Investigation into the death of a man whilst in the custody of HMP Littlehey in August 2009

Report by the Prisons and Probation Ombudsman for England and Wales

January 2010

This is the report of an investigation into the circumstances surrounding the death of the man, a prisoner at HMP Littlehey. The man died in August 2009. He was 53 years old. A post mortem showed that the cause of his death was acute pancreatitis and chollithiasis.

I offer my sincere sympathy and condolences to his family, as I do to all of his friends and acquaintances who are touched by his passing.

The investigation was carried out on behalf of the Ombudsman by my investigator. Both he and I would like to thank the Governor of HMP Littlehey and all the staff for their full and ready co-operation during the course of our enquiries. I also thank the clinical reviewer for the clinical review he led on behalf of Cambridgeshire Primary Care Trust (PCT).

This report recognises that the clinical care and consideration given to the man and his family by the staff, in particular to the prison liaison officer. I make one recommendation regarding the payment of funeral expenses and recognise four areas of good practice.

The version of my report, published on my website, has been amended to remove the names of the woman/man who died and those of staff and prisoners involved in my investigation.

Jane Webb
Deputy Prisons and Probation Ombudsman **January 2010**

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SUMMARY

The man was convicted and remanded to custody on 12 May 2005. He was subsequently sentenced to seven years imprisonment on 21 June 2005, with a non parole release date of 10 January 2010. He had a history of anxiety, eczema, and was a smoker.

When he arrived at HMP Bullingdon, the man had a First Reception Health Screen conducted by a nurse. He told the nurse that he had seen his doctor prior to entering prison and was taking medication. On 14 July the doctor who saw him and recorded that he suffered from insomnia, depression and anxiety. The doctor increased in his antidepressant medication.

Between 13 October 2006 and 21 May 2007, the man was seen by another prison doctor on 14 separate occasions for anxiety and eczema. By 11 October, the doctor also diagnosed that he had asthma.

The man transferred to HMP Littlehey on 19 December 2008. At the reception screening the reception screening nurse recorded that the man was taking medication for depression, was asthmatic and used inhalers, and suffered from eczema.

The man saw the prison doctor on 29 January 2009, who recorded that he was breathless on moderate exertion and questioned whether he suffered from chronic obstructive pulmonary disease (COPD). The same doctor saw him two weeks later and confirmed the diagnosis of COPD for which he prescribed an inhaler.

On 26 July, following concerns from staff on the man's houseblock, and following an assessment by a nurse, he was taken to Hinchinbrooke Hospital for treatment. The next day the Deputy Governor, after obtaining medical opinion, authorised the man's release on temporary licence to the hospital.

Healthcare staff from Littlehey maintained daily contact with the hospital to obtain updates on the man's condition but his prognosis was very poor. The prison family liaison officer contacted members of the man's family and made arrangements for them to visit the hospital.

In August at 00.45am, the man died with family members at his bed side. The prison family liaison officer went to the hospital and remained with them until 3.00am. Later that day, the prison contacted the man's other relatives to inform them of his death. The prison also offered financial assistance towards the cost of the funeral.

The clinical reviewer highlights that the care the man received at Littlehey was equivalent with what he would have expected in the community. I make one recommendation and recognise areas of good practice in maintaining medical records, the use of restraints, the release on temporary licence and family liaison.

THE INVESTIGATION PROCESS

1. The investigation was opened on 7 August 2009 when my investigator issued notices to staff and prisoners. The notices included an invitation to those who wished to submit information relating to the man's death to make themselves known. No one came forward as a result.

2. My investigator visited HMP Littlehey on 13 August. During his visit he was given copies of all the documentation relating to the man. They included his main prison record and medical records. He also visited the houseblock to see the man's cell.

3. A clinical reviewer was appointed by Cambridgeshire Primary Care Trust to carry out a review of the man's clinical care. My investigator and the clinical reviewer discussed aspects of the man's treatment and care whilst he was at Littlehey. I am grateful to the clinical reviewer for providing such a considered review.

