

**The death in custody of a woman
who died in hospital in August 2004**

Report by the Prisons and Probation Ombudsman for England and Wales

June 2005

Contents

Introduction by Stephen Shaw CBE

Summary

The Investigation

The woman

Drake Hall Prison

Eastwood Park Prison

Prison Service policy regarding temporary release on compassionate licence

Prison Service policy on early release on compassionate grounds

Events prior to 18 July 2004

Events between 18 July and 1 August 2004

Events after the death

Post Mortem report

Concerns expressed by family and friends

Key Findings

Recommendations

This report concerns the death from natural causes of a woman on 1 August 2004. The woman had been transferred to hospital from Eastwood Park prison in the early hours of 31 July suffering from terminal cancer. A post mortem examination on 2 August concluded that she died of metastatic melanoma.

I would like to extend my condolences to her family and friends for their sad loss. I would also like to thank the Governors and staff of Eastwood Park and Drake Hall prisons, in particular the Governor's secretary at Drake Hall, who assisted my investigator with her enquiries. We found everyone very helpful and co-operative.

The investigation was undertaken by one of my investigators who is a registered nurse. One of my Family Liaison Officers made contact with the woman's family and friends and listened to their concerns. A clinical review of the woman's clinical care, not published on my website, was written by the Medical Lead for Avon, Gloucester and Wiltshire prisons.

The woman was a young woman with young children. The cause of death was an especially aggressive cancer and the pace of her deterioration was swift. Staff at both Eastwood Park and Drake Hall cared for her with great compassion and humanity in difficult circumstances.

I make no recommendations.

I make two commendations of good practice.

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

**STEPHEN SHAW CBE
PRISONS AND PROBATION OMBUDSMAN**

June 2005

Summary

The woman was 42 years old and the mother of two children aged seven and one. She died of cancer in hospital on 1 August 2004. She had been in prison since September 2003 and was serving a four year sentence for arson.

The woman was diagnosed with a malignant melanoma in June 2004 while at Drake Hall prison. She underwent a biopsy and investigations in hospital in Birmingham between 28 June and 2 July which revealed that the disease was at an advanced stage with secondary involvement in other tissues and organs.

The Governor and staff at Drake Hall were trying to make arrangements for her to be granted a compassionate early release by the Home Secretary when she absconded from a community visit on 18 July 2004, the day before her 42nd birthday. By prior arrangement, she went to Swindon where a friend, a recently released ex-prisoner, lived. She stayed with her friend while arranging to rent accommodation nearby. She registered with a general practitioner under her maiden name and received care from him and from community and Macmillan nurses. On 23 July, she was re-arrested and taken to Eastwood Park, the nearest local prison for women.

The woman received comprehensive round the clock nursing and medical care at Eastwood Park. Plans were in hand for her to move to a hospice when her condition severely deteriorated and she was admitted to hospital on 31 July, where she died on 1 August. Her parents, her brother and her partner were with her when she died.

The Investigation

The investigation began in August 2004 when my investigator contacted the Governor of Eastwood Park. On 16 August, notices were issued to staff and prisoners announcing the investigation and inviting anyone with information relevant to the woman's death to contact my investigator.

One of my Family Liaison Officers (FLO) made contact with the woman's family and friends to establish what concerns, if any, they would wish my investigator to follow up on their behalf. Their concerns reinforced my investigator's view that the investigation should be extended to Drake Hall, where the woman resided from January to July. My investigator contacted the Governor there and visited Drake Hall on 10 and 11 May 2005. Five members of staff were interviewed and the Senior Probation Officer, who had retired, was visited at home. The records of the interviews were forwarded to the interviewees to check, amend as necessary, sign and return.

A clinical review of the woman's health care was submitted by the Medical Lead for Avon, Gloucester and Wiltshire prisons. His report was seen and agreed by the Director of Public Health and Partnerships for South Western Staffordshire Primary Care Trust.

The investigation was completed on 27 May 2005.

The woman

The woman was 41 when she was received into custody, charged with committing arson recklessly. She was sentenced to four years imprisonment at Wolverhampton Crown Court on 21 November 2003.

The woman had been married and had a daughter aged seven at the time of her death. The daughter was living with her father. The woman also had a son aged one with her partner. At the time of her death he was in foster care, pending adoption. We did not establish the reason for him being the subject of care proceedings. The woman's partner was the victim of her crime which took place in their home.

The only information about the woman's working life was a reference to her being, at one time, a social worker in a youth offending team. It seems she developed post natal depression which led to a problem with alcohol and episodes of violence. Her crime of committing arson recklessly was linked to alcohol consumption. At Brockhill, where she was first remanded in custody, she undertook an alcohol detoxification programme, seemingly to good effect.

The woman's conduct as a prisoner led to her being described by the Governor of Drake Hall as 'a very good prisoner' who engaged fully in risk reducing strategies and resettlement. The Nursing Sister at Drake Hall described her as a strong personality, a popular prisoner who had a lot of support amongst the other women. She tended to relate very well with her own peer group, prisoners of the same age, from a similar background and those who were in for similar offences and who also had addiction problems.

