

**The death of a man who died on
20 January 2006, whilst released on temporary licence from HMP Leicester**

Report by the Prisons and Probation Ombudsman for England and Wales

May 2006

This is the report of an investigation into the circumstances of the death of a man who died on 20 January 2006. The man died at a nursing home, having been released on temporary licence from HMP Leicester. He was 38 years old at the time of his death.

A post mortem report states that the man died of human immunodeficiency viral disease (HIV) in association with chronic hepatitis 'C' liver cirrhosis.

I extend my sincere condolences to the man's family and friends for their loss.

The man had been in custody since November 2004, first on remand and then as a convicted prisoner. He had been sentenced on 29 April 2005 at Leicester Crown Court to three years imprisonment for grievous bodily harm, having infected his victim with HIV. This was his first custodial sentence.

The man spent most of his time in the healthcare unit at Leicester and some time in the vulnerable prisoner unit. He also spent many weeks as an inpatient at a Leicester hospital. Six days before he died, he was released on temporary licence to a nursing home for palliative care.

The investigation was carried out by a colleague. She and I would like to thank the Governor of Leicester, and his staff for their assistance. We are also grateful to Eastern Leicester Primary Care Trust for conducting a clinical review of the man's care while in custody.

The clinical review makes three local recommendations. I make a further recommendation and draw attention to two points of good practice.

Stephen Shaw CBE
Prisons and Probation Ombudsman

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Summary

The man was born in Portugal and was 38 years old when he died from natural causes. At the time of his death, he had spent 15 months in custody at HMP Leicester.

In mid 2000, the man had begun a relationship with a woman who was to become the victim of his offence of inflicting grievous bodily harm (GBH). The woman became aware of his HIV status 18 months after the relationship began. The relationship continued for a further ten to twelve months and ended when he was arrested and charged with GBH.

Following his imprisonment, the man was a regular patient at a local hospital's infectious disease unit and was supported by a specialist nurse. On five occasions between November 2004 and January 2006, he was an inpatient at the hospital.

On 14 December 2005, the man was re-admitted to hospital as his medical condition continued to deteriorate. On 11 January 2006, he was discharged back to Leicester prison. Two days later, he was released on temporary licence to a nursing home for palliative care as his condition had become terminal. The man died at the nursing home at 2.10am on 20 January 2006.

The clinical review commends the Healthcare Unit at Leicester for their care of the man. It states that the care he received was consistent with that he would have received in the community.

The Care Standards Agency funded his period of palliative care, enabling specialist nursing in a Nursing Home. There was some delay in this funding being agreed. As a consequence, he was an inpatient at a Leicester hospital waiting for the funding, when he was discharged from the hospital back to prison, late at night. This raised concerns on the part of the Healthcare Unit at Leicester. The clinical review considers what happened. It finds that the Leicester hospital was on red alert that night, meaning only acute medical cases would be accommodated. The man's condition was assessed for palliative care and not for acute nursing care.

Investigation Process

The investigation was opened on 24 January 2006 at Leicester when my colleague met with a governor and the Head of healthcare. My colleague received the man's Medical Record. Notices to staff and prisoners notifying them of the investigation were issued.

The governor outlined the facts of the man's death and shared valuable information in relation to concerns expressed by the victim's family. The Head of healthcare also outlined the issues with respect to the man's medical history.

One of my Family Liaison Officers contacted the man's sister, who was still very distressed by her brother's death. She raised issues over the lack of communication between the prison and herself, over her brother's care and subsequent death after he was admitted to the Nursing Home. The man's sister declined a home visit from my Family Liaison Officer and investigator, stating she would like to see the report when it became available.

On 27 January my colleague returned to Leicester and received copies of the man's custodial records.

On 8 February my colleague spoke on the telephone to the chaplain at HMP Leicester. The Chaplain gave an overview of her links with the man's sister, which assisted my Family Liaison Officer in making contact with her.

On 9 February my colleague again visited Leicester to speak with the residential governor. The governor and my colleague drew up a chronology of the man's movements whilst in custody at Leicester. My colleague also spoke to the Police Liaison Officer over events following the death of the man and the information that was passed to his next of kin.

HMP Leicester

HMP Leicester is a Category B local prison situated in the centre of the city. It is a Victorian prison with an operational capacity of 385 prisoners.

The prison was last inspected by Her Majesty's Chief Inspector of Prisons in July 2003. In terms of healthcare provision, the Chief Inspector's report notes, 'Prisoners had good access to healthcare staff through a triage system and by reporting special sick, and they were seen the same day. Healthcare staff also visited the wings everyday.' The report continues, 'the in-patient facility was well cared for, and patients were provided with a rudimentary regime. The pharmacy provision was excellent, and a pharmacy technician was present in the prison every week day morning.'