4. My investigator contacted HM Coroner to inform him of the nature and scope of my investigation and to request a copy of the post mortem report. Upon completion, this report will be sent to the Coroner to assist in his enquiries into the man's death.

5. One of my family liaison officers contacted the man's family to inform them of the investigation. The man's mother and brother said that they did not have any concerns. They stated that they were grateful to the staff at Littlehey for their sympathetic and professional manner.

6. My family liaison officer and my investigator later met part of the man's extended family, who raised the following concerns:

    - They had not been informed that he had been admitted to hospital.
    - They were not informed that he had died.
    - There were difficulties meeting the costs of the funeral expenses.
    - They had not received his belongings.
    - They had not received equal treatment from the staff at Littlehey

7. I have attempted to address the issues raised within the report and I hope that it provides a better understanding of the treatment he was given and the events following his death.

HMP LITTLEHEY

8. HMP Littlehey is a category C prison. It can hold 726 male offenders. It first opened in 1988 and has eight residential wings. Three additional units have been added since the prison was originally built, and all the rooms on these units have privacy locks and en suite showers.

9. Approximately ten per cent of the prisoners are serving life sentences. A small proportion of the prisoners are category D which enables them to work outside the prison. The prison offers sex offender treatment programmes, as well as extensive industrial work and education opportunities.

10. The prison was most recently inspected by HM Chief Inspector of Prisons during an announced inspection between 2 and 6 July 2007. In her subsequent report, the Chief Inspector commented:

> "This full announced inspection confirmed that Littlehey remained an impressively safe prison, with mutually respectful staff-prisoner relationships, a reasonable amount of purposeful activity and an appropriate focus on resettlement. Health services were adequate, although some waiting lists were long. Mental health in-reach services were particularly well integrated into the work of the establishment. Littlehey remains an impressive and improving prison, able to work effectively with some very high risk prisoners. It provides a fundamentally safe and respectful environment, in which prisoners are generally occupied purposefully. Some impressive interventions are available for sex offenders. Inevitably, there is scope for improvement but, overall, staff and managers are to be commended on what they have achieved so far."

11. The latest Independent Monitoring Board annual report was for the period ending January 2009 and the report contained following comments:

> "The Board considers that overall Littlehey continues to be a well-run establishment where prisoners live in a safe and respectful environment."
>
> "Healthcare continues to operate well, despite an increase in the prison population during the period of review, and received a positive report following an audit conducted by the area team."
>
> "The core team, which is NHS run, is supported by other skilled technicians on a county wide basis to meet the needs of the prisoners, including the provision of Psychotherapy and Psychology."
>
> "The Healthcare centre runs a number of pro-active initiatives including a 10 week smoking cessation course which currently has a long waiting list. Other clinics include those for diabetics, asthmatics and prisoners with heart or lung disorders."

12. Provision of healthcare is the responsibility of Cambridgeshire Primary Care Trust with the general practitioner service being provided by a local GP

practice, and therefore does not provide 24 hour cover. Medication is administered every week or month to those prisoners who have been risk assessed as suitable for holding it in their own possession. It is administered on a daily basis to other prisoners, when either they are judged to be at risk or the medication is considered unsuitable to be held in their possession.

KEY FINDINGS

13. The man was born in November 1955. He was divorced and had two sons and a daughter. He was convicted and remanded to custody on 12 May 2005, and subsequently sentenced to seven years imprisonment on 21 June 2005, with a non parole release date of 10 January 2010. The man had a history of anxiety, eczema, and was a smoker.

14. When the man was remanded in custody, he was sent to HMP Bullingdon. On arrival there he had a First Reception Health Screen conducted by a nurse. (The health screens are conducted to obtain a brief confidential medical and psychiatric history from the prisoner to ensure that he receives the appropriate medical treatment and medication as required.) The man told the nurse that he had seen his doctor before coming into prison and was taking medication of Propranolol (used to treat anxiety) and Diprobase (used to treat eczema).