The woman had experienced a great deal of loss in recent years, losing to a greater or lesser extent her marriage, close contact with her daughter, care of her son, her job, her home and her liberty. In July 2004, she was faced with the final loss – her health and her life.

Drake Hall Prison

Drake Hall developed from a wartime hostel for munitions workers and later briefly housed refugees from the Suez crisis. From 1956 it was a male open prison. In 1975, it became a female prison. In 2002, with the erection of a secure perimeter, Drake Hall became semi-open, holding 315 sentenced adult women and young offenders. There are fifteen houses, five of which are voluntary drug testing units. Employment consists of education, industrial workshops, a large gardens department, laundry and orderly work. Fifty prisoners have the opportunity to work in the community on an outworking scheme.

Eastwood Park Prison

Eastwood Park is a closed local prison for adult women, young female offenders and juvenile girls. It was opened in March 1996, after refurbishment of the buildings previously occupied by male young offenders. It can hold 346 prisoners and has a 12-bed in-patient unit and a 24-hour health care service.

Prison Service policy regarding temporary release on compassionate licence

Policy governing temporary release on compassionate grounds is contained in Instruction to Governors 36/1995. At paragraph 3.1, regarding scope, it states:

Compassionate licence can be granted only where the prisoner has exceptional personal reasons falling within one of the following categories:

- i) Visits to dying relatives or funerals, or other tragic personal circumstances;
- ii) Primary carers;
- iii) Marriage or religious ceremonies;
- iv) Medical appointments.

Paragraph 3.2 states that any prisoner who is not in one of the ineligible groups listed at paragraph 2.3 may be considered for release on compassionate licence.

Paragraph 2.3 lists the following ineligible groups of prisoners:

- Category A
- E list
- Un-convicted
- Convicted, un-sentenced
- Subject to extradition proceedings
- Sentenced but remanded for other charge/s
- Sentenced but awaiting sentence on further charge/s

Regarding the duration of any period of temporary release, paragraph 3.3 states:

The purpose of any temporary release on compassionate licence should normally be met by release from the establishment of no more than a few hours' duration. Whether overnight stays can be permitted under compassionate licence is a matter for the Governor's discretion in each case. In the case of prisoners requiring in-patient treatment in hospital, there will be no maximum duration of compassionate licence. In other cases, the maximum duration should be no more than 5 days per month away from the establishment, although in exceptional circumstances it may be necessary to grant back-to-back licences.

Prison Service policy on early release on compassionate grounds

The power to release a prisoner on compassionate grounds is confined to the Home Secretary and is set out in S.36 of the Criminal Justice Act 1991 (for fixed term prisoners) and S.30 of the Crime (Sentences) Act 1997 (for lifers).

The process is one of:

- a) Making application to the prison in the first instance;
- b) Production of a medical report by the managing Medical Officer (sic) of the establishment outlining the medical condition(s) including reports from treating Consultants;
- c) Production of a report by the prison's Probation Officer outlining the prisoner's home circumstances;
- d) Completion of a report by the Governor of the establishment as to whether the prisoner's medical condition was known to the court at the time of sentence.

The types of medical condition which may render a prisoner suitable for early release are set out in paragraph 10.4 of Prison Service Order (PSO) 6000:

- i) Where a prisoner is suffering from a terminal illness and death is likely to occur 'soon' – suggested guideline three months. For the application to be successful it must be considered that there is no prospect of the prisoner committing further offences and medical care will be available to the prisoner in the community.
- ii) Where the prisoner will be bedridden or severely incapacitated until the end of the sentence and there is no risk of further offences being committed before then.
- iii) Where the prisoner's continued imprisonment would endanger his/her life or seriously shorten their life expectancy.

The criteria for deciding whether the prisoner's condition is one for which compassionate release would apply are set out in Annex A to PSO 6000:

- i) The prisoner is suffering from a terminal illness and death is likely to occur soon, or the prisoner is bedridden or similarly incapacitated; AND
- ii) The risk of further crime is past; AND
- iii) There are adequate facilities for the prisoner's care and treatment outside the prison; AND
- iv) Early release will bring some significant benefit to the prisoner or his/her family; AND
- v) The diagnosis and prognosis, in particular where there is a specific estimate of life expectancy; and the degree of incapacitation.

The prison should forward the completed forms to the Parole Unit at Prison Service Headquarters. Should the Unit consider there are sufficient grounds for the application to be considered further, documentation is usually forwarded to the Parole Board. Release can only be authorised by Ministers but senior officials in the Parole Unit have delegated authority to refuse an application.

Events prior to 18 July 2004

The woman was first received into custody at Brockhill, on 25 September 2003, on remand. She admitted to alcoholism and depression and had recently had a baby, whose birth she did not wish to discuss. She was taking an antidepressant and vitamin supplements, all of which were continued in prison. She admitted to self-harming by burning five years previously (cigarette burns to her arm) and to taking an overdose three days before reception at Brockhill, for which she was kept in hospital overnight. She underwent an alcohol detoxification programme at Brockhill. On 21 November, she was sentenced to four years imprisonment for reckless arson. She was transferred to Drake Hall on 8 January 2004.