Since April 2004, when my office became responsible for the investigation of all deaths in prison custody, there have been seven deaths at Leicester: four apparently self inflicted, two from natural causes and one homicide.

Healthcare at the prison is commissioned by Eastern Leicester Primary Care Trust.

The Man

The man was born in Portugal in 1967.

He had used heroin crack cocaine as a teenager until he joined the Portuguese Army. He served in the army for two years until he was 20 years old.

The man's parents died when he was 22. He was brought to England by a charity and worked mending washing machines.

He was in a long term relationship when his then partner died of an AIDS related illness in 1999. It was at this point that he was himself diagnosed as HIV positive. The man became heavily dependent on alcohol until 2001, when he reduced his alcohol intake to a social basis.

In mid 2000, he began a relationship with a new partner who became the victim of his offence of grievous bodily harm (GBH). The offence related to the man knowingly infecting his victim with HIV. The victim became aware of his HIV status eighteen months after the relationship began. The relationship continued for a further twelve months and ended when he was arrested and charged with GBH. His victim died from a stroke related to HIV in autumn 2005.

The man was resident in Leicester and held a council tenancy from 1999 onwards. He had one sister living in Leicester and a second sister came from Portugal to live with him when she learned of his illness.

Until the man became too ill to work, he was employed by an agency as a painter and decorator.

At the time of his death on 20 January 2006 he had spent 15 months in custody at HMP Leicester. It was his first custodial sentence.

The man was a quiet and respectful prisoner who complied with the prison regime. There is a note on his prisoner record describing his conduct as 'exemplary'. There were no issues raised by prison staff in terms of his behaviour or attitude.

Events leading up to the death of the man

The man was first received into custody on 18 November 2004 from Leicester City Magistrates' Court, when he was remanded on the charge of GBH. On reception into HMP Leicester, he was placed onto the healthcare unit to monitor his HIV illness. The man was transferred to Landing 2 in the main part of the prison on 26 November.

On 27 November, he was verbally abused by two prisoners in relation to his HIV positive status. As a result of that abuse, the man asked to be placed on rule 45. (Rule 45 permits a prisoner to be accommodated in a safe place for their own protection, or the protection of others.) On 29 November, he was allocated to a temporary unit where prisoners were kept separate from the main prison. This move took place whilst a vacancy on the Vulnerable Prisoners Unit (VPU) became available. He moved to the VPU on 6 December.

The man attended court on five occasions between 18 November 2004 and 29 April 2005. At his last appearance at Leicester Crown Court, he was convicted of GBH and sentenced to three years imprisonment.

During this period, the man also attended three appointments as an out patient, under escort, to a local hospital to monitor his illness.

On 8 May 2005, he was admitted to hospital as an in patient for observation as his medical condition was causing concern. The man was discharged from hospital back to Leicester on 19 May. During his stay in hospital the man's space on the VPU was re-allocated, and therefore he was accommodated in the first night centre. He returned to the hospital on 24 May for three days as an inpatient, and again was allocated to the first night centre on his return to Leicester.

The man's health was showing signs of deterioration and it was agreed that he should be placed in the healthcare unit for support and care. The complex medication for his illness also made the healthcare unit an appropriate place for him to be.

On 15 June, he was admitted to hospital and stayed there till 28 June when he returned to the healthcare unit at Leicester.

On 27 August, his condition began to decline and he was re-admitted to hospital. He was cared for in the infectious disease unit for two months, being discharged back to the healthcare unit at Leicester on 26 October.

On 7 November, the man returned to hospital. His condition had rapidly deteriorated whilst in custody. It was thought by doctors that he would not survive this admission and he was administered the last rites by a Roman Catholic priest in accordance with his wishes.

It was during this period in hospital that three security information reports were raised by prison staff. A woman rang both the prison and the hospital trying to ascertain the man's condition and whereabouts. The woman told hospital staff she was a former girlfriend of the man. This was denied by the man and his family. No information was passed to this woman. The police had already raised a warning to the prison following threats to the man.

On 23 November, the man had made a reasonable recovery and was discharged back to HMP Leicester. Although he was frail and weak, he settled back into the healthcare unit.

On 30 November, a case conference was held at the hospital to discuss his healthcare needs and to consider options for his palliative care over the next three to six months. Present at this case conference were the Healthcare Manager at Leicester, a Senior Probation Officer, a Consultant and other health specialists. An action response was formulated to pursue care alternatives for him.

