Investigation into the circumstances surrounding the death of a man at HMP Durham in December 2009

This is the report of an investigation into the circumstances surrounding the death of a man who died from cancer on 15 December 2009, in HMP Durham.

The investigation was led by an Investigator from my office. My Senior Family Liaison Officer contacted the man's daughter and asked her if she had any questions or concerns about his death. I offer them, and all those affected by his death, my sincere condolences.

I am grateful to the Clinical Reviewer from Custodial Care Innovative Solutions (CCIS) who completed a clinical review of the healthcare received by the man in prison on behalf of NHS County Durham.

Although I make five recommendations designed to improved nursing practice at Acklington and Durham, there is much to commend in the level of care received by the man at both prisons during his final illness. I am particularly pleased that the man's daughter had high praise for the way that she and her father were treated at Durham.

Jane Webb
Acting Prisons and Probation Ombudsman **October 2010**

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SUMMARY

The man was serving a sentence of eight years imposed in August 2005. He was a category C prisoner, serving his sentence at HMP Acklington. In April 2009, he complained of problems urinating and lower back pain. He continued to complain of lower back pain throughout July 2009.

On 30 July 2009, he was examined by the doctor and found to have cellulitis (a severe infection of the skin and surrounding tissue) in his pelvic area and swollen glands. He had a high temperature and high blood pressure. He was treated with antibiotics.

Two days later on 1 August, he was admitted to Wansbeck General Hospital in Ashington Northumberland, where he was diagnosed with terminal prostate cancer that had spread to his lungs, liver and bones. He was treated as an inpatient and returned to Acklington on 26 August.

Healthcare staff at Acklington made commendable efforts to look after him but in October 2009, the man's condition had deteriorated to the point that he required 24 hour healthcare. This was not available at Acklington and so he was transferred to HMP Durham on 16 October.

At the man's request, staff at Durham contacted his daughter whom he had not seen for some time. She visited her father twice and remained in contact with him until his death.

The man's condition continued to deteriorate and he died on 15 December 2009. I conclude that some care planning at Acklington is in need of improvement but that this did not affect the outcome for the man. Healthcare staff there made great efforts to care for him. I make three recommendations designed to improve nursing practice at Acklington.

I also conclude that the healthcare the man received at Durham was of a high standard. I make one recommendation to improve record keeping at both prisons.

The man's death was the 11th death by natural causes that the Ombudsman has investigated at Durham since 2004. I found no similarities between these and the circumstances surrounding the man's death.

THE INVESTIGATION PROCESS

1. I was made aware of the man's death on 18 January 2010 when my office was contacted by HMP Durham. They had not been contacted by my office as is customary after every death in custody. HMP Durham had notified the National Offender Management Service's (NOMS) National Operations Unit (NOU) when the man died on 15 December 2009 but NOU did not pass this information to my office. The case was allocated to the Investigator on 18 January. The Investigator spoke to the Prison's Liaison Officer. The relevant paperwork was sent by post to my office.

2. The Investigator spoke subsequently to the Clinical Reviewer who had been commissioned to write a clinical review of the healthcare received by the man. The Clinical Reviewer works for Custodial Care Innovative Solutions – a private company commissioned by NHS County Durham to provide independent clinical reviews of the healthcare provided to prisoners who die in Durham prison. The Investigator discussed the man's case with the Clinical Reviewer and they agreed that the review should look at the care the man received in both Acklington and Durham. The Clinical Reviewer sent her report to NHS County Durham on 22 March. To date I have not received the final copy approved by NHS County Durham.

3. My Senior Family Liaison Officer, talked to the man's daughter by telephone. The man's daughter said the healthcare staff were very supportive and helpful. She praised the way they had looked after her father. She said that the Governor had made sure that her visits to her father went as smoothly as possible. She was grateful for all that had been done for the man and thought the care had been above and beyond that which she had expected from a prison. The prison returned her father's property to her and contributed financially to the cost of his funeral.

