Prisons &
Probation
Ombudsman
Independent Investigations

Independent investigation into the death of Mr Deepak Sharma a prisoner at HMP Leeds on 24 March 2019

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.

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 Deepak Sharma died on 24 March 2019, of metastatic oesophageal cancer while a prisoner at HMP Leeds. He was 55 years old. I offer my condolences to Mr Sharma's family and friends.

I am satisfied that Mr Sharma received a good level of clinical care while at HMP Leeds, which was equivalent to that which he could have expected to receive in the community.

I am, however, concerned that a delay in providing the necessary medical information during the compassionate release process meant that Mr Sharma was not considered for early release before to his death. The Head of Healthcare should ensure that all staff are aware of the need for prompt information sharing when a prisoner has a terminal diagnosis.

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**

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Summary

Events

1. Mr Deepak Sharma had been at HMP Leeds since March 2018, and was serving a 15-year sentence for sexual offences. Mr Sharma had a history of schizophrenia and of oesophageal (throat) cancer.

2. On 10 May, Mr Sharma saw a prison GP. He had lost nearly a stone in weight in two months. The GP referred him for a blood test and weight monitoring. Given Mr Sharma's history of oesophageal cancer, the GP also wrote to the gastrointestinal team at Bradford Royal Infirmary for their advice.

3. On 21 May, Mr Sharma had a blood test. The results showed low iron and low vitamin D levels.

4. On 7 June, a prison GP reviewed Mr Sharma. The GP prescribed iron and vitamin D supplements and referred Mr Sharma for a follow-up blood test. The GP also urgently chased a response from the gastrointestinal team at Bradford Royal Infirmary.

5. A repeat blood test on 18 June showed Mr Sharma's blood count was still low.

6. On 28 June, a prison GP re-referred Mr Sharma to the gastrointestinal team at Bradford Royal Infirmary for urgent review in light of his weight loss and low blood count.

7. In August, Mr Sharma went to hospital for an endoscopy and computerised tomography (CT) scan. The results showed that he had terminal oesophageal cancer which had spread to his liver. However, the hospital did not inform the prison healthcare team of this until a prison administrator chased the results on 20 September. A prison GP informed Mr Sharma of his diagnosis the next day and told him there was no treatment available, only palliative care.

8. After Mr Sharma's diagnosis, he was offered support from the mental health team and the prison chaplaincy team.

9. Mr Sharma's condition remained stable until February 2019. He was moved to the prison's healthcare inpatient unit on 8 March and was prescribed antibiotics for a chest infection.

10. On 12 March, a prison GP sent Mr Sharma to hospital for symptom control.

11. Mr Sharma's condition continued to deteriorate and he died in hospital on 24 March.

12. The coroner gave Mr Sharma's cause of death as metastatic oesophageal cancer (cancer which has begun in the oesophagus and spread to other parts of the body).

Findings

13. We agree with the clinical reviewer that Mr Sharma's clinical care was equivalent to that which he could have expected in the community.

14. Mr Sharma presented to healthcare staff with weight loss, but he had no other symptoms and said he felt well. However, due to his medical history, a prison GP appropriately referred him for urgent investigative tests. Mr Sharma's level of clinical care while at Leeds was of a good standard. There is evidence of good communication between prison healthcare staff and hospital staff. A multi-disciplinary team appropriately monitored and responded to his needs as they changed.

15. On 11 March, the prison started the compassionate release process for Mr Sharma. The application was not completed in a timely manner and Mr Sharma was not considered for compassionate release before he died.

Recommendations

- The Head of Healthcare should ensure that all reports required for applications for early release on compassionate grounds for prisoners with terminal illnesses are prioritised and completed without delay.

The Investigation Process

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

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

18. NHS England commissioned an independent clinical reviewer to review Mr Sharma's clinical care at the prison.

19. We informed HM Coroner for West Yorkshire of the investigation. The coroner informed us of the cause of death. We have sent the coroner a copy of this report.

20. We wrote to Mr Sharma's wife, 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.

21. The investigation has assessed the main issues involved in Mr Sharma'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.