15. He also told the nurse that he smoked twenty cigarettes daily and had no intention of attemping to give up. He said that he had never used illicit drugs in the past. His blood presssure was taken and recorded as 130/78. (The normal range for blood pressure is 100/70 to 140/90, although the pressure does vary throughout the day depending on the individual's activities. A blood pressure reading of greater than 140/90 is classed as high and a reading of 90/60 or below is classed as low.). He gave the details for his next of kin, as his father who lived in Cheshire.

16. On 21 June, the man saw the nurse in reception following his court appearance and recorded that he said that he felt well at that time as he had been expecting a longer sentence than seven years. The nurse advised him to contact healthcare straight away if he felt he was unable to cope.

17. One week later he saw a nurse in healthcare and said that he was not sleeping and experienced both tremor and panic attacks. The nurse referred him to see the prison doctor. The first prison doctor, saw him on 14 July and recorded that he suffered from insomnia, depression and anxiety. His blood pressure was recorded as 120/80. The doctor prescribed an increase in Propranolol from 40mg to 80mg and Mirtazapine 30mg (an antidepressant).

18. The prison doctor reviewed him a month later and, because he said he felt worse, increased the prescription of Mirtazapine to 45mg. A second prison doctor, saw him on 25 November, and recorded that he felt very well and he was to continue with the same dose of medication.

19. On 23 February 2006, he again saw the second prison doctor who recorded that he had experienced side effects from taking his medication and wanted to reduce the amount of Mirtazapine. The doctor also recorded that his blood pressure was 180/100. He reduced the dosage of Mirtazapine to 30mg but maintained the level of Propranolol.

20. The second prison doctor next saw him on 31 March. He diagnosed that he had dermatitis, and recorded that his blood pressure was 150/88. The doctor prescribed Dermovate cream (a corticosteriod cream used to treat skin disorders).

21. Between 13 October 2006 and 21 May 2007 he saw the second prison doctor on 14 separate occasions for anxiety and eczema. The doctor continued with the medication of Propranolol, Mirtazapine and Dermovate cream.

22. On 20 June, he returned his medication of Propranolol and Mirtazapine to healthcare. The Healthcare Officer (HCO) recorded that the man said that he did not want to take any more medication.

23. On 29 August, Bullingdon was contacted by the man's ex-wife, in a letter dated 27 August. She requested the removal of her contact details from all the prison records and asked that all contact with her and the children was to cease. The prison replied by letter the same day informing her that her telephone number had been blocked, all mail would be blocked and the children's names were removed from the authorised visitors list. The man was informed, by interview, that all contact with his ex-wife and children was to cease

24. By 11 October, the man was experiencing both depression and anxiety, as well as eczema. He saw the second prison doctor who prescribed the previous level of Mirtazapine and Betnovate cream (used to treat eczema). The doctor also diagnosed that he had asthma and prescribed a Salbutamol inhaler (used to treat asthma).

25. Two weeks later the man saw a third prison doctor, who reviewed the treatment given for asthma. The doctor recorded that the Salbutamol had made some improvement to the man's breathing, but he still experienced shortness of breath. The doctor prescribed a Beclometasone inhaler (used to treat asthma) in addition to the Salbutamol.

26. The third prison doctor next saw the man on 7 February 2008. The doctor reviewed the medication for eczema and recorded that he had an eczema rash on his face and prescribed hydrocortisone cream (used to treat skin disorders) and a continuation of the same dose of Mirtazapine. The same doctor saw the man four weeks later and noted that he had dry skin with several eczema patches on his arms, upper legs and back. The doctor prescribed Clobetasol Propionate ointment (used to treat skin disorders), Dermol shower emollient (a dermalogical neutral shower gel) and E45 cream.

27. The man saw a fourth prison doctor, on 4 September, who reviewed his asthma. The doctor recorded that the man said he had stopped smoking five months ago, he was not coughing but still got breathless on going up stairs. The doctor continued with the Salbutamol and Beclometasone.

