Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Steven Ralley a prisoner at HMP Rye Hill on 25 September 2018

A report by the Prisons and Probation Ombudsman

Third Floor, 10 South Colonnade
Canary Wharf, London E14 4PU
Email: mail@ppo.gov.uk
Web: www.ppo.gov.uk
T I 020 7633 4100
F I 020 7633 4141

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 Steven Ralley died on 25 September 2018 of lung cancer while a prisoner at HMP Rye Hill. He was 53 years old. I offer my condolences to Mr Ralley's family and friends.

I am satisfied that the care Mr Ralley received at Rye Hill was of a good standard and equivalent to that which he could have expected to receive in the community.

I am concerned, however, that there were delays in the prison processing Mr Ralley's application for early release on compassionate grounds. As a result, Mr Ralley died before the application could be considered.

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

Sue McAllister CB
Prisons and Probation Ombudsman **September 2019**

Contents

Summary

Events

1. On 19 September 2011, Mr Steven Ralley was sentenced to 12 years imprisonment for historic sex offences and sent to HMP Birmingham. He was moved to HMP Rye Hill on 7 July 2014.

2. On 21 September 2016, Mr Ralley complained of blood in his sputum. A prison GP made an urgent referral to a hospital specialist under the NHS pathway that requires patients with suspected cancer to be seen within two weeks. On 14 November, Mr Ralley was diagnosed with lung cancer.

3. Mr Ralley received chemotherapy and then radiotherapy. A CT scan on 12 June 2017, showed that the size of his tumour had reduced.

4. After complaining of shoulder pain, Mr Ralley saw his oncologist for a review on 12 February 2018, who referred him for a CT scan suspecting his cancer had got worse. A CT scan on 6 March showed that his tumour had doubled in size and was pressing on his heart. He was told his cancer was incurable.

5. On 12 March, prison staff submitted an application for Mr Ralley's early release on compassionate grounds to the Public Protection Casework Section (PPCS) but his release was not approved. PPCS advised the prison to resubmit the application later.

6. Mr Ralley was moved to a hospice on 7 August for symptom control. On 14 August, PPCS agreed to consider Mr Ralley's application for early release and asked the prison for an up-to-date medical report. The prison sent this to a PPCS manager on 6 September but he was on leave until 21 September and did not see it until 24 September. Mr Ralley died in the hospice on 25 September, before the application for early release could be considered.

Findings

7. When Mr Ralley reported he was coughing up blood, a prison GP made a prompt referral onto a specialist in line with national guidance. Once diagnosed, the prison provided a good standard of clinical care. We consider the care Mr Ralley received at Rye Hill was equivalent to that which he could have expected to receive in the community.

8. It took over three weeks for the prison to send PPCS the required medical report once they had agreed to consider Mr Ralley's application for early release. As a result, Mr Ralley died before the application could be considered.

Recommendations

- The Director of HMP Rye Hill should ensure that applications for early release on compassionate grounds are progressed without delay.

The Investigation Process

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

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

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

12. We informed HM Coroner for Northamptonshire of the investigation. The coroner gave us the cause of death. We have sent the coroner a copy of this report.

13. The investigator wrote to Mr Ralley's brother to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He did not respond to our letter.

14. The investigation has assessed the main issues involved in Mr Ralley'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.

15. We shared our initial report with HM Prison and Probation Service (HMPPS). They pointed out some factual inaccuracies which have been amended in this report. They also provided an action plan in response to the recommendation.

Background Information

HM Prison Rye Hill

16. HMP Rye Hill is managed by G4S and holds over 600 men convicted of sex offences. G4S Forensic and Medical Services provide primary, physical and mental health services. The prison does not have an inpatient facility.

HM Inspectorate of Prisons

17. The most recent inspection of HMP Rye Hill was in August 2015. Inspectors noted that the prison held a complex mix of serious offenders and some frail, older men who needed significant levels of care. Inspectors found that after Rye Hill changed its role to take sex offenders in 2014, services had not sufficiently adapted to meet the needs of the new population. They noted that a small group of regular GPs had run daily clinics since January 2015, which had improved the consistency of service and prisoners' perceptions of that service.

18. Healthcare discharge arrangements to ensure continuity of care on transfer and release were appropriate. The demand for palliative care had increased. Prisoners with such needs received weekly reviews with a designated GP and most had appropriate care plans. A formal pathway and relationships with local palliative care services and hospices were being developed.