22. We shared our initial report with HM Prison and Probation Service (HMPPS). They did not identify any factual inaccuracies. They provided an action plan which is annexed to this report.

Background Information

HMP Leeds

23. HMP Leeds is a local prison which can hold a maximum of 1,218 prisoners who are on remand, convicted or sentenced. The prison serves the courts of West Yorkshire. Care UK provides health services, including mental health services. The prison has 24-hour primary healthcare cover.

24. In August 2018, Leeds was selected to be part of the "10 Prisons Project", which seeks to improve safety, security and decency in the prisons involved. The project is focusing on reducing violence, improving living conditions, preventing drugs from entering the prison and enhancing the leadership and training available to staff.

HM Inspectorate of Prisons

25. The most recent inspection of HMP Leeds was conducted in November 2017. Inspectors found that leadership and oversight were well established with strong clinical governance in place, demonstrating accountability for practice. They noted that access to most clinics was reasonable and there were routine waits of about two weeks to see a GP. Inspectors found that medical leadership was clear and effective, and that the management of long-term conditions was impressive. They noted that two experienced nurses provided effective assessment and oversight of patients with identified conditions, that complex care arrangements were good and there was effective liaison with community specialist services. Inspectors found that patients had good access to planned external hospital appointments, that there were few cancellations, and a GP clinically prioritised any proposed changes.

Independent Monitoring Board

26. 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 annual report for 2017, published in April 2018, the IMB reported that prisoners were generally satisfied with the delivery of healthcare but frequently reported difficulty in accessing the service in a timely manner and, as they had reported the previous year, the healthcare system regularly had missed appointments. They were concerned that prison officers were far too frequently not available to escort prisoners to their hospital appointments. They noted that this threatened the ongoing care of prisoners, caused difficulties at the hospitals, and had a knock-on effect for the medical care in the prison (as routine problems could turn into emergencies, requiring urgent action).

Previous deaths at HMP Leeds

27. Mr Sharma was the eighteenth prisoner to die at HMP Leeds since January 2017, and the ninth from natural causes. This is the second time we have made a recommendation about ensuring compassionate release applications are reviewed and progressed in a timely manner.

Findings

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

28. Mr Deepak Sharma was serving a 15-year sentence for sexual offences and had been at HMP Leeds since 8 March 2018.

29. Before entering prison, he had been diagnosed with oesophageal (throat) cancer and had had an operation to remove the tumour and part of his oesophagus in 2017. He did not attend subsequent hospital appointments.

30. During his reception screen, Mr Sharma said that he had schizophrenia, and took medication. He did not disclose any other health concerns. Healthcare staff obtained Mr Sharma's community GP records and his weight was recorded as 68 kilograms (kg).

31. The prison's mental health team saw Mr Sharma regularly. Mr Sharma did not present to healthcare staff with any significant concerns about his physical or mental health.

32. On 24 April, Mr Sharma applied to see the prison GP. Mr Sharma said he had previously had cancer but he did not say he was feeling unwell.

33. On 10 May, Mr Sharma attended a GP review. Mr Sharma said he felt well in himself, but had slowly lost weight in the last year. He said he previously had part of his oesophagus removed due to oesophageal cancer. The GP referred him for a blood test and to have his weight monitored weekly. She also wrote to the hospital gastrointestinal team at Bradford Royal Infirmary, for their urgent attention, highlighting Mr Sharma's symptoms and asking if he had an appointment or if they had any advice about his weight loss. She recorded his weight as 62.6 kg, over a 5kg loss (nearly a stone) in two months.

34. On 21 May, Mr Sharma had some blood tests. A prison GP entered the results into Mr Sharma's medical record the following day. Mr Sharma's blood count, ferritin (an iron level indicator), and vitamin D levels were low and it was noted he needed to see a GP. There is no evidence that the GP saw Mr Sharma or made a follow-up appointment, however the results were not a red flag for cancer.

35. Healthcare assistants took Mr Sharma's weight on 28 May and 5 June. His weight is recorded as 63kg and 64kg respectively.