At Drake Hall she participated fully in the programmes available, addressing her offending and undertaking training in hairdressing, food hygiene, information technology and business administration. She earned enhanced status under the Prison Service Incentives and Earned Privileges (IEP) scheme. Through IEP she earned the privilege of community visits. She was described as a popular prisoner who had a lot of support amongst the other women.

The woman's health

At Drake Hall, the woman consulted a local general practitioner who has been the primary care doctor at the prison for 12 years. On 8 April, he saw her about her anxiety and depression. He noted that she was taking dothiepin and propranolol. She mentioned that she had lost her house and her job and her son was being adopted. For all these reasons, she did not feel ready to decrease the dosage of medicine that she was taking. Given her circumstances, he decided she was going to need those medicines for a few weeks or months to come.

On 30 April, the woman again consulted the prison doctor because she had a swelling on her right shoulder. This was the first consultation about anything that later transpired to be her illness. The doctor noted that there was a three centimetre square smooth and mobile lump which he put down as lymphoma or another common cause of a lump, a neurofibroma. He found no suspicious characteristics. He recalled at interview that she must have expressed a degree of concern because he, unusually with such a presentation, agreed to review it in four weeks time. Normally, with such apparently innocent lumps he would just reassure the patient.

The woman came back to the prison doctor after three weeks, on 20 May. The lump was then a little tender. He prescribed an anti-inflammatory medicine and agreed a further review in three or four weeks. On 28 May, she went to the doctor again because she now felt the swelling on the right posterior shoulder was spreading. When he examined her it was more tender and it felt firmer. The doctor described at interview how he wondered what would be the best way forward. His initial view was to arrange an urgent ultrasound because he was worried that the woman might have an orthopaedic type of malignant tumour, a sarcoma, but he then decided the best thing was to refer her to the orthopaedic surgeon. Although he did not make a specific note of it, he used a two week cancer referral pro forma because of his concern about sarcoma. This is an NHS form that guarantees being seen within two weeks because of cancer concerns.

The Nursing Sister at Drake Hall confirmed that the two week referral form was used and recalled that they obtained a supply of these forms at that time. During or after the consultation on 28 May, the doctor discussed the question of ultra sound with the X ray department and they felt that an ultrasound was not the best investigation. It was left that she would be seen by orthopaedic surgeons. The doctor mentioned that, when an urgent cancer referral form is used, the doctor making the referral does not specify to whom he is making the referral. The receiving hospital allocates the referral to an appropriate consultant within the two week time frame. An orthopaedic surgeon took the responsibility for seeing the woman. The Nursing Sister was able to confirm from the healthcare centre diary that the appointment was on 16 June. There was no correspondence on file relating to that appointment.

During the consultation on 28 May the woman mentioned that she had got a mole between her shoulder blades which had enlarged and darkened in colour. The doctor noted having seen the mole and felt that it was one that needed to be removed. He booked her in for a minor operation which he carried out on 11 June. His record of the minor operation stated that a mole was excised from her mid back and sent for histology. The Nursing Sister confirmed at interview that this was not an uncommon procedure at Drake Hall. The doctor said at interview that, at the time of the operation, he became concerned because the mole had changed significantly since he first saw it. He realised he might be looking at a malignant melanoma which had spread rather than a primary sarcoma.

By 18 June, the histology report was available and the doctor advised the woman of the diagnosis of malignant melanoma. The report stated that the melanoma had invaded below the skin and the doctor noted the swelling in the right shoulder and the lymph glands in the right axilla (armpit) had grown dramatically in the past week. The doctor reported at interview that, although he did not write it down, he had checked her axilla when he first looked at the original lump and found no swelling there at all. That had been, he said, another reason, at that time, why he did not feel that the lump was malignant.

The doctor emphasised that he had never been more shocked than when he saw her a week after the minor operation. He said that the way the lump had grown was outside anything that he had experienced in his medical career. It was the most virulent malignant growth that he had ever come across. It had probably grown five or six fold in a week. The discolouration to the skin, the warmth and the tenderness, were outside anything that could have been expected a week before. Because the problem was now not an orthopaedic one but a dermatological one, the doctor discussed the situation with the orthopaedic surgeon who felt that the referral that he had already made to his colleagues in Birmingham was entirely appropriate. The woman would probably be seen on 22 June. The doctor confirmed with the orthopaedic surgeon that there was no extra treatment needed at that moment, but he would monitor and increase her analgesia as necessary and the nurses would monitor for infection which he would treat appropriately.

The orthopaedic surgeon had referred the woman to a consultant orthopaedic oncologist (cancer specialist), in Birmingham who decided to admit her straight into inpatients rather than see her in outpatients. He also involved the dermatologists.

The doctor had to expedite the woman's admission. In an entry on 22 June in the patient record, he had written that the woman was asking whether he could expedite her appointment, due in six days time. He noted he would try but probably would not succeed. He gave her some Zopiclone (for sleeping) because she was becoming distressed at that point. The doctor recalled at interview that they had discussed surgery versus chemotherapy versus radiotherapy. Records show that she was admitted to hospital in Birmingham on 28 June. She had an operation, a biopsy of the swelling on her shoulder, on 29 June and was discharged back to Drake Hall on 2 July. The biopsy confirmed that the swelling in the shoulder was secondary melanoma.