28. Five weeks later, the man was seen by a fifth prison doctor, who recorded that he had cellulitis (an infection of the skin) on his lower right leg and prescribed Flucloxacillin (an antibiotic used to treat skin infections). The doctor also

recorded that the man's mood was stable and he had no sleeping difficulties, and therefore continued with the same level of Mirtazapine.

29. The man was transferred to HMP Littlehey on 19 December. At the reception screening the nurse recorded that the man had been prescribed Mirtazapine for depression, was asthmatic and used inhalers, had eczema for which he used E45 cream and took his blood pressure which was 175/92.

30. On 29 January 2009, the man was seen by a sixth prison doctor, who recorded that he was breathless on moderate exertion. The doctor wondered whether he suffered from chronic obstructive pulmonary disease (COPD) which is the narrowing of the airways causing shortness of breath. The doctor also noted that the man had a few patches of eczema on his legs and abdomen. The doctor prescribed a Seretide inhaler and a Ventolin inhaler (both used to treat asthma). He saw the man two weeks later and confirmed the diagnosis of COPD and prescribed a Tiotropium inhaler (used to treat COPD).

31. The man next saw the sixth prison doctor on 12 March, when the doctor reviewed the treatment for COPD. The doctor recorded that he was able to walk up stairs without the need to stop. He decided to continue the same medication and advised him to exercise.

32. On 25 July at 7.00pm, a member of wing staff went to see the man as he complained of stomach pain and had been sick. The staff member rang the out of hours doctor service who recommended that he was sent to the emergency department at the local hospital. The member of staff gave the doctor's advice to the man but he refused to go to hospital.

33. At approximately 8.30am on Sunday 26 July, a nurse responded to a call from staff on the man's wing as they were concerned about his medical condition. The man told the nurse that he had felt pain in his abdomen since 6.00pm the previous evening and had been vomiting since the early hours of the morning. The nurse contacted the on-call doctor by telephone and gave the detail of the man's symptoms. It was agreed that he was to be transferred to hospital for assessment and treatment.

34. The man was taken to Hinchinbrooke Hospital by taxi, escorted by two prison officers. The bedwatch risk assessment was authorised by a Senior Officer (SO) who stated that single cuffs were to be used. They would be removed with Duty Governor's approval to allow medical treatment and, without approval, for life saving intervention if necessary. By 9.00pm, the man's condition had deteriorated significantly. One of the officers on escort contacted Littlehey and the Deputy Governor gave the authorisation to remove all restraints.

35. The next day at 12.00pm, the Deputy Governor reviewed the bedwatch risk assessment and, due to the man's condition, amended the escort to one officer with no restraints. Later the same day, after receiving medical advice from the hospital, the Deputy Governor authorised the man's release on temporary licence to Hinchinbrooke Hospital.

36. The same day the prison family liaison officer contacted the man's father who he had named as his next of kin. Regretably when the prison family liaison officer telephoned, the man's mother answered and told the prison family liaison officer that his father had died three months earlier. As the man's mother and brother lived in Cheshire, which is a considerable distance from Littlehey, the prison family liaison officer organised accommodation for them in a local hotel for the following night.

37. On 28 July, the prison family liaison officer met the man's mother and brother at the hotel and accompanied them to the hospital where they had the opportunity to speak with the doctor. The following day, the prison family liaison officer met his mother and brother at the hospital who said that they were returning home that day but planned to return when there was a change in his condition.

38. Healthcare staff maintained daily contact with the hospital to obtain updates on the man's condition. The hospital had made the diagnosis of acute pancreatitis (sudden inflammation of the pancreas which can have severe complications and high mortality despite treatment). By 29 July the prognosis was judged to be very poor.

39. On 4 August, the hospital contacted the prison family liaison officer and asked that the man's mother and brother be contacted as his condition had further deteriorated. The prison family liaison officer spoke to the man's brother who said that he and his mother would visit the hospital and expected to arrive at 9.00pm that evening.

