Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr John Kenny, a prisoner at HMP Parc, on 21 October 2023

A report by the Prisons and Probation Ombudsman

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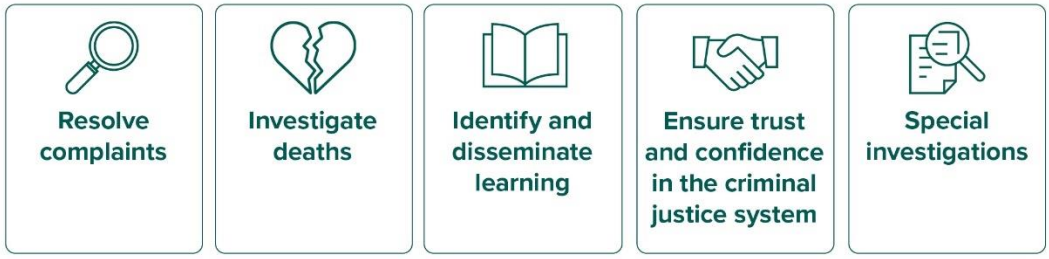
OUR VISION

To deliver high quality and timely independent investigations and work closely with partners to achieve tangible benefits for the safety and confidence of those in custody and under community supervision.

WHAT WE DO



WHAT WE VALUE

Summary

1. The Prisons and Probation Ombudsman aims to make a significant contribution to safer, fairer custody and community supervision. One of the most important ways in which we work towards that aim is by carrying out independent investigations into deaths, due to any cause, of prisoners, young people in detention, residents of approved premises and detainees in immigration centres.

2. If my office is to best assist His Majesty's Prison and Probation Service (HMPPS) in ensuring the standard of care received by those within service remit is appropriate, our recommendations should be focused, evidenced and viable. This is especially the case if there is evidence of systemic failure.

3. Mr John Kenny died in hospital of multi-organ failure caused by sepsis due to chronic lower limb ischaemia, secondary to peripheral vascular disease (severe pain in the feet or toes caused by poor circulation of blood to the lower limbs). He died on 21 October 2023, while a prisoner at HMP Parc. Mr Kenny also had atrial fibrillation (an irregular and often rapid heart rate) and heart failure which contributed to but did not cause his death. He was 74 years old. We offer our condolences to his family and friends.

4. The clinical reviewer concluded that the clinical care Mr Kenny received at Parc was equivalent to that which he could have expected to receive in the community. He made a number of recommendations not related to Mr Kenny's death that the Head of Healthcare will wish to address.

5. When Mr Kenny was sent to hospital on the night of 10-11 October 2023, he was restrained with an escort chain despite him having a gangrenous foot (a serious medical condition that occurs when body tissue dies due to a lack of blood flow or an infection) and significantly reduced mobility. Neither healthcare nor operational staff objected to the use of restraints at the time, which was not appropriate or proportionate to Mr Kenny's risk.

Recommendations

- The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints, that healthcare staff complete the medical information section of the escort risk assessment in full, and that assessments fully take into account the health of a prisoner and are based on the actual risk he presents at the time.

The Investigation Process

6. HMPPS notified us of Mr Kenny's death on 21 October 2023.

7. Health Inspectorate Wales (HIW) commissioned an independent clinical reviewer to review Mr Kenny's clinical care at HMP Parc.

8. The PPO investigator investigated the non-clinical issues relating to Mr Kenny's care.

9. On 25 January 2024, the investigator and investigator jointly interviewed six members of healthcare staff by video link.

10. The PPO family liaison officer wrote to Mr Kenny's sister to explain the investigation and to ask if she had any matters she wanted us to consider. She did not respond.

11. We shared the initial report with HM Prison and Probation Service (HMPPS). They did not identify any factual inaccuracies.

Previous deaths at HMP Parc

12. There have been 15 deaths from natural causes at Parc in the three years before Mr Kenny's death, three of which were as a result of COVID-19. There were also two drug related deaths, a self-inflicted death and three unclassified deaths. Up to the end of February 2024, there have since been three further deaths from natural causes. There are no significant similarities between our findings in this investigation and those of the other deaths.

Key Events

13. On 14 December 2021, Mr John Kenny was remanded to HMP Parc for sex offences. On 28 January 2022, he was sentenced to 18 years in prison.

14. On 31 March, Mr Kenny was transferred to HMP Usk. On 5 April 2023, Mr Kenny transferred back to Parc.

15. Mr Kenny used crutches due to reduced mobility because he had gangrene (a serious medical condition that occurs when body tissue dies due to a lack of blood flow or a bacterial infection) in his feet. Healthcare staff put Mr Kenny on an assisted living plan (ALP - a personalised care plan for individuals who require assistance with activities but do not need 24-hour medical care). Prison staff allocated Mr Kenny a ground floor cell.

16. On 14 April, a GP at Parc noted that Mr Kenny had peripheral vascular disease (the narrowing or blockage of the arteries that supply blood to the legs, arms, stomach and kidneys), was under the care of vascular surgeons and had some gangrenous toes. The GP prescribed him antibiotics.

17. On 27 April, a nurse assessed Mr Kenny and noted that he had necrotic (dead cells) toes. She noted that Mr Kenny was able to stand on one leg and was able to get out of a chair independently.