The doctor saw the woman on 2 July after discharge from hospital. He made a note that he had completed a form for compassionate early release on medical grounds. He had completed the medical section of the form, a copy of which was on file. The doctor stated on the form that she was unlikely to survive more than three months. He further stated that he did 'not believe she will be capable of committing a violent criminal act'.

The doctor said that the woman was also concerned that, should she be released, her general practitioner (GP) should be brought fully up to date. Consequently they discussed informing her mother's GP of her condition. He prescribed Tramadol and Zopiclone in possession to help with the pain and sleep. In his notes, he recorded that they discussed the time left. The woman asked the doctor if it could have been dealt with earlier and he said yes, maybe by a few weeks, but he did not feel it would have made any difference as it had already spread. Quite understandably, she said she had seen him with a lump a few weeks previously and he had kept an eye on it rather than referring her and now it turned out to be terminal. The doctor recalled that they were able to have a very open chat to which a short notation cannot do justice. There is on file a letter from the woman to the doctor, dated 6 July, in which she thanked him for all his care.

On 5 July, according to the prison probation officer's file notes, a meeting took place between prison management, himself and nursing staff for the purpose of considering how to continue care for the woman when her condition was too serious for Drake Hall's limited facilities. No actual decisions are recorded but the Nursing Sister was organising an extensive case conference about the woman at the time she absconded.

The woman was seen by a Macmillan nurse attached to the doctor's surgery on 7 July. The Nursing Sister reported at interview that Macmillan were contacted for advice on wound care and pain control because, had the woman not been in prison, Macmillan nurses would have been involved and being in prison should make no difference. The Nursing Sister also commented that, even though the prison nurses had a good relationship with the woman, it would be beneficial for her to have somebody outside the prison system to talk to about her situation. She added that they also gave advice on dressings to use for the wound, and what type of pillows the woman might find more comfortable because the swelling on her back had become quite large and very uncomfortable. The Macmillan nurse told the Drake Hall nurses that she would liaise with the Macmillan service in the woman's home area.

Contact with the hospital in Birmingham was also noted on 7 July. The purpose was to obtain a letter confirming the woman's diagnosis and prognosis to support her application for compassionate release. A letter was sent to the Governor by a consultant dermatologist, on 12 July, confirming that the woman had a 'very serious and rapidly progressive type of skin cancer' with a life expectancy of 'probably no more than 3 months'.

On 8 July, the doctor made three notes: that he was going to write a 'to whom it may concern' letter regarding the woman's terminal illness to try to get some urgent council accommodation; that he had completed the DS1500 which is a form for people who are not expected to live six months and enables them to claim a non means tested benefit payment of £50 or £60 per week; and that he would write a letter to her mother's GP regarding the medical situation. Copies of these letters are on file.

Various nursing entries record that the woman was having dressings to the site of her surgery. The doctor described the state of her shoulder as an 'appalling lesion'. The site of the excised mole healed well. On 15 July, the doctor recorded that she now needed Tramadol four hourly for pain. He discussed slow release morphine therapy with her but she was not keen. The doctor thought this was because there is a common belief that once doctors start talking morphine, people think they are dying. He felt that she was not ready to 'take that message on board'. He thought she just wanted to take the minimum pain relief 'needed to do the job'. He was very impressed with her demeanour and how she coped. At interview, he confirmed that, to all outward appearances, the woman looked fit and well.

The doctor last saw the woman on 16 July and that same day talked about her situation to the Governor. The doctor recalled at interview that the woman was under the very definite impression that she would be released early on compassionate grounds. He was advised by the Governor that there was no chance of release unless she was in the last days of life and clearly incapable of harming anyone.

Support for the woman at Drake Hall

On her return from hospital on 2 July, the woman was given use of 'The Haven' and staff opened a special support plan. The Haven is where Drake Hall locates prisoners who are at risk of self harming or suicide. It is a comfortable, pleasant area where people can talk privately with someone. The prison felt that it was not appropriate for the woman to be left on her own in her room. They were looking to put her somewhere where she could be with people if she needed to talk but was also out of the way. They knew that the other women on the house would be crowding her and pressing her with questions. The woman remained in The Haven until 6 July and the support plan was still open when she absconded from a community visit.

The woman's release on temporary licence

Prisoners are able to make an application for release on temporary licence (ROTL) for a variety of purposes, particularly related to resettlement, but also for compassionate reasons, such as a family funeral or as in this case, a hospital appointment. The woman applied for, and received approval for ROTL for her admission to hospital in Birmingham on 28 June.

Her earned community visits were each the subject of a ROTL risk assessment. According to written notes made by the woman on 16 July, she went on a total of seven community visits with her partner. She stated that she had kept things 'amicable' with him because of the number of possessions, including ones of sentimental value relating to her children, which remained at his home.

On 4 July, two days after her return from hospital and with some understanding of the severity of her illness, the woman returned 20 minutes late from a community visit. The reception officer thought she smelled of alcohol and called the duty governor and a nurse to see her. The nurse made an entry in the medical record that the woman admitted she had drunk two alcoholic drinks. However, the nurse further recorded that there was no evidence of intoxication. At interview, the duty governor recollected that the woman was accompanied by the person who she was seeing at that time and he spoke to them both in reception. Subsequently, he had to reconsider her being allowed community visits. He said at interview that what he looked at was whether she should be going out because drinking was actually part of her index offence. However, he chose to take the decision to let her out again because, on the balance of risk, she was not actually drunk and he bore in mind the illness and her having received the news that her illness was terminal.