40. The prison family liaison officer contacted the hospital the following day and was informed that the man's mother and brother had been at the hospital all night. The prison family liaison officer went to the hospital in the afternoon to meet them and remained at the hospital until 7.00pm.

41. At 00.50am on 6 August, the hospital contacted the prison family liaison officer to say that the man had died at 00.45am. The immediately went to the hospital to be with the man's mother and brother and stayed with them until 3.00am.

42. Later that day Deputy Governor and the prison family liaison officer met the man's mother and brother at their hotel to offer condolences and further support. Deputy Governor was made aware of the man's extended family and contacted his ex-wife so that his children could be informed of his death.

43. In the days that followed the prison family liaison officer maintained contact with the various members of the man's family and arranged for them to visit Littlehey. The family were in disagreement over the funeral arrangements, and eventually the man's ex-wife took over the arrangements. The prison offered financial assistance towards the cost of the funeral. The man's ex-wife informed the prison that she was applying for financial assistance towards the cost of the funeral, which she expected to be in the region of £800. She discussed with the Deputy Governor the amount of money in the man's prison account and whether it could be used in lieu of financial assistance.

44. When the man’s ex-wife visited Littlehey on 8 August, she gave the Deputy Governor a letter authorising the use of money from his prison account. The prison used this money for the funeral and offered to pay the balance. The Deputy Governor assured her that the prison would ensure that at no point would she be placed in financial difficulty.

45. Due to the disagreements between the man’s family the Deputy Governor sought advice from the National Offender Management Service (NOMS) about the dispersal of the man’s money and personal effects. The written advice was received on 11 August, which stated:

> “None of the prisoner’s money or personal effects should be released to any one member of the family without the prison receiving a ‘Grant of letters of administration’. The family, or their solicitor, will have to apply to the Probate Registry and the person(s) who are in receipt of the Grant will then become the ‘administrator’ of the deceased’s estate. This should be explained to the prisoner’s relatives when necessary.”

46. The Deputy Governor told the man’s ex-wife of the requirement to obtain the letters of administration on 26 August. Following the funeral the funeral directors sent their invoice directly to the prison, who paid them direct. Since the funeral the prison has not received any contact from any of the man’s family regarding his estate.

ISSUES

Clinical care

47. The clinical reviewer considered the care that the man received whilst in custody and concluded that it was equitable to that which he could have expected in the wider community. The review also stated that all NHS policies and procedures were followed.

48. The review did consider whether the man's death could have been avoided. In the review the clinical reviewer stated:

> "Acute pancreatitis is a sudden inflamation of the pancreas. Depending on its severity, it can have severe complications and high mortality despite treatment."

49. The review highlighted good practice in record keeping, and specifically stated:

> "Record keeping at both HMP Bullingdon and HMP Littlehey was of a high standard with clear, consecutive entries which were easy to follow and the person responsible for entering the clinical record was clearly stated. The high standard was maintained throughout the notes."

Use of restraints and release on temporary licence

50. Unfortunately there have been too many reports in which the Ombudsman has been critical of the use of restraints when prisoners are escorted at outside hospital. As soon as the man's condition deteriorated, the Deputy Governor gave the order to remove all restraints. It is pleasing therefore to recognise the good practice adopted by Littlehey.

51. I also recognise the good practice adopted by Littlehey in taking appropriate action after medical advice was received by releasing the man on temporary licence. This ensured that he was treated with dignity and respect during his final days in hospital.

Family Liaison

Liaison with the nominated next of kin

52. PSO [Prison Service Order] 0500 (Reception) makes it clear that "Staff must ask prisoners for the name, address and telephone number of their next of kin and accurately record the information." PSO 2710 (Follow-up to deaths in custody) instructs prisons to "Arrange notification to the next of kin and any other person reasonably nominated by the prisoner." The prison will therefore only contact the nominated next of kin, and will often not have details or knowledge of anyone else.