HMP ACKLINGTON

4. Opened in 1972, Acklington is a category C prison for convicted adult men. Category C prisoners are those who cannot be trusted in open conditions but who are unlikely to try to escape. Acklington is located in Northumberland and is England's most northerly prison. It has no full time medical officer and no in-patient healthcare facility.

HMP DURHAM

5. HMP Durham is a category B local prison taking adult male sentenced and remand prisoners from the courts of the North East and Cumbria. Category B prisoners are those who do not require maximum security but for whom escape needs to be made very difficult. There is 24 hour healthcare provision which includes a clinical director and a general practitioner supported by a primary care nursing team. There are 19 inpatient beds.

6. A report of a full unannounced follow-up inspection by Her Majesty's Chief Inspector of Prisons in October 2009, made the following comments regarding the inpatient unit:

> "There were 19 inpatient beds, of which 15 were occupied at the time of the inspection. The majority had mental health diagnoses, but there were also prisoners with physical illnesses, such as cancer, bowel disease and tuberculosis. The inpatient unit was managed by the mental health coordinator and staffed mainly by HCSWs [Healthcare Support Workers] and discipline officers. A registered nurse was allocated each day but, due to staffing pressures, was not always on duty. Time out of cell was good but often compromised due to operational requirements in the prison. Inpatients complained of a lot of 'bang up' due to shortages of discipline staff. They had access to the showers and gym, and education classes were held on the unit every weekday, but there was no communal dining out despite the space to facilitate this. Inpatients associated well and there was good interaction with discipline and nursing staff. The medical director held a weekly multidisciplinary ward round, and both GPs were available daily if needed."

7. The latest Independent Monitoring Board report was not available at the time of writing.

8. The Ombudsman has investigated 11 deaths from natural causes in Durham since taking on responsibility for investigating deaths in custody in April 2004. I have identified no common factors between any of these deaths and that of the man.

KEY EVENTS

9. The man was sentenced to eight years imprisonment on 8 August 2005. While on trial he was located in HMP Durham but, after sentence, he was categorised as a category C prisoner and transferred to HMP Acklington in Northumberland. The man's time in custody in Acklington was unremarkable. He worked full time in the woodwork workshop and had no disciplinary record.

10. The man used healthcare facilities at Acklington rarely until March 2009 when he complained of a painful rash on his groin. He was treated with antibiotics and painkillers. Five weeks later on 22 April, he complained of urinary problems. He reported hesitancy in emptying his bladder, pain and frequent attempts at urination. On examination his bladder was found to be full. The man's medical record shows that he was advised he needed to give a urine sample so that it could be tested for a urinary tract infection. The record shows that the man was told if this proved negative he would need to have his prostate gland examined. The man is recorded as saying that he was unable to pass urine for a sample. There is no evidence on the record that a sample was taken at this time or any record of test results or a prostate assessment.

11. On 6 May 2009, the man had a fall in his cell and complained of lower back and hip pain. A Nurse spoke to him in his cell and he reported that he had not been able to urinate that day. The Nurse examined the man again in the healthcare centre the same evening. By this time he had passed urine but the nurse advised him that, as it was not a new problem, he should see the doctor. The next day the man reported that he was constipated but was passing urine normally.

12. The man became eligible for release on parole in July 2009. An application was completed at Acklington and the Parole Board met to consider it on 7 July. The Board concluded that the man was not suitable for early release on licence because the level of risk he presented could not be safely managed in the community. The man's continued claims to be innocent precluded his attendance on offending behaviour courses.

13. The man continued to complain of lower back pain throughout July 2009. On 30 July, healthcare staff were called to his cell. The man was found to have a temperature and a painful rash and swollen glands in his pelvic region. The doctor examined him the next day and diagnosed cellulitis (a severe inflammation of the skin and surrounding tissue) in the man's groin. He was treated with antibiotics but complained later the same day that they were making him feel worse. His medication was reviewed by the doctor and he was given a different type of antibiotic. The Practice Nurse wrote in the medical record that the man appeared confused.