The woman went on a further community visit on 17 July from which she returned without any problem. The next day, 18 July, she failed to return and had effectively absconded from Drake Hall. The Nursing Sister said at interview that, after she did not return, all the prisoners that she spoke to seemed to know full well that would be the case. It seemed that it had been quite a group exercise. When staff spoke to women who were on the same house, they were told she had tidied and cleaned her room and made everything ready to go. She had said her goodbyes to her friends without telling them definitely that she was absconding.

In her written statement of 16 July, the woman talked about the Governor going over with her the possibility of giving her back to back release on temporary licence, pending a compassionate early release. At interview, the Governor confirmed he had that intention. He said that, when she came back from hospital having had the news that she was terminally ill, he brought her to his office and they discussed it. She was very upset and he gave her a commitment that he would do what he could to get her released on temporary licence and seek her early release on compassionate grounds. He said this was because he was aware that the woman had a particularly aggressive form of cancer and had probably not got long to live. While they were pursuing her early release on compassionate grounds with the Parole Unit at Prison Service headquarters, release on temporary licence would increase her quality of life with her close family and friends. He emphasised that, in

discussions with headquarters, the woman's index offence was a problem because it was regarded as constituting a risk to public safety. The Governor said that, following the incident in which she consumed alcohol during a community visit, he was concerned whether or not she would return to drinking if released on licence. That was a factor he had considered carefully given the prison's duty to protect the public.

Prison Service policy required that the woman make an application for release on a compassionate licence. On 5 July, the prison's Senior Probation Officer discovered that she had not made a ROTL application. He advised her to do so and noted that she returned later to say the advice had been confirmed by the Governor. The woman complained to the Governor on 12 July that her case had not yet gone to a ROTL board. One explanation was that a suitable home circumstances report was not yet available for the board.

At interview, the Governor was asked why he did not embark on the back to back ROTL plan. He said they had tried and the deputy governor, the Principal Officer (PO) in Resettlement and the Senior Probation Officer (SPO), had spent hours trying to sort out family circumstances. The two places that the woman suggested were with her partner, with whom she had her community visits, or her parents' address in Plymouth. The SPO confirmed at interview that her partner was telling the prison, but not telling the woman, that he was very concerned about having her back to the house. The Governor and the SPO emphasised that her partner was the person that she had tried to set fire to while she was drunk. That was the subject of her index offence. The SPO confirmed that her parents were very concerned about having her at their home because of their age and her father's ill-health, and because of their memory of their daughter's previous drinking and violence. Without a suitable release address, they could not even release the woman on ROTL. The Governor emphasised his duty of care to the public and the need to take into account the views of the other people concerned.

The Application for the woman's Compassionate Early Release

The Governor confirmed that the deputy governor took the lead on their quest to obtain the woman's compassionate early release. At interview, the deputy governor described his involvement. He said he initiated the process for compassionate early release with Early Release Section at Prison Service headquarters to see if it was a viable option. He said they sent off reports and files which Early Release Section held while Drake Hall pursued home circumstances. If Drake Hall were to provide a release plan they would be able to put the application forward to see whether the Home Secretary would approve the woman's release. Her index offence was one problem, but also it became clear that they would not succeed without an acceptable home circumstances report which supported her release. The first barrier, which was also mentioned by the SPO, was that the home probation team (in Stourbridge) decided that it was not appropriate for her to stay at the victim's address for compassionate release. At the same time as pursuing the Stourbridge option, they were in contact with the probation service in Plymouth as well as the woman's mother. The possibility of a hospice in Plymouth was also considered.

The deputy governor recalled that he and the SPO talked about and to the woman regarding the circumstances. He said they 'put their cards on the table', telling her the issues about the home circumstances. They told her they were still allowing her community visits while trying different areas to see if they could get her released, perhaps to a hostel or hospice. The SPO was able to add that he contacted Plymouth probation before sending the home circumstances forms for completion. He obtained the woman's mother's telephone number from her. He spoke to Plymouth probation and said he would talk to the woman's mother. He would relay to them his conversation with her mother. He asked them to act quickly. The SPO said the duty officer was very helpful but explained that accommodation pressures in Plymouth were immense.

The home circumstances forms were sent to Plymouth by the Drake Hall ROTL clerk. Plymouth probation made enquiries. They rang the SPO, very concerned about the mother's anxieties about her daughter returning to live with her and her husband. This concurred with his own conversation with the mother. He had spoken of 'continuing supervision' which the mother thought would mean 24-hour support for her daughter. When it was explained that this was not what it meant, the mother said she could not do it. Her husband was unwell and they had not seen her daughter for two years.

The SPO had been instrumental in involving the Macmillan Cancer Nursing Service in the woman's care. His wife is a Macmillan manager so he was very aware of their role. However, he went to great lengths to ensure the referral was made through the health care team at Drake Hall. The Macmillan nurses made enquiries about hospice care for the woman in Plymouth. The hospice managers said they needed much more information about her case, but did not consider they could provide the accommodation she needed at that time.