53. When the man was admitted to hospital, Littlehey correctly contacted his father, the nominated next of kin. On making contact with the nominated address, the prison were informed by the man's mother that his father had sadly died. Nevertheless she was told about the seriousness of the man's illness.

54. The man's mother and brother told my family liaison officer that they were very impressed with the care service offered by the prison and I recognise the good practice followed by the prison family liaison officer.

Liaison with the extended family

55. The extended family only became known to the prison after his death. On being made aware of them, the prison contacted them by telephone. The man's ex-wife has asked why she and the children had not been told that he was in hospital.

56. Bullingdon had received a letter from the man's ex-wife, dated 27 August 2007, requesting that all communication with him was to cease. The prison provided written confirmation, dated 29 August 2007, stating that all forms of communication with her ex-husband, and between him and his children, would cease. Littlehey, therefore, correctly followed the instructions in PSO 2710 by only using the next of kin details given by the man.

Payment of funeral expenses

57. The family were in disagreement over the funeral arrangements, which placed Littlehey in the position of needing to maintain contact with the various family members. The man's ex-wife took over responsibility for the funeral arrangements and she informed Deputy Governor that she was applying for financial assistance towards the cost of the funeral expenses. She said that she expected to receive £800, and the prison offered to pay the balance of the funeral costs.

58. However the man's ex-wife could not afford to pay out any monies without receiving financial assistance. The Deputy Governor assured her that the prison would ensure that she would not be placed in financial difficulty. The amount of money in the man's prison account was discussed and his ex-wife provided the prison with a letter of authority on 8 August for the transfer of money out of this account as part payment towards the funeral costs.

59. On 11 August Littlehey received the advice from NOMS headquarters regarding the man's estate. This advice meant that no monies should have been taken from the man's account, and indeed as they were divorced, his ex-wife had no authority over his account.

60. When my colleagues visited the man's ex-wife, she said that she was not entitled to claim any financial help because she was divorced. She said that she had told the Deputy Governor this, although the prison has no record or recollection of this being said.

61. PSO 2710 states that prisons should offer to pay a reasonable contribution towards funeral expenses. The figure quoted in this PSO is £3,000. It also specifically states "This offer should be made irrespective of whether the family is entitled to claim a grant from the Social Fund." Therefore Littlehey should not have taken into account any potential claim for other financial assistance, or used money from the man's personal account.

62. Littlehey correctly paid the funeral directors direct. On consideration of the facts presented, I expect the man's personal account to be reimbursed, from prison funds, for the amount taken towards meeting the cost of the funeral expenses.

I recommend that the Governor ensures the prison adheres to the instructions contained within PSO 2710 in regard to the offers to pay funeral expenses.

63. I fully appreciate the difficult time experienced by all family members on the loss of someone close. I am satisfied, however, that overall Littlehey dealt with the difficult circumstances following the man's death in a sensitive and compassionate manner.

CONCLUSION

64. I am satisfied that the man received a standard of care in prison that was equitable to that which he could have expected in the community. The clinical review confirms that the cause of his death could not have been predicted or prevented.

65. My report recognises the good practice adopted by Littlehey regarding the use of restraints and the release on temporary licence. I also recognise the good practice adopted by the prison family liaison officer, in the sensitive and professional manner in dealing with the man's mother and brother in the period following his admission to hospital.

66. Following the man's death, Littlehey were faced with the difficulty of dealing with the various members of his extended family who were in disagreement about the funeral arrangements. I am satisfied that overall Littlehey managed this difficult situation in the most compassionate way possible. However I do make a recommendation regarding the offer of payment of funeral expenses as I find the use of money from a prisoner's personal account inappropriate.

RECOMMENDATIONS

1. I recommend that the Governor ensures that the prison adheres to the instructions contained within PSO 2710 in regard to the offers to pay funeral expenses.

Accepted. The prison service has accepted this recommendation, and has reimbursed £800 back into the man's personal prison account.