On 14 December, the man returned as an in patient to the hospital. On 15 December, a Consultant wrote to a specialist nurse, this nurse was supporting the man during his illness. The letter referred to the man's failing health and need for specialist care that would not be available, or appropriate, within a prison setting. It was advised, in this letter, that a release on temporary licence (ROTL) might be considered. The man could be cared for in a Nursing Home where he would benefit from an HIV multi-disciplinary care team and specialist nursing approach.

On 17 December, the decision was made by the duty governor to remove the man's restraints, as he was located in a single room on the ward. During this period, Leicester also had another prisoner in hospital. Hospital staff were unhappy with prison officers sharing bed watch duties between the two prisoners because of cross infection issues. It was agreed that one officer would act as escort to the man, but should he be transferred to an open ward the restraints would need to be re-applied. The man was fully co-operative during his times as an in-patient at the hospital. It is recorded on his bed watch notes that he was polite and respectful to both hospital and prison staff.

On 11 January 2006, the hospital made the decision to discharge the man back to HMP Leicester. Leicester healthcare unit was unprepared to receive him at such short notice and it was not until 10.30pm that he arrived back into the prison. During the first meeting my investigator had with the Healthcare Manager, he

said he was disappointed by the hospital's decision to return the man back to Leicester without any opportunity for the healthcare unit and staff to prepare a suitable care package for him.

On 13 January, an application for ROTL to a Nursing Home in Leicester was made on behalf of the man and with his consent. He was too ill at this stage to complete the form himself. A bed and specialist HIV palliative nursing care had been arranged for him at the Nursing Home. A ROTL board was convened and agreed to the release. The man was taken to the Nursing Home at 4pm by the Head of healthcare and a Healthcare Assistant. The Head of healthcare later returned to the Nursing Home with all the man's prescribed medication.

Whilst issues in relation to the threats to the man's safety were taken into consideration whilst he was at the Nursing Home. A police incident number was raised by the prison's Police Liaison Officer. This incident number was recorded at the central police control room in case any security issues were raised by the Nursing Home. The Nursing Home would be able to quote the number on contacting the police, so a swift response could be made. The Home was asked not to admit any visitors to see the man or involve themselves in any outside or unauthorised communications. All prison staff would show identification to the nurse in charge of the Home when visiting.

A log of events and visits was recorded by the Head of healthcare when the man was released to the Nursing Home. This log shows the Head of healthcare visited the man on 14 and 16 January. On 14 January, the Head of healthcare was unable to make contact with his sister, or establish her whereabouts. On 17 January, the man's sister telephoned the prison and spoke to the prison medical officer. The man's sister told the medical officer she had been in hospital herself but was now at home.

On 18 January, the Head of healthcare contacted the man's sister and spoke to her about her brother's illness. She told the Head of healthcare that a reporter from a national newspaper had visited her home trying to find out where her brother was. As she did not know, she was unable to tell him and he left. The Head of healthcare informed the man's sister that the man had been temporarily released due to his healthcare needs, but it was mutually agreed not to give her details of where he was due to concerns about press and other contacts. The man's sister informed the Head of healthcare about previous threats to her and her children.

The Head of healthcare contacted the manager of the Nursing Home and advised her of his contact with the man's sister and of media interest. The Head of healthcare reminded the manager of the need to maintain confidentiality and to be cautious of any phone calls or visitors. The manager agreed to contact the man's sister and inform her of her brother's condition (he was very poorly and now receiving 24 hour care in bed).

A governor also spoke to the man's sister later on 18 January to obtain telephone numbers of the reporter from the newspaper to pass on to the Prison Service Press Office. The governor reiterated to the man's sister that the man had been released on temporary licence as he was so poorly and was expected to die within the near future.

On 19 January, the man's condition deteriorated significantly and the Head of healthcare visited him in the Nursing Home. On advice from the specialist nurse, the man's medication was discontinued and the focus was now on pain relief. The manager of the Nursing Home contacted the man's sister but she said she was too poorly to visit her brother. There were also concerns about her safety and the press interest. Arrangements were made for a Roman Catholic priest to visit the man for the last rites.

The man died on 20 January at 2.15am. The manager of the Nursing Home informed the duty governor by phone. The governor then contacted the prison's Police Liaison Officer, who informed the police central control room. The police attended the Nursing Home but did not inform the man's sister of her brother's death. The Head of healthcare telephoned the man's sister at 8am to offer his condolences, then realised that she had not been informed of what had happened until he had spoken to her. He contacted the chaplain, who made arrangements to meet with the man's sister so she could see her brother's body. This took place later that afternoon at the mortuary of a Leicester hospital.