The SPO recorded that he had received a call from a friend of the woman's in Plymouth. The woman had asked her to consider accommodating her. The friend could not offer accommodation because she and her husband were going on holiday in August. She offered regrets and sympathy which the SPO conveyed to the woman.

When asked about the woman's insight into the difficulties they were having in releasing her, the deputy governor stated that she seemed reassured by the fact that they were focussed on finding somewhere for her to go. He said she had insight and understood the risk implication because they explained about the high level of risk that she was perceived to be by the Probation Service. The SPO recalled that the woman was angry about the home probation officer, who had spoken with her after an Enhanced Thinking Skills Review, because she would not support her returning to Stourbridge where her victim resided. The woman alleged the home probation officer was more interested in her partner (the victim) than her. The SPO stated that this was an early indication that the woman's resettlement would not be easy.

On 12 July, the woman made an official complaint to the Governor. She complained that there was undue delay in progressing her compassionate ROTL and sought an urgent meeting with him. A response has not been entered on the complaint form itself by the Governor. However, there is a letter from the Governor to the woman on

file dated 19 July, the day after she absconded. He refers to her letter of 16 July, from which it appears he may have received a statement describing events from her perspective and her answers to the criteria for compassionate early release she also sent to her solicitor.

In his letter, the Governor clarified that the responsibility for a decision to release early on compassionate grounds lay with the Home Secretary, and was based on risk. He reminded her of her late return from a community visit, having consumed alcohol. He reminded her of the link between her index offence and alcohol consumption. He said he had grave concerns about the possibility of her consuming alcohol within the community. He confirmed that she already knew that her home probation department and Plymouth probation had not supported her release to their areas. The Governor wrote that all those issues prevented him, at that time, recommending her compassionate early release to the Home Secretary. He went on to say that he was willing to release her on community visits or compassionate licence to see her children or family. He wrote that he would reconsider his recommendations to the Home Secretary if she were able to find a suitable location and if he were confident she would not consume alcohol. He apologised for the disappointment she would feel on reading his reply and stated that he was continuing to search for any other compassionate options that might be available.

The possibility of releasing the woman to a hospice in Plymouth was tentatively explored but at that time, in early July, her illness did not appear to fit the criteria. This was understandable given that she was not even taking morphine as an analgesic at that point. The process of obtaining home circumstances reports was continuing when she absconded.

Events between 18 July and 1 August 2004

When the woman failed to return from the community visit on 18 July, normal contingency procedures were operated whereby the police were contacted and informed that she was unlawfully at large. On 23 July, the woman was arrested at an address in Swindon. The woman was staying with a friend of hers that she had met in Drake Hall and had put a deposit down on the flat next to her friend's. The friend told my Family Liaison Officer that they had planned this just before her release on 14 July. She said the woman was becoming desperate about the delay and not seeing her children. The friend said that, after the woman returned to custody in Eastwood Park, her own probation officer had sent a report saying she had no objection to the woman going to live with her. This letter has not come to light but there may have been a telephone call to the SPO. The SPO made a file note on 23 July, recording that he had been informed of the woman's arrest. He noted that she had secured accommodation next door to a former Drake Hall prisoner. His note concluded 'Governor may wish to consider compassionate leave to that address therefore it will need checking'.

The woman was received at Eastwood Park and inducted in the normal way, signing the various forms and compacts. However, the records show that staff realised she needed special care and support and allocated her a single cell and extra comforts. Contact was made with Drake Hall for information on her circumstances and to request her records be forwarded. Nursing staff at Drake Hall spoke directly to Eastwood Park nursing staff on 23 July to give a full report on the woman's health needs, particularly medication. On admission, the woman provided information that she was now taking two morphine based pain relief preparations.

On 25 July, the Nursing Sister at Eastwood Park recorded that she had contacted the local hospice, St Peter's, for urgent support for the woman. She also contacted the Bristol Royal Infirmary to make an urgent referral to the melanoma specialist. The Nursing Sister recorded that she had a long talk with the woman. She ascertained that the woman had arranged a district nurse, a Macmillan nurse and a general practitioner in Swindon, but did not wish them to be contacted because she had not told them she was a prisoner. She had used her maiden name.

On 26 July, the woman was moved to a bed in the prison's inpatient department in the health care centre where she could receive 24 hour nursing care. A nurse at Eastwood Park contacted the Birmingham hospital and discovered that she had an appointment there the next day for further surgery which would relieve her pain. There were a number of telephone calls which established how importantly Birmingham viewed the surgery. However, there is an entry on record which makes clear that the woman was adamant that she did not wish to have the surgery. The nurse wrote that the woman said she had told officers at Drake Hall this already. She witnessed the nurse's entry in the record to this effect. An entry on 16 July in the medical record from Drake Hall confirms that the woman said then that she wanted to cancel the appointment in Birmingham scheduled for 27 July.

The hospice manager visited the woman on 27 July. He made a note that he would be contacting Drake Hall probation to see if her release could be hastened.