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 March 2018, the IMB noted that a number of major changes had been introduced to improve healthcare provision, including the appointment of a new clinical lead and new practice manager who were implementing initiatives to make more efficient use of healthcare resources. The Board noted that the number of terminally ill prisoners and number of bed watches was high, but that it was unlikely the trend would improve given the prison population.

Previous deaths at HMP Rye Hill

20. Mr Ralley was the 16th prisoner to die at Rye Hill since September 2015. All were from natural causes. There has been one death since, which is awaiting classification. There are no similarities between Mr Ralley's death and previous deaths at Rye Hill.

Findings

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

21. On 19 September 2011, Mr Steven Ralley was sentenced to 12 years imprisonment for historic sex offences and sent to HMP Birmingham. He was moved to HMP Rye Hill on 7 July 2014. During an initial health screening Mr Ralley did not complain of any health issues. He had a well-man check and disclosed that he smoked ten cigarettes a day.

22. On 19 August 2015, Mr Ralley complained of a cough and left sided chest pain with green phlegm. He was given antibiotics for a chest infection. On 26 October, a prison GP prescribed another course of antibiotics, prednisolone (steroids) and two separate asthma inhalers when his symptoms did not improve. Mr Ralley did not complain of any other symptoms such as weight loss or blood in his sputum. The GP suspected chronic obstructive pulmonary disease (COPD - a group of lung diseases including emphysema and chronic bronchitis, and refractory (non-reversible) asthma).

23. Mr Ralley was treated for chest infections with antibiotics on two further occasions, on 26 October and 15 July 2016.

24. On 21 September, a prison GP reviewed Mr Ralley when he complained of blood in his sputum. The GP noted he had a fever and prescribed antibiotics. He also made an urgent referral to the Oncology Department at University Hospital Coventry and Warwickshire under the NHS pathway that requires patients with suspected cancer to be seen by a specialist within two weeks.

25. A consultant oncologist saw Mr Ralley on 21 October. He referred him for a for a CT scan of his thorax and abdomen, which took place on 4 November.

26. On 14 November, Mr Ralley saw the lung cancer nurse specialist who explained that the CT scan showed squamous cell cancer of the left lung with evidence to suggest that it had spread to his lymph nodes and the mediastinum (the cavity that separates the lungs from the rest of the chest). Before treatment options could be discussed Mr Ralley needed a PET scan. (A PET scan is a test to help show if and where cancer has spread in the body.)

27. We are satisfied that when Mr Ralley reported he was coughing up blood, a prison GP referred him promptly onto a specialist for further investigations in line with national guidance.

Mr Ralley's clinical care

28. Mr Ralley had an oncology review on 8 December. The consultant told Mr Ralley that his cancer was inoperable and suggested a combination of chemotherapy and radiotherapy to try to shrink his tumour. Mr Ralley started chemotherapy on 23 December.

29. Mr Ralley had a CT scan on 13 February 2017. On 20 February, the consultant told Mr Ralley that although he had remained well throughout, his response to

the chemotherapy had been minimal. Mr Ralley started a course of radiotherapy on 20 March (with the aim of controlling the disease).

30. Mr Ralley completed 12 sessions of radiotherapy treatment and saw the consultant on 15 May for a review. The consultant was happy with how the radiotherapy had gone and requested a CT scan to assess the results. Mr Ralley would be reviewed again in three months' time.

31. A prison nurse reviewed Mr Ralley on 20 May to complete a vulnerable adult assessment. He was not in any pain, eating well and had not lost any weight, weighing 10st 2lbs. Mr Ralley said he did not need any support for mobility or personal hygiene.

32. On 10 June, a prison nurse created a cancer care plan. The care plan required regular monitoring of Mr Ralley's weight and pain control and to ensure that he was fully involved in any decisions around his care. Mr Ralley had a CT scan on 12 June.

33. On 21 July, a prison GP made a referral to University Hospital Coventry and Warwickshire rapid access chest clinic after Mr Ralley complained of feverish symptoms and chest pain. On 3 August 2017, Mr Ralley was reviewed by a cardiologist who gave a diagnosis of angina (reduced blood flow to the heart muscle). Aspirin was prescribed to lower the risk of a heart attack and bisoprolol, to treat the angina.

34. A prison nurse completed a vulnerable adult assessment with Mr Ralley on 12 August. He complained of a poor appetite and had lost weight, now weighing 9st 6lbs. Mr Ralley was prescribed fortisips, high calorie build-up drinks.

35. Mr Ralley should have seen his oncologist on 14 August but this appointment was cancelled by the hospital and rebooked for 11 September. He was told at this appointment that the CT scan on 12 June showed that the size of his tumour had reduced.

