

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Michael Preston, a prisoner at HMP Wakefield, on 7 November 2020

A report by the Prisons and Probation Ombudsman

Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*

Respectful: *we are considerate and courteous*

Inclusive: *we value diversity*

Dedicated: *we are determined and focused*

Fair: *we are honest and act with integrity*



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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. My office carries out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.
3. Mr Michael Preston, who was 68 years old, died in hospital of COVID-19 pneumonia on 7 November 2020, while a prisoner at HMP Wakefield. I offer my condolences to Mr Preston's family and friends.
4. Mr Preston contracted COVID-19 in prison. His medical conditions put him at risk of becoming seriously ill if he contracted COVID-19. This was explained to him and he was advised to 'shield' in prison but declined to do so on three occasions.
5. The clinical reviewer concluded that the clinical care Mr Preston received at Wakefield was equivalent to that which he could have expected to receive in the community. She made one recommendation but we have not repeated it here as we do not consider that it is directly linked to his death,
6. We did not find any non-clinical issues of concern. We make no recommendations.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer, to review Mr Preston's clinical care at the prison. The clinical reviewer's report is attached as Annex 1.
8. The PPO investigator investigated non-clinical issues, including the prison's response to COVID-19 and shielding prisoners, the security arrangements for his hospital escorts, liaison with Mr Preston's next of kin and whether compassionate release was considered.
9. We informed HM Coroner for Yorkshire and Humber of the investigation. We have sent the Coroner a copy of this report.
10. The Ombudsman's family liaison officer, wrote to Mr Preston's next of kin, his daughter, to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She asked how Mr Preston contracted COVID-19 while in prison.
11. Mr Preston's daughter received a copy of the initial report. She did not raise any further issues, or comment on the factual accuracy of the report.
12. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

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

Background Information

HMP Wakefield

14. HMP Wakefield is a high security prison and holds up to 750 men. Care UK provides healthcare. Service provision for psychiatry, recovery and psychology services are contracted from the Midlands Partnership Foundation Trust.

Previous deaths at HMP Wakefield

15. Mr Preston was the 20th prisoner to die at Wakefield since November 2018. Of the previous deaths, 17 were from natural causes and two were self-inflicted. Mr Preston's death was the first from COVID-19, though there has been a further death from COVID-19 since.

COVID-19 (coronavirus)

16. COVID-19 is an infectious disease that affects the lungs and airways. It is mainly spread through droplets when an infected person coughs, or sneezes. The first reported case of COVID-19 in the UK was in February 2020. On 11 March, the World Health Organisation (WHO) declared COVID-19 as a worldwide pandemic.
17. COVID-19 can make anyone seriously ill, but some people are at higher risk of severe illness and developing complications from the infection. People at high risk (clinically extremely vulnerable) include those who have had an organ transplant; have severe lung or kidney disease; or are having certain types of cancer or other treatment which significantly increases the risk of infection. Examples of those at moderate risk (clinically vulnerable) are people over 70; people under 70 with an underlying health condition, such as diabetes, or chronic respiratory, heart, liver or kidney disease; those with a weakened immune system; or who are very overweight. (These lists are not exhaustive.)
18. In response to the initial pandemic outbreak, HM Prison and Probation Service (HMPPS) introduced several measures to try and contain the outbreak - to be implemented at local level, depending on the needs of individual prisons. (An outbreak is defined as two or more prisoners, or staff, who are clinically suspected, or have tested positive for COVID-19 within 14 days.) A key strategy is 'compartmentalisation' to cohort and protect prisoners at high and moderate risk; isolate those who are symptomatic; and separate newly-received prisoners from the main population. Other measures include social distancing and the use of personal protective equipment (PPE).

Key Events

19. On 3 September 2009, Mr Michael Preston was remanded in custody for sexual offences. On 26 February 2010, he was sentenced to life in prison. He was sent to HMP Wakefield.
20. Mr Preston had several long-term health conditions including chronic obstructive pulmonary disease (COPD – the name for a collection of lung diseases), high blood pressure and diabetes.
21. Mr Preston was not always compliant with his COPD medication and on 27 May 2020, he refused to attend any further appointments with his consultant respiratory physician, so the consultant discharged him from his caseload.
22. Mr Preston was identified as high risk to contract COVID-19. This was explained to him and on 21 April, he was advised to shield. He refused to do so and signed a disclaimer to that effect. He was again advised to shield on 15 and 29 May and again refused to do so.
23. On 19 October, at 2.55am, an officer answered a prisoner's emergency cell bell. The prisoner told the officer that he had heard a thud and a groaning noise coming from Mr Preston's cell. The officer went to the cell and saw that Mr Preston was sitting on his bed and having difficulty in breathing. The officer called a code blue (a medical emergency code used to indicate that a prisoner is unconscious or having breathing difficulties that alerts healthcare staff and tells the control room to call an ambulance).
24. A nurse responded to the code blue, gave Mr Preston oxygen and waited with him until paramedics arrived.
25. At 3.15am, ambulance paramedics arrived. They examined Mr Preston and said that he needed to go to hospital. Mr Preston was taken to hospital by two prison officers who used an escort chain to restrain him. (An escort chain is a long chain with a handcuff at each end, one of which is attached to a prison officer and the other to the prisoner.)
26. When Mr Preston arrived at hospital he was taken to the intensive care unit. All restraints were removed. On 21 October, Mr Preston was released on temporary licence (ROTL).
27. Over the next few weeks, Mr Preston's health deteriorated and on 7 November at 8.16pm, he died.

Cause of death

28. The Coroner accepted the cause of death provided by the hospital doctor and no post-mortem examination was carried out. The doctor gave the cause of death as COVID-19 pneumonia, with COPD and diabetes as contributory factors.

Clinical Findings

Clinical care

29. Mr Preston had several health conditions including COPD, high blood pressure and diabetes. The clinical reviewer considered that the standard of care he received at Wakefield was equivalent to that which he could have expected to receive in the community. Mr Preston received appropriate medication and his long-term health conditions were properly managed with care plans.

Management of Mr Preston's risk of catching COVID-19

30. On 31 March, HMPPS, in consultation with Public Health England (PHE), issued an order to significantly reduce transfers between prisons and other measures were implemented. These measures were designed to be implemented at local level, depending on the needs of each individual establishment and known as 'compartmentalisation' which included:
 - Protective Isolation Units (PIUs): to accommodate known or probable COVID-19 cases, ideally in single-cell accommodation.
 - Shielding Units (SUs): to protect the most vulnerable identified through collaboration with NHS England, with enhanced levels of bio-security including dedicated staff;
 - Reverse Cohorting Units (RCUs): to accommodate new receptions or transfers in for a period of 14 days to detect any emergent infectious cases before entering general population. These units could also accommodate any one returning from hospital.
31. On 21 April, a nurse saw Mr Preston in his cell and told him that because of his underlying health conditions he was at high risk of becoming seriously ill if he caught COVID-19. The nurse offered Mr Preston a shielding regime, consisting of a shower and a phone call every three days, but Mr Preston refused and signed a disclaimer to confirm that he did not want to shield.
32. On 15 May and 29 May, a further letter was sent to Mr Preston advising him to shield, but again he refused.
33. The investigation found that the prison responded to the national guidance on COVID-19. Staff identified that Mr Preston was at high risk of complications if he contracted COVID-19 and he was advised to shield. However, Mr Preston refused to do so.

34. We make no recommendations.

**Sue McAllister CB
Prisons and Probation Ombudsman**

May 2021

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