On 28 July, the Nursing Sister at Eastwood Park recorded that the woman was to have a visit that afternoon but not with whom. She also recorded that she was to have her hair done, diet as per her own request, extra visits and extra phone cards. She needed the latter to contact her family. The Nursing Sister noted that Social Services were arranging a visit with her 14 month old son but the woman did not want her daughter, aged seven, to visit her in prison.

On 29 July, the woman was described by the doctor from the local Primary Care Trust as being in good spirits, mobile but short of breath. An appointment had been made with the oncologist in Bristol on 3 August. He also wrote that her health might well deteriorate rapidly, and they should look to a medical release to a hospice when care could not be provided adequately at the prison. She was seen by the prison doctor on 30 July. He prescribed an inhaler to help her breathing.

At 4.30am on 31 July, the night nurse observed the woman having a fit and losing consciousness. She administered oxygen and called an ambulance. The woman was transferred to hospital. Initially, the woman went out with a two officer escort and restraints. At 12 noon, the duty governor convened a ROTL board and reduced the escort to one officer with no restraints. The information available to the duty governor included the woman's two failures to comply with previous ROTL conditions. He also noted that when she returned late from the community visit she was in a drunken state. The escort officer was instructed to wear civilian clothes. Arrangements were in hand to transfer her to the Macmillan Unit when a bed became available. The woman died in the presence of her parents, brother and partner at 4.25am on 1 August.

Events after the woman's death

The contingency plan following a death in custody was followed in a scrupulous and timely way by the Eastwood Park duty governor and staff. A debrief of all staff directly concerned was held at 6.30am on 1 August at the prison. Contact was made with the woman's ex husband at 8.45am and after an earlier unsuccessful attempt, with her mother, at 3.45pm. The Governor, wrote a letter of condolence to the mother with information about support for the bereaved, when he returned from leave on 5 August.

Concerns expressed by the woman's family and friends

My family liaison officer spoke on the telephone with the woman's mother, on 7 September. She had no criticism of the prison. She felt the staff had done their best for her daughter and had treated the family well. She said that it was rather hard to understand why arranging compassionate leave had taken so long.

My FLO also spoke on the telephone with the woman's partner, on 7 September. He had no pressing concerns and said he understood why the compassionate leave had not happened because the woman was an alcoholic. If she had a drink her behaviour could be very unpredictable. He regretted that he had not been able to offer to have her stay with him but, because of the offence taking place at his flat, this was not possible. He was engaged in a complaint with Social Services regarding their son. He said that, after care proceedings were taken for their son in March 2004, the Judge had ordered that the woman should have a final contact. Social Services failed to organise this even after they had been informed that she was terminally ill.

On 8 September, my FLO had a telephone conversation with the woman's friend. She had been in Drake Hall with the woman until her release on 14 July. She said that, in her opinion, the blame for the delay in compassionate leave was mainly the responsibility of the Senior Probation Officer in Drake Hall. She said he had persistently dragged his feet and put obstacles in the way. She said he said he had contacted Plymouth probation when in fact he had done nothing. She said she was sure two other prisoners from Drake Hall would be happy to speak to the Ombudsman and named them.

The friend was also very critical of the doctor at Drake Hall Health Centre. She said that the woman had gone to see him in May about a lump on her shoulder. It was rather like an insect bite but was getting larger. She said the doctor dismissed it even though the woman went back a few times. A friend then noticed a mole on the back of the woman's neck not immediately visible under her long hair. She showed it to the doctor and he immediately removed it. She then went to hospital to receive the diagnosis after further investigations. The friend said that the doctor subsequently took the attitude that the woman had at least six months to live, even though the consultant had sent a letter to the Health Centre stating that the prognosis was between 3 to 15 months and with a significant decline likely over the next three to four weeks. The friend was highly critical of the doctor but said the nursing staff had been very good.

The friend added that the woman had had frequent community visits over the previous year and had never absconded or had a drink. She felt this should have counted in her favour. She also said that the rules stated that anyone given a prognosis of three months or less should be released on compassionate grounds straightaway. She said that the woman was constantly stressed about the delay, which would have exacerbated her decline. She also made allegations about the partner's behaviour and said she was sure the woman would not have wanted him at the hospital.

The woman said she had written to her MP and to Helena Kennedy and Cherie Blair about the delay. She was electronically tagged and was very bitter that Drake Hall would not give her an extension of curfew beyond 6.45 pm so she could attend the woman's funeral.

The deputy governor of Drake Hall said at interview that they had received an anonymous letter about the woman, saying they were not doing enough to help her. He could not take it any further or respond to it because there was no name or address. Julia Drown, MP for South Swindon wrote to the Director General of the Prison Service after being contacted by the woman's friend, who was her constituent. The questions raised by Julia Drown on behalf of the friend were similar to those raised in the anonymous letter to the prison. Drake Hall provided responses to the questions raised in order for the Director General to reply to the MP in September 2004.

Post Mortem Report

A post mortem was carried out on 2 August at the hospital where the woman died. A consultant histopathologist reported that the cause of death was metastatic melanoma arising from the skin of the right axilla. He found metastatic deposits in the liver, spleen, pleura and hilar and hepatic lymph nodes. In his comments, he said that it had been an unusually aggressive malignant melanoma. He concluded that the woman's death was due entirely to natural causes.