36. On 7 June, a prison GP reviewed Mr Sharma. He said he felt well in himself and on examination the GP had no concerns. The GP noted the drop in Mr Sharma's blood count since January and low ferritin and vitamin D. She prescribed iron and vitamin D supplements and referred Mr Sharma for a blood test. She had not received a response from the gastrointestinal team at Bradford Royal Infirmary, so she wrote another letter for their urgent attention, saying that she felt he needed an appointment for review.

37. Mr Sharma had a repeat blood test on 18 June. A prison GP entered the results in Mr Sharma's medical record the next day. Mr Sharma's blood count was still low and the GP noted he had a GP appointment booked.

38. On 20 June, Mr Sharma saw a prison GP. Mr Sharma said he felt well and had no gastrointestinal symptoms. The GP referred Mr Sharma for an urgent gastrointestinal review in light of his continued low blood count.

39. On 21 June, a prison GP noted that the prison had not received a response to the referral she made to Bradford Royal Infirmary and asked the administration team to chase it up.

40. On 25 June, a healthcare administrator spoke to Mr Sharma's gastrointestinal surgeon's secretary. The secretary telephoned back on 27 June and said that Mr Sharma did not need a follow-up appointment.

41. On 28 June, a healthcare administrator spoke to an oncology nurse at Bradford Royal Infirmary due to the GP's concern about Mr Sharma's blood results. The nurse said that Mr Sharma did not need chemotherapy after his surgery and had been discharged from the clinic. Later that day, the GP re-referred Mr Sharma to the gastrointestinal team at Bradford Royal Infirmary for urgent review.

42. On 11 July, Mr Sharma had a repeat blood test. A prison GP reviewed the results on 13 July. Mr Sharma's folate level (a B-vitamin) was low, but his blood count was within the normal range.

43. On 17 July, Mr Sharma attended a hospital appointment for an endoscopy (in which a thin tube with a camera at the end is passed down the mouth into the stomach to check for abnormalities). However, the procedure could not be done because Mr Sharma had eaten.

44. A blood test on 31 July, showed Mr Sharma's previous low results were now within the normal range.

45. On 8 August, Mr Sharma went to Bradford Royal Infirmary for an endoscopy procedure and on 22 August, for a CT scan.

46. On 31 August, Mr Sharma attended a review with a prison GP. She noted that his blood count had improved, but he had lost 2kg. Mr Sharma said that he was waiting for the results of the CT scan and a review with the surgeon at Bradford Royal Infirmary. The GP prescribed a high calorie supplement drink and said she would review him in four weeks.

47. On 20 September, a healthcare administrator from the prison's healthcare team, chased up the results of Mr Sharma's CT scan. A specialist nurse in the hospital's gastrointestinal department said that Mr Sharma had been discharged to palliative chemotherapy because he had terminal oesophageal cancer which had spread to his liver. The healthcare administrator noted that Mr Sharma was not aware of his diagnosis and booked him to see a GP the following day.

48. On 21 September, a prison GP explained the results of the CT scan to Mr Sharma and told him that his condition was not suitable for treatment. With Mr Sharma's permission, the GP informed the wing manager of his diagnosis. Mr Sharma did not have any symptoms. The GP referred him for a repeat blood test and added him to the palliative care list.

49. After Mr Sharma's diagnosis, he was offered support from the mental health team and the prison chaplaincy team.

50. The clinical reviwer is satisfied that, although Mr Sharma was feeling well in himself and had no other significant symptoms, healthcare staff appropriately referred him for urgent investigative tests when he presented with weight loss. Poor information sharing by the hospital caused nearly a month's delay in informing Mr Sharma of his diagnosis. However, this did not have an impact on his condition and healthcare staff adequately chased the results of the CT scan.

51. We are satisfied that healthcare staff appropriately investigated Mr Sharma's symptoms, made timely referrals to secondary care providers and his diagnosis was properly explained to him by the prison GP.

Mr Sharma's clinical care

52. On 16 October, a wing officer told a nurse that Mr Sharma was vomiting after meals. The nurse told a prison GP. The GP told her to add Mr Sharma to the GP list. There is no evidence in the medical record that Mr Sharma saw a GP.