14. The next day, on 1 August, the Nurse that had previously spoken to him in his cell visited the man in his cell. She recorded that he looked unwell and had been vomiting during the night. He had a temperature and there was blood in his vomit. The Nurse spoke to the doctor who advised that the man should be taken to hospital. He was taken by ambulance to Wansbeck General Hospital the same day and admitted.

15. After tests, the man was diagnosed with prostate cancer that had spread to his lungs, liver and bones. His condition was assessed as terminal and he began hormone injections as a palliative measure.

16. On 7 August, the Practice Nurse received a call from a doctor at Wansbeck General Hospital. The Nurse wrote in the medical record that she received little information from this call, apart from the fact that the man would need palliative care when he was discharged from hospital. The Nurse decided to attend a meeting at the hospital scheduled for 13 August in order to find out more about the man's prognosis (the likely outcome of his illness). The Nurse asked other staff to contact the hospital daily in the meantime to check on the man's condition.

17. The Nurse attended the meeting on 13 August but was then on leave and did not update the man's medical record until 17 August. On 16 August, the Nurse that had previously spoken to him in his cell phoned the ward sister at the hospital. She would not supply information over the telephone but indicated that the minutes of the meeting of 13 August would be available to prison healthcare staff. The ward sister did reveal that the man had developed a deep vein thrombosis (DVT – a blood clot in the vein) in one of his legs.

18. On 17 August, the Practice Nurse wrote in the medical record that the man only had months left to live. He was able to care for himself but needed pain relief medication during the night that could not be facilitated at Acklington (because they do not have 24 hour healthcare). The pain management team at the hospital were going to assess the man to see if he could have a different pain relief regime that would allow him to remain at Acklington.

19. The Practice Nurse also spoke to the ward sister the same day. She was told that the man's condition had worsened due to his DVT. The next day she called the ward again and was told that the man had become more ill and was no longer able to care for himself. The Practice Nurse found out the name of the palliative care nurse at the hospital, and spoke to her on the telephone. They had a long discussion and the Practise Nurse arranged to meet her at the hospital the next day.

20. On 19 August, the Practice Nurse met the man and the Palliative Care Nurse from the hospital. The Practice Nurse reported that the man was tearful but that his pain was manageable. He told the Practice Nurse he would like to get in touch with his mother who he had not seen for some ten years. When he last had contact with her she was in poor health. The man told the Practice Nurse that he felt isolated and depressed. The Practice Nurse told him that she would try to visit him when her workload allowed and would see if it was possible for one of his friends from the wing to visit him.

21. On 25 August, the Practice Nurse spoke to another palliative care nurse at the hospital. The man's condition had improved slightly. He was able to care for himself and was walking using a zimmer frame. The Nurse discussed the man's pain relief medication with the prison doctor and confirmed that it would be possible to manage him at the prison. The man was taken back to Acklington on 26 August and located in a disabled person's cell. His door was left open whenever possible to prevent him feeling isolated. [Normally, for security reasons, all cells are locked at set times during the prison day.]

22. The Practice Nurse broke the news to the man on 30 August that his mother had died some years previously. She reported that the man was tearful but not shocked. She asked one of the man's friends on the wing to sit with him for a while. The same day, the Nurse arranged for the man to have full cream milk and Ensure drinks (a brand of nutritional supplement for people unable to take in the required number of calories from food) as part of his diet.

23. On 4 September, healthcare staff at Acklington began weekly palliative care reviews with the man to monitor his condition and needs. On 17 September, the man complained that he was in pain. On 21 September, the Nurse that previously spoke to the man in his cell spoke to the Palliative Care Nurse in the hospital because the man's condition had deteriorated. He reported frequent vomiting and was losing weight. Because of the obvious deterioration in the man's condition the Practice Nurse made arrangements for him to be reviewed by Macmillan nurses or the community palliative care team.