Key Findings

The woman died of natural causes, as a result of a highly aggressive malignant melanoma. It was evident at interview that the doctor at Drake Hall had reflected deeply on his management of her condition. His conclusion was that, with such a virulent malignant melanoma, such that the lump she first presented was the secondary spread, diagnosis a few weeks earlier would not have made any difference to the medical outcome.

Once the doctor saw the enlarged, dark mole, he acted decisively, in accordance with NHS guidelines, sending an urgent cancer referral to Stafford Hospital and undertaking excision of the mole. The woman told an NHS consultant that she had not shown anyone the mole before she showed it to the doctor on 28 May. She could not see it herself because of its position and did not know it was changing in nature until a fellow prisoner noticed it was bleeding. The doctor said that the woman's hair was not long enough to hide the mole but a vest or t-shirt would have covered it.

After biopsy of the swelling and numerous other investigations in hospital on 28 June, the tumour was found to be inoperable and incurable. The woman was offered an embolisation of the tumour which would have relieved her pain but she declined any further surgical intervention.

The doctor and nursing staff at Drake Hall offered the woman a high standard of care throughout, advised and supported by the local Macmillan nursing service. She received appropriate and timely secondary care from the NHS. Her care would not have been different if she had been in the community.

At Eastwood Park the nursing staff made every effort to secure appropriate multi-agency support for the woman, contacting the local hospice, Macmillan service and cancer specialist departments in both Birmingham and Bristol. The care she received was concerned and compassionate and matched what she would have received in the community. She received full nursing and medical care in hospital.

When the woman was moved to hospital on 31 July, it was an emergency and early in the morning. It was not surprising that she was escorted by two officers and restraints used because there was no time for a full risk assessment. The duty governor at Eastwood Park convened a ROTL board within six hours and concluded that restraints were not necessary and the escort would be one officer in civilian clothes. He exercised discretion in the knowledge that the woman had breached a ROTL licence twice in recent weeks. It was unfortunate that someone had informed him that she returned from a community visit 'in a drunken state'. This is not a true reflection of the records or the interview evidence from Drake Hall.

The policy on temporary release on compassionate licence is clear and commonly used by prison governors. The woman had been granted a compassionate licence for her hospital stay without difficulty. She had also been approved for community visits, a form of temporary release on licence. Her offence was not a barrier to these licences. Drake Hall managers took a very compassionate view of her breach of her community visit licence, given her recent diagnosis and the terminal prognosis. She

requested that her community visits be reinstated and she was granted two more community visits. However, when a five day licence was in question, a suitable home circumstance report was essential and this was not possible to obtain, despite the efforts of the Drake Hall probation department.

The policy on compassionate early release on medical grounds is more complex and rarely exercised. From 2 July, the Governor explored the possibility of early release on compassionate grounds. He explained his plans to her personally on 2 July. The doctor completed his part of the required paperwork on that same day. By 12 July, the prison had acquired the necessary confirmation of diagnosis and prognosis from the hospital consultant. The prognosis was a life expectancy of no more than three months. While the woman's medical condition met the criteria, the Governor had doubts about there being no risk of re-offending, especially under the influence of alcohol. In addition, as with the compassionate licence, a suitable home circumstances report was essential and this could not be obtained. All the woman's community visits were in the company of her partner who had been the victim of her crime. However, he was not willing for her to live at his address on compassionate licence. This concurred with the view of Stourbridge probation that it was not acceptable due to the risk arising from her past behaviour and her crime. While it appeared to the woman and her family and friends that there was an undue delay, evidence indicates that the process was being progressed but was meeting barriers.

The Governor, and others such as the doctor and the SPO, kept the woman informed and answered her questions almost on a daily basis. They tried to temper her expectations of early release while still giving her hope. There was a great deal of compassion and humanity in the way they acted. From his conversation with the doctor on 16 July and his letter to the woman of 19 July, the Governor was clear that compassionate early release was very unlikely. It is conceivable that the woman understood this especially since her abscond was pre-planned. It may be relevant to note that it was her birthday on 19 July. She may have been motivated not to spend her last ever birthday in prison.

The woman and her friend had organised for her to go from her community visit to Swindon to stay. In Swindon, the woman organised her medical and nursing care effectively and put a deposit on a flat next door to her friend, all using her maiden name. The police found her on 23 July and returned her to custody at the local women's prison, Eastwood Park. The woman had not applied for a licence to stay with her friend. From the SPO's file note, it is possible this might have been considered favourably.

The management at Eastwood Park cared for the woman's relatives and partner, and their own staff, entirely appropriately after her death.

Recommendations

There are no recommendations arising from this sad account.

Good practice

I would like to commend both Drake Hall and Eastwood Park nursing and medical staff for their care of the woman. I particularly noted how beneficial it was that they actively sought expert advice and support from the specialist cancer nursing service provided by the Macmillan organisation and the hospice movement.

I also commend the management and staff at Drake Hall and Eastwood Park for their compassionate management of the woman. I particularly commend her allocation to The Haven at Drake Hall and the recognition that she needed a specific support plan when she returned from hospital on 2 July.