18. On 19 May, a prison GP prescribed Mr Kenny tramadol (a strong painkiller) and oromorph (an opioid painkiller) for ischemia (the restriction of the blood supply around the body). On 15 June, a GP reviewed Mr Kenny's pain relief medication and replaced it with morphine sulphate (an opioid painkiller).

19. On 28 June, Mr Kenny went to hospital where hospital staff discussed an operation on his feet, but due to his needle phobia a date for an operation was not confirmed.

20. On 19 September, a nurse saw Mr Kenny for a dressing change. She noted that Mr Kenny was confused and acting quite bizarrely. She asked for a sample of urine and took bloods. The following day, a prison GP noted that some of the blood test results were borderline and asked for repeated tests in four weeks.

21. On 3 October, Mr Kenny went to hospital for a computerised tomography (CT) scan for his ongoing confusion. The CT scan did not show any acute changes apart from general ageing.

22. On 10 October, a nurse saw Mr Kenny in his cell because he was unwell. She noted that Mr Kenny's National Early Warning Score (NEWS, a tool to detect and respond to clinical deterioration) was two (which indicated a low clinical risk). However, after discussing Mr Kenny with a GP, she sent him to hospital by ambulance. The ambulance took over seven hours to arrive (as this was not judged by ambulance service staff to be an emergency admission) during which time healthcare staff continued to monitor Mr Kenny and take his physical observations.

23. At 3.00am on 11 October, Mr Kenny went to hospital. Before he went to hospital, prison staff completed an escort risk assessment. A nurse completed the medical section and did not object to the use of restraints but noted that Mr Kenny had reduced mobility. An operational manager noted that Mr Kenny was a low risk of

escape, a medium risk to the public and a medium risk to hospital staff. He recommended that two officers escort Mr Kenny and that he be restrained. The Head of Security authorised that Mr Kenny be restrained with an escort chain (a long chain with a handcuff at each end, one of which is attached to the prisoner and the other to an officer) because it was an ambulance escort.

24. Mr Kenny had tests and treatment in hospital and, at 6.05am, an operational manager authorised that the restraints be removed for Mr Kenny to have a CT scan. At 6.45am, after the CT scan, prison staff reapplied the escort chain.

25. On 12 October, prison staff reviewed the level of restraint and completed a bedwatch risk assessment. A nurse recorded an objection to the use of restraints and noted that Mr Kenny had reduced mobility and a heart condition. A security collator assessed Mr Kenny as a low risk to the public, a low risk of escape, a high risk to females and a medium risk of violence. The Head of Security authorised that the restraint be removed, noting that Mr Kenny was receiving end-of-life care.

26. On 13 October, Mr Kenny, who was noted to be very confused, threw a cup of tea over an officer and started shouting. The officers with him reapplied the restraint. They removed it again when Mr Kenny had calmed down. During the next two days the officers with Mr Kenny reapplied the restraint for short periods of time when he became aggressive. Mr Kenny then remained in hospital without being restrained.

27. On 21 October, Mr Kenny died in hospital.

Post-mortem report

28. There was no post-mortem examination. A hospital consultant recorded that Mr Kenny died of multi-organ failure caused by sepsis (a life-threatening reaction to an infection) and chronic lower limb ischaemia secondary to peripheral vascular disease (severe pain in the feet or toes caused by poor circulation of blood to the lower limbs). He also had atrial fibrillation (an irregular and often rapid heart rate) and heart failure which contributed to but did not cause his death.

Non-Clinical Findings

Restraints, security and escorts

29. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility. A judgment in the High Court in 2007 made it clear that prison staff need to distinguish between a prisoner's risk of escape when fit (and the risk to the public in the event of an escape) and the prisoner's risk when suffering from a serious medical condition. It said that medical opinion about the prisoner's ability to escape must be considered as part of the assessment process and kept under review as circumstances change.

30. On 5 April 2023, when Mr Kenny was transferred to Parc, healthcare staff noted that he had gangrene in his feet, used crutches to mobilise and placed him in a ground floor cell. He had a Personal Emergency Evacuation Plan (PEEP) assessment and peer support to help him with carrying food from the servery to his cell. Healthcare staff noted that Mr Kenny used a wheelchair to get around the wing and had used crutches for five years.

31. When he was admitted to hospital on the night of 10-11 October, healthcare staff identified on the escort risk assessment that Mr Kenny had reduced mobility but did not object to the use of restraints. While the escort chain was removed on 12 October, following a review, we are not satisfied that Mr Kenny's ability to escape was correctly assessed on his admission, in line with the High Court judgement. Given the circumstances, the nurse who completed the escort risk assessment should have objected to the use of restraints. Mr Kenny's age and very poor mobility, in line with the High Court judgement, meant that restraints should not have been used unless there was specific evidence that he presented an increased risk.

32. We make the following recommendation:

The Director and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position on the use of restraints, that healthcare staff complete the medical information section of the escort risk assessment in full, and that assessments fully take into account the health of a prisoner and are based on the actual risk he presents at the time.

Inquest

33. The inquest into Mr Kenny's death concluded on 16 August 2024, returning a verdict of natural causes.

Adrian Usher
Prisons and Probation Ombudsman **June 2024**

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