36. On 15 December, Mr Ralley saw the prison's physiotherapist after he complained of continued shoulder pain. He diagnosed mechanical neck pain and nerve root irritation. He suggested based on Mr Ralley's medical history that he would benefit from further investigation to rule out a spread of his cancer.

37. Mr Ralley should have seen the oncologist on 11 December but this appointment was again cancelled by the hospital. He was told a new appointment letter would follow.

38. A prison GP reviewed Mr Ralley on 8 January 2018. He had lost weight, now weighing 9st 1lb. The GP prescribed amitriptyline for increased pain and asked the healthcare admin team to chase up his oncology review as a new appointment had not been received. This was chased the next day and an appointment was made for 12 February.

39. On 12 February, the consultant saw Mr Ralley for an oncology review. Mr Ralley looked noticeably pale and unwell. The pain in his left shoulder remained. The consultant referred Mr Ralley for a CT scan, suspecting that his cancer had got worse.

40. A specialist palliative care nurse visited Mr Ralley on 21 February. She tried to speak to Mr Ralley about his end of life care but as he was hoping for early release he had not given it much thought.

41. Mr Ralley was admitted to hospital on 6 March with chest pains and difficulty breathing. A CT scan showed that his tumour had doubled in size and was pressing on his heart. The consultant told him his cancer was incurable and treatment options were now very limited. The consultant offered a course of immunotherapy (medicine to encourage the immune system to fight cancer). A biopsy was taken in preparation for treatment. On 8 March, a prison nurse created a palliative care plan to help manage his symptoms on his return to Rye Hill. Mr Ralley was discharged back to prison on 14 March.

42. On 30 April, Mr Ralley had to have a second biopsy due to an incomplete sample being taken previously. On 25 June, a prison GP spoke to Mr Ralley to discuss his wishes for end of life care. Mr Ralley said he did not want anyone to resuscitate him if his heart or breathing stopped and signed an order to that effect. He said if early release was not possible, he would like to go to a hospice.

43. The specialist palliative care nurse visited Mr Ralley in prison on 29 June. She prescribed anticipatory drugs, diamorphine for pain relief and medication for a build-up of secretions to help him breathe more easily.

44. Mr Ralley saw the consultant on 2 July to discuss his forthcoming immunotherapy treatment. He had his first immunotherapy treatment on 18 July. He was due to have a second course of treatment on 31 July but, after review, the specialist palliative care nurse found him too unwell to attend. On 3 August, she spoke to the consultant. It was decided, due to Mr Ralley's poor health, it was not in his best interests to continue with his immunotherapy.

45. Mr Ralley was moved to Myton Hospice on 7 August for symptom control. On 13 August, the hospice manager contacted the prison to say that they wanted to discharge Mr Ralley as they did not think he required end of life care yet. They agreed to delay his discharge while the prison made enquiries about obtaining a hospital bed.

46. On 31 August, a doctor from Myton Hospice contacted the prison and said that Mr Ralley was now believed to be in the last weeks of life. He remained in the hospice until his death on 25 September. A prison officer was with Mr Ralley when he died.

47. A prison manager went to the hospice to complete a debrief and provide support to the officer who was with him when Mr Ralley died.

48. We consider that the clinical care Mr Ralley received at Rye Hill was of a good standard and equivalent to that which he could have expected to receive in the community.

49. Mr Ralley received responsive, supportive and personalised care by prison healthcare staff. This support system was underpinned by support from specialist palliative care services in line with NICE Quality Standard 13, which advocates local arrangements to ensure that people approaching the end of their life are offered support for their practical, social and emotional needs.

Mr Ralley's location

50. Rye Hill does not have inpatient facilities but, after his diagnosis and when his health declined, Mr Ralley was visited regularly by healthcare staff. A specialist palliative care nurse visited Mr Ralley on 21 February 2018. She spoke to him about his preferred place of death but as he was hoping for early release he had not given this much thought. The nurse continued to visit Mr Ralley to provide support. When his health and mobility deteriorated Mr Ralley had a prison 'buddy' to collect his meals and clean his cell.

51. On 30 July, the specialist palliative care nurse came to see Mr Ralley to discuss a possible transfer to a hospice. Mr Ralley was initially reluctant but after the nurse explained the level of care and support he would receive, he agreed for a referral to be made.

52. On 7 August, Mr Ralley was transferred to Myton Hospice for symptom control. He remained there until his death on 25 September. We consider that Mr Ralley's location was appropriate for his needs and he was transferred to a hospice for additional care without delay.