24. A Community Palliative Nurse specialist, visited the man with the Practice Nurse on 24 September. The man told them that he would like to attend education to take his mind off his condition. The next day he was referred to an art class. At a palliative care review the same day the man reported that his vomiting was now under control after a change to his medication. The Nurse that had previously been to see him in his cell reported a deterioration in the man's physical and mental state. He became angry and frustrated with the palliative care nurses when they tried to encourage him to talk about his death.

25. On 30 September, the man told a Nurse that he had felt like taking all of his medication during the night. He was depressed that he was not getting out of his cell or doing education. An ACCT booklet (Assessment, Care in Custody and Teamwork - the National Offender Management Service's procedures for monitoring prisoners thought to be at risk of self harm or suicide) were put in place. The next day the Practice Nurse made arrangements for the man to attend education in the following week.

26. On 3 October, the man was unable to stand unaided. He told a Nurse that he thought he needed to be transferred somewhere where he could have more help. Although the man improved during the next few days, by 9 October his medical record showed that he was not coping well and was finding it hard to care for himself. Wing staff also expressed concern to healthcare staff about his ability to look after himself.

27. Following a palliative care review on 10 October, it was decided to try to transfer the man to HMP Durham where there is an inpatient ward with 24 hour healthcare. Durham did not have a bed available at such short notice so the man was taken to Wansbeck General Hospital instead. The Practice Nurse liaised regularly with Durham healthcare staff and Wansbeck Hospital. On 12 October, she spoke to the Palliative Care Nurse at the hospital, who agreed that Durham was a suitable destination for the man.

28. The man was transferred to an inpatient bed at Durham on 16 October. He was unhappy with the transfer and, on 18 October, began to refuse his medication apart from that prescribed for his DVT and paracetamol. On 22 October, a Doctor examined him and found him to be in pain and distressed. The man had vomited clots of blood. The Doctor arranged for the man to be admitted to the University Hospital of North Durham (UHND) the same day.

29. The man was discharged back to Durham after a single night in UHND. While in UHND he refused treatment and medication. On his return the man said he was pleased to be back in Durham but, on 26 October, he asked to return to Acklington. On 27 October, the man had a palliative care review with the Palliative Care Nurse at Durham and a Doctor and a Nurse from St Cuthbert's Hospice. The man expressed a desire to be cared for at Acklington and to die in a hospice. An advance care plan was outlined and steps were taken to complete a formal Do Not Attempt Resuscitation directive (DNAR). (Advance care planning is a process enabling a patient to express wishes about his or her future health care in consultation with their health care providers, family members and other important people in their lives. Based on the ethical principle of patient autonomy and the legal doctrine of patient consent, advance care planning helps to ensure that the concept of consent is respected if the patient becomes incapable of participating in treatment decisions.)

30. On 2 November, the man signed his advance care plan. He told staff that he would like to contact his daughter and it was agreed that the prison chaplain would facilitate this.

31. A week later, on 9 November, the Prison's Seconded Probation Officer told the man that he had managed to contact his daughter who was willing to speak to him. The man spoke to his daughter the same day and she agreed to visit him. On 11 November, his advance care plan was reviewed and signed.

32. The man's daughter and her partner visited him on 19 November. The prison contributed to their travel expenses. The man's medical record indicates that the visit appeared to go well.

33. Although he attended education and association on the ward when his health permitted, the man's condition continued to deteriorate. His mood was described as low but had improved once he had re-established contact with his daughter. From 25 November, he was recorded as needing increased medication to manage his pain. By 8 December, a Doctor recorded that the man's pain was becoming increasingly difficult to assess and it might be appropriate to transfer him to a hospice for stabilisation.

34. The Palliative Care Nurse from St Cuthbert's Hospice, visited the man on Thursday 10 December. She decided to arrange a review during the week beginning Monday 14 December to discuss a potential admission to the hospice for symptom control. On 11 December, the man was semi-conscious. Staff arranged for a syringe driver to assist his pain control. The Doctor that had previously noted his pain level was becoming difficult to asses spent some time talking to the man. He recorded that the man was very near the end of his life but was not in any pain. The Doctor also wrote that the man was not to be resuscitated. He was not on duty over the weekend (12 and 13 December) and added that he did not think it was appropriate to transfer the man but that staff should admit him to hospital if they felt unable to look after him.