The chaplaincy team at HMP Leicester has continued to support the man's sister through regular contact in the weeks following her brother's death. The prison paid for the funeral expenses. I commend the sensitive and compassionate way in which the prison and its staff have acted.

Clinical Review

Eastern Leicester Primary Care Trust carried out a clinical review into the man's care.

The review is concise and factual on the health care offered to the man whilst in custody at Leicester. It concludes that he received appropriate and dedicated care for his complex needs at a level consistent to that in the community. The specialist nurse underlines this. The reviewer commends the clinical team at Leicester for the care and attention they showed to the man.

The review discusses the issue of the man's inappropriate transfer late at night on 11 January from the Leicester hospital to HMP Leicester. Whilst waiting for the Care Standards Agency agreeing to fund the Nursing Home bed for him, the hospital went on red alert. This meant that the hospital was in an emergency state of bed accommodation. The man's condition did not warrant the continuation of an acute facility bed, and accordingly his discharge from the hospital became urgent. It is apparent there was no direct communication between the hospital and prison healthcare, and the Healthcare Manager was unaware of the reasoning behind the late night discharge.

The man was given appropriate access to his opiate pain relief during night time patrol status. This avoided the requirement of being unlocked for the supervision of his medication. The return of the man to healthcare late at night presented difficulties in terms of his medication, as there was not an authorising doctor on site and the prison was in patrol status.

The Governor and Healthcare Manager should discuss the implications of this report with the Leicester hospital to ensure there is more appropriate discharge planning, recognising the realities of the prison receiving an individual back into care late at night.

The management of medicines within the prison should be as far as is possible consistent with the locally agreed medicine codes.

At the end of the clinical review, a reference is made to the man falling out of his bed in his cell and being unable to reach the alarm because of his weakened state of health. The reviewer makes the suggestion that an alarm system such as those used in residential accommodation, which is worn by the individual, would be more appropriate. I am aware that personal alarms are issued to prisoners with mobility issues or severe illness on L Wing at HMP Norwich, ensuring safe and timely access to staff in the event of an emergency.

There should be local consideration given to developing a system of personal alarms for those prisoners identified as at risk from slips, trips or falls due to compromised mobility or serious illness.

Findings

The circumstances of the offence for which the man was serving his sentence were extremely sensitive. Security and confidentiality were essential factors in maintaining his safety whilst he was in hospital and the Nursing Home. This was managed well by the prison and Nursing Home staff.

However, the requirement to keep his whereabouts secure may have contributed to the failure of the police to inform the man's sister of her brother's death. This has caused her distress and anxiety. It is a sadness that she was not able to be with her brother when he died.

The supplementary guidance to PSO 2710, which deals with the follow up to deaths in custody, recommends that the prisoner's family should be informed face to face as soon as possible after the death. Where possible, this should be done by appropriate staff from the prison. The prison understood the police would inform the man's sister of her brother's death, but clearly this did not happen.

I recommend that the news of the death of a prisoner in a nursing home should normally be broken to relatives by a prison Family Liaison Officer in conjunction with nursing care staff.

The healthcare treatment and support the man received whilst in Leicester and the hospital was appropriate, sensitive and compassionate. HIV related illnesses require large amounts of complex medication which staff in the healthcare unit managed well.

Release on temporary licence to allow palliative care for the man's illness was the correct course of action. The Nursing Home agreed to admit him for palliative care. Funding was sought from the Care Standards Agency for the man's period of palliative care by the specialist nurse, but this took some time to arrange. As a result, the man was an inpatient at a Leicester hospital waiting for the funding, when he was discharged from the hospital back to prison, late at night. The man's ROTL application was arranged to coincide with the funding being approved. It was not appropriate for this specialist care to be delivered in the custodial setting.

The Head of healthcare offered exceptional support to the man, especially during his last days, when he visited him in the Nursing Home.

I also commend the actions of the Chaplain, in offering support to the man and his sister during the last few months of his life.

Recommendations

The Governor and Healthcare Manager should discuss the implications of this report with the Leicester hospital to ensure there is more appropriate discharge planning, recognising the realities of the prison receiving an individual back into care late at night.

The management of medicines within the prison should be as far as is possible consistent with the locally agreed medicine codes.

There should be local consideration given to developing a system of personal alarms for those prisoners identified as at risk from slips, trips or falls due to compromised mobility or serious illness.

I recommend that the news of the death of a prisoner in a nursing home should normally be broken to relatives by a prison Family Liaison Officer in conjunction with nursing care staff.

Good Practice

The prison released the man on temporary licence in good time, thereby ensuring he received palliative care in a suitable nursing location.

I commend the actions of the Head of Healthcare, and other staff in the healthcare unit and the prison as a whole, in their care of the man and his sister.