53. On 17 December, a prison GP reviewed Mr Sharma. He said he did not have any symptoms. The GP noted that Mr Sharma would be reviewed in four weeks.

54. On 20 December, Mr Sharma told a prison GP that he had back pain, which was relieved in the short term by paracetamol and ibuprofen. The GP referred Mr Sharma for a blood test and to the physiotherapist. She prescribed a short course of a stronger paracetamol-based pain relief.

55. On 4 January 2019, Mr Sharma attended to have his blood test. The healthcare assistant attempted to take blood twice, but was unsuccessful. The healthcare assistant booked another appointment.

56. On 14 January, a nurse completed the palliative care and end of life care plan with Mr Sharma. This included a holistic needs assessment, covering diet, pain relief, symptom control, basic observations and an on-going plan of care. Mr Sharma was noted to be reasonably well in himself.

57. On 23 January, Mr Sharma signed a disclaimer refusing any further blood tests. Healthcare staff advised Mr Sharma of the importance of the blood tests, but he said he did not want to keep coming to the healthcare unit for the same blood tests.

58. On 11 February, a nurse weighed Mr Sharma. His weight was 57kg. A prison GP prescribed high calorie supplement drinks to help Mr Sharma try and maintain his weight.

59. On 25 February, during a review with a prison GP, Mr Sharma said he had back and chest pain. The GP increased his pain relief and noted that Mr Sharma was doing well, but was slowly losing weight while on the supplement drinks.

60. On 7 March, a prison GP reviewed Mr Sharma. He said he was feeling generally unwell and had increasing pain in his back and hips. The GP changed his pain relief and referred him for urgent blood tests.

61. On 8 March, a prison GP reviewed Mr Sharma after he was moved to the healthcare unit earlier that day. Mr Sharma had clearly deteriorated and had signs of a chest infection. The GP prescribed antibiotics and healthcare staff encouraged Mr Sharma to drink fluids and eat small amounts.

62. On 10 March, Mr Sharma had the blood test as advised by the GP. The results were abnormal but expected, and no further action was needed.

63. On 11 March, a prison GP reviewed Mr Sharma. His condition was deteriorating and he was vomiting bile. The GP noted he was in the end stages of his condition and he would review him again the next day. The GP prescribed an anti-sickness medication.

64. A prison GP reviewed Mr Sharma the next day. His condition had not improved and the GP sent him to hospital for symptom management.

65. While in hospital, Mr Sharma was given intravenous antibiotics for a chest infection. His condition continued to deteriorate.

66. At 7.19am on 24 March, a hospital doctor confirmed that Mr Sharma had died.

67. The clinical reviewer is satisfied that Mr Sharma's care at Leeds was of a good standard. There is evidence of good communication between prison healthcare staff and hospital staff. Record keeping was also of a good standard. When Mr Sharma needed palliative care, a multi-disciplinary team monitored and responded to his needs.

68. We agree with the clinical reviewer that Mr Sharma's clinical care was equivalent to that which he could have expected to receive in the community.

Mr Sharma's location

69. Mr Sharma was located in the vulnerable prisoner unit. He remained in the unit until his condition deteriorated. Mr Sharma's cell mate assisted him with collecting meals and keeping the cell clean.

70. On 8 March, Mr Sharma was moved to the healthcare centre because of the deterioration in his condition. Staff continued to observe Mr Sharma and meet any additional clinical needs.

71. Mr Sharma's condition continued to deteriorate and he was admitted to hospital for symptom management on 12 March.

72. We are satisfied that Mr Sharma's location was appropriate at all times in accordance with his needs and wishes.

Restraints, security and escorts

73. When prisoners have to travel outside of the 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.

74. Mr Sharma went to hospital on 17 July, 16 August and 22 August 2018, for investigative tests. At this time, Mr Sharma was not experiencing any significant or debilitating symptoms. He said he felt well in himself, but was experiencing weight loss. The risk assessments for the escorts indicated that Mr Sharma was a medium risk to the public, but was a low risk to staff and of escape or hostage taking. Mr Sharma was a category B (medium security) prisoner and double handcuffs (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) were applied in line with the prison's local security strategy.