Restraints, security and escorts

53. When prisoners have to travel outside prison, a risk assessment determines the nature and level of security arrangements, including restraints. The Prison Service has a duty to protect the public but this has to be balanced with a responsibility to treat prisoners with humanity. Any restraints used should be necessary and decisions should be based on the security risk taking into account factors such as the prisoner's health and mobility.

54. Mr Ralley was a category B prisoner. (A category B prisoner is someone who does not require maximum security, but for whom escape still needs to be made very difficult.) He attended the oncology department at University Hospital Coventry and Warwickshire for chemotherapy and radiotherapy in 2017. During his escort to hospital he was restrained with double handcuffs. (Double cuffing is when the prisoner's hands are handcuffed in front of him and one wrist is attached to a prison officer by an additional set of handcuffs.) Restraints were removed during treatment. He was fully mobile at that time and healthcare opinion was sought on the suitability of restraints.

55. The level of restraints was reduced on 16 April 2018, when a single handcuff was used for his oncology review. Restraints were again reduced when Mr Ralley attended for his biopsy on 30 April when an escort chain was used. (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.) Restraints were removed for treatment. Healthcare opinion was sought on the suitability of restraints.

56. When Mr Ralley attended hospital in May for radiotherapy restraints were not used during the escort or while receiving treatment. We consider the level of restraints used to be appropriate.

Liaison with Mr Ralley's family

57. The prison's family liaison officer (FLO) visited Mr Ralley on 16 November 2017 to explain her role and to offer support. She kept in regular contact, visiting him on the wing and throughout his cancer treatment.

58. When Mr Ralley's health declined and he complained of feeling the cold, the FLO helped to secure extra warm clothing for him. She also kept in regular contact with prison staff on the wing who provided updates on his wellbeing.

59. Mr Ralley's brother (his next of kin) was under the care of Worcestershire Social Services and all contact with the prison was directed through his social worker and registered carers. The FLO met with Mr Ralley's brother and his carers during a visit to the hospital on 14 March 2018. She also arranged for Mr Ralley's brother to visit the prison on 30 July.

60. It was later agreed that in the event of Mr Ralley's death, the FLO would contact the brother's carer who would deliver the news to him.

61. On 25 September, the FLO telephoned Mr Ralley's brother's carer to inform them that Mr Ralley had died. Later that day, the FLO spoke to Mr Ralley's brother who was upset but thanked her for everything she had done for his brother.

62. Mr Ralley's funeral was held on 16 October. The prison contributed to the costs in line with national policy.

Compassionate release

63. Release on compassionate grounds is a means by which 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. 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. Among the criteria is 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 Her Majesty's Prison and Probation Service (HMPPS).

64. Mr Ralley applied to the Parole Board for early release in 2017. His application was unsuccessful. The Parole Board were aware of his cancer diagnosis.

65. On 12 March 2018, Rye Hill sent an application for early release on compassionate grounds to PPCS. PPCS asked for an up-to-date report from the specialist treating Mr Ralley. The prison sent the report to PPCS on 9 April.

66. PPCS did not recommend release at that time but said that Mr Ralley's application would be put on hold until his health had declined further.

67. On 6 August, the prison informed PPCS that Mr Ralley's health was declining and provided a letter from a Macmillan nurse. PPCS advised the prison (as Mr Ralley had not yet reached his Parole Eligibility Date of 14 August) to submit his

case to the Parole Board in line with PSO 6000. This was sent on 9 August. The application was later withdrawn by PPCS on 14 August when they agreed to consider the application themselves. They asked for an updated medical report from Mr Ralley's consultant.

68. On 16 August, the prison provided a medical report from a doctor at the hospice. The Head of Healthcare said they would be seeking a further report as it appeared there had been a change in Mr Ralley's condition since that report had been written.

69. A manager at PPCS emailed the prison on 22, 24, 29 and 30 August, chasing up the medical report. His manager also emailed the prison on 30 August, stressing the urgency and importance of providing the information requested. The prison emailed the report to the PPCS manager on 6 September. Unfortunately, the PPCS manager was out of the office between 5 and 21 September, and did not pick up the email until 24 September.

70. Mr Ralley died on Tuesday 25 September before his application could be considered.

71. There were delays in processing Mr Ralley's application for early release. It took over three weeks for the prison to send the medical report required by PPCS, and when they did it remained in the manager's inbox awaiting his return to the office. We make the following recommendation:

The Director of HMP Rye Hill should ensure that applications for early release on compassionate grounds are progressed without delay.

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