35. At 2.00pm the same day, a Nurse rang the man's daughter to tell her that her father was near the end of his life. She offered his daughter the opportunity to visit and to call at any time. The man's daughter and her partner visited him the next day. The man remained asleep throughout the visit. Staff rang his daughter on 13, 14 and 15 December to keep her informed of his condition. The man remained sleeping. He was given diamorphine to ensure that he felt no pain. The man died at 2.30pm on 15 December. Staff rang his daughter at 3.00pm to break the news to her.

ISSUES CONSIDERED

Clinical care at Acklington

36. The clinical review notes that the man suffered from hypertension (high blood pressure) at Acklington. This was discovered during his first reception health screen but there is no evidence that it was monitored by the prison healthcare team. The man had his blood pressure checked on 24 and 31 October and 4 November and was prescribed medication to combat his hypertension. However, he did not ask for a repeat prescription after this and the practice nurse did not follow this up.

37. When the man first presented with urinary problems in April 2009 he was told that he needed to provide a sample in order to rule out an infection. If an infection was ruled out then he would need a prostate assessment. There is no evidence that either a urine sample was taken nor a prostate assessment made.

38. The review concludes that Acklington failed to develop care plans to address the man's needs in respect of his hypertension, pain management, constipation, dyspepsia (indigestion) and vomiting. At draft report stage Acklington pointed out that their healthcare department resembles a community setting and does not have 24 hour nursing care or an inpatient facility. Care plans are in place for patients that require regular dressings, post operative care, detoxification and who have mental health issues. Care plans are always activated for patients requiring palliative care. I note that the review also concludes that these failings in nursing practice at Acklington did not affect the outcome for the man. The review makes three recommendations designed to improve practice at Acklington that I endorse. All the recommendations are listed in the final section of this report.

39. I should like to add however, that there is also much to be commended in the attempts of healthcare staff at Acklington to look after the man. He was allocated a cell designed for a disabled prisoner and his door was left open when possible to allow prisoners to visit him and sit with him. Nursing staff, made great efforts to ensure that he did not feel isolated during his time both in Wansbeck hospital and in the prison. The community palliative care team and Macmillan nurses were involved appropriately. Efforts were made to structure the man's pain management so that he could remain at Acklington, which had been his home for the best part of four years and where he felt most comfortable and had friends, as long as possible.

Clinical care at Durham

40. The man was unhappy with his transfer to Durham and initially refused a significant proportion of his medication. There is evidence that staff did their best to explain to the man why he needed to take the

medication and to encourage him to do so. Staff at Durham contacted the man's daughter at his request and facilitated regular visits and contact with her. This appeared to improve the man's mood.

41. The clinical review concludes that the man received a high standard of care at Durham. Healthcare staff were well supported by the community palliative care team and Macmillan nurses. The man's end of life care was managed in accordance with the Liverpool Care Pathway (an outline of care which a patient can expect in the final hours and days of life) and his last days were peaceful and pain free.

42. I am pleased to read that the man's daughter had nothing but praise for the healthcare staff who looked after her father in Durham. I note too that she received significant support from the Governor when she visited the prison.

The man's allocation to Durham

43. The man repeatedly said that he wanted to be located in Acklington prison. This is readily understandable as he had lived there for some four years and had made friends there. It had been his home. When he became ill he appeared to strike up good relationships with healthcare staff there. It was closer to his relatives and therefore easier for them to visit (albeit at that stage he was not in touch with his daughter). However, the severity of his illness and the amount of nursing and pain relief he required simply could not be provided at Acklington. I therefore consider that the most appropriate allocation within the prison system was to Durham, which is geographically the nearest prison with 24 hour healthcare.