75. On 16 and 22 August, Mr Sharma had an endoscopy and a CT scan. During these procedures the double cuffs were removed and an escort chain applied. The double cuffs were reapplied immediately after the procedures had finished.

76. Mr Sharma did not attend hospital again for several months after his diagnosis, by which time his condition had deteriorated significantly and his security category had been downgraded to category C. Mr Sharma's diagnosis and physical condition were considered in the risk assessment and no handcuffs were used during his hospital admission in March 2019.

77. We are satisfied that Mr Sharma's health and physical condition were appropriately considered during the risk assessment process. Initially, he was a fully mobile category B prisoner and his health had not yet impacted on his risk to others or his ability to escape. The use of restraints in 2018 and the later decision not to use restraints in March 2019 were both proportionate to his condition and the risk he posed at the time.

Liaison with Mr Sharma and his wife

78. Mr Sharma told his wife in September 2018, that he had been diagnosed with terminal cancer.

79. On 16 February 2019, the prison appointed a family liaison officer (FLO). The FLO introduced himself to Mr Sharma and explained the FLO role and support available to him and his wife.

80. On 12 March, the FLO visited Mr Sharma as his condition had deteriorated. Mr Sharma said he was happy for the FLO to contact his wife when he went out to hospital. Later that day, the FLO met Mr Sharma's wife in the visits centre. Mr Sharma's wife said she had concerns about Mr Sharma's condition. The FLO explained that he would be seeing a doctor that day and he would update her if he went out to hospital. He said Mr Sharma's wife would be able to visit him in hospital.

81. When Mr Sharma was admitted to hospital, his wife visited regularly and stayed overnight at the hospital. The FLO kept in contact with Mr Sharma's wife and gave on-going support.

82. Mr Sharma's funeral was held on 24 April. The prison offered a financial contribution in line with national guidance.

Compassionate release

83. 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.

84. 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 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).

85. On 11 March, a prison GP said that Mr Sharma was in the end stages of his condition, and a member of the prison's Offender Management Unit (OMU) started the compassionate release process for Mr Sharma. She emailed the application to probation staff and healthcare staff, with a deadline of 18 March for the relevant information to be completed.

86. On 19 March, the Acting Head of OMU emailed the colleague who had started the application process and a Senior Probation Officer, asking for an update on Mr Sharma's compassionate release application. The Acting Head of OMU said that Mr Sharma was on an end of life pathway and the prison needed to ensure compassionate release was explored.

87. Later that day, a clinical team leader updated healthcare staff on the deterioration of Mr Sharma's condition. She said he had been referred to the hospital palliative care team and would not be returning to Leeds as they could not facilitate his care.

88. On 20 March, the Acting Head of OMU and the Senior Probation Officer chased the prison GP's report so that all the necessary information could be collated and sent to the Governor for consideration. The GP said he had sent the medical section of the application 'weeks before his condition deteriorated'. However, there is no evidence that the GP completed the medical section of the application, and we have been unable to obtain a copy of the medical section from the GP or the prison.

89. Also on 20 March, Mr Sharma's offender supervisor completed his section of the compassionate release paperwork setting out his assessment of Mr Sharma's level of risk. He said Mr Sharma was frail, critically unwell with sepsis and was on an end of life pathway. Mr Sharma's behaviour at Leeds was unremarkable, he was polite and respectful. Mr Sharma had also just been re-categorised to a category C prisoner. He concluded that Mr Sharma's level of risk of reoffending was low.

90. Mr Sharma died on 23 March, 12 days after the member of OMU started the compassionate release application and five days after the deadline she gave for information to be completed. The application could not be sent to the Governor

for consideration without the medical information required. If the medical information had been provided in a timely fashion, Mr Sharma could have been considered for compassionate release – although there is no guarantee it would have been granted. We make the following recommendation:

The Head of Healthcare should ensure that all reports required for applications for early release on compassionate grounds for prisoners with terminal illnesses are prioritised and completed without delay.

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