62. On 20 October, a Reverend was appointed as the family liaison officer and she contacted Mr Cocks' family to let them know that he had been taken to hospital, and was now very unwell.

63. The Reverend spoke to Mr Cocks' mother nearly every day, and updated her about Mr Cocks' care. She visited Mr Cocks in hospital many times, both alone and with Mr Cocks' mother.

64. On 19 November, after the Reverend found out that Mr Cocks' mother had been called to the hospital, she went to the hospital to support her, and arrived soon after he had died.

65. She remained in contact with Mr Cocks' mother, and attended his funeral on 4 December. The prison contributed towards the cost of his funeral in line with national policy.

Compassionate release

66. 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 early release for determinate sentenced prisoners are set out in Prison Service Order (PSO) 6000. The criteria include that the risk of re-offending 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 the Her Majesty's Prisons and Probation Service (HMPPS).

67. A prison manager told the investigator that he started Mr Cocks' process for release on compassionate grounds on 15 October. Mr Cocks' family were unable to offer him accommodation and therefore the process for early release

could only be considered when Mr Cocks gained a place in a hospice. Unfortunately, it had not been granted at the time of his death.

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