Clinical record keeping

44. The clinical review highlights the fact that the electronic medical records do not automatically record the time that entries are made. Terminally ill prisoners have considerable amounts of medication which is to be administered when necessary rather than at set intervals. In such cases, especially when opiate based painkillers are being used, it is vitally important to know exactly when such drugs have been administered.

45. The review concludes that, "There is strict professional guidance about the administration of medication and in particular controlled drugs and the recording of this." A recommendation is made to audit record keeping at both Acklington and Durham. I have acknowledged in previous reports that the use of electronic medical record systems in prisons does pose difficulties for staff. Such systems are designed for use in GP surgeries in the community when the doctor can make entries during the consultation. In prison there are no computer terminals on the wing and staff make entries retrospectively when they have time to do so. I also acknowledge that in this case the man was

not on any controlled medication at Acklington and had medication in possession apart from the 12 hours he was subject to ACCT procedures at Durham. Nevertheless the clinical reviewer's comments about the need to record the time of entries relating to the administration of drugs to terminally ill patients are valid.

I recommend that the heads of healthcare at Acklington and Durham remind staff to pay particular attention to noting the time that medication is given to terminally ill patients which is especially important when administering controlled drugs.

CONCLUSION

46. The man received a high standard of care at both Acklington and Durham. I was impressed by the many instances at both prisons when staff made extra effort to make his situation more comfortable. Notably the regular contact from staff at Acklington when the man was in outside hospital and the decision to leave his cell door open to encourage other prisoners to spend time with him. I was also impressed with the excellent liaison by staff at Durham from the Governor downward with the man's daughter.

RECOMMENDATIONS

From the clinical review:

1. A review of clinical leadership within the healthcare setting at HMP Acklington, including an audit/review of current healthcare roles, responsibilities and working practices should be undertaken.

   Response from NOMS at draft report stage:
   Requesting a review of the clinical leadership doesn't fit with the overall positive outcomes of this report, however, it is accepted that a review of systems to ensure continuity of care is justified.

   Review of systems, role and responsibilities to ensure communication between medical, nursing and administration staff are improved to facilitate the continuity of patient care.

2. A structured case management approach at HMP Acklington, for those prisoners with complex/long term conditions, including the introduction of care plans, should be established.

   Response from NOMS at draft report stage:
   A structured clinical management approach will be implemented for patients with complex/ long-term conditions.

3. Current protocol and policy for managing hypertension at HMP Acklington should be reviewed to ensure safe and competent practice, including compliance with current National Institute for Clinical Excellence (NICE) guidance for hypertension.

   Response from NOMS at draft report stage:
   Patients with long term conditions are currently under review by the medical director and practice nurse.

   Systems will be implemented to ensure continuity of care where patients are identified as having long term conditions from initial screening. This will be facilitated by the introduction of system one.

4. A record keeping audit at both HMP Acklington and HMP Durham, to establish compliance with the National Midwifery Council (NMC) professional guidance around record keeping, should be undertaken.

   Response from NOMS at draft report stage:
   Current emis system to be modified to included designation of healthcare professional and time of intervention. System one October 2010 implementation will automatically facilitate this.

   The clinical team leader will audit the nursing documentation.

From the PPO

1. I recommend that the heads of healthcare at HMP Acklington and at HMP Durham remind staff to pay particular attention to noting the time that medication is given to terminally ill patients which is especially important when administering controlled drugs.

   Response from NOMS at draft report stage:
   the man had his medication in possession apart from 12hours when he was on an acct. The man was not on any controlled medication whilst at Acklington.

   Clinical documentation for the recording of administration of medicines will be reviewed to facilitate an area for nurses to enter the time the medication was given.

Good practice

1. The decision by staff at HMP Acklington to locate the man in a disabled cell and to keep his door open when possible is good practice.

2. The daily contact maintained by nursing staff at Acklington with Wansbeck General Hospital and the regular visits they made is good practice.

3. The regular contact maintained with the man's daughter at HMP Durham is good practice.