

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr James Palmer, a prisoner at HMP Wakefield, on 6 December 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 James Palmer died in hospital of COVID-19 pneumonia on 6 December 2020, while a prisoner at HMP Wakefield. He was 74 years old. I offer my condolences to Mr Palmer's family and friends.
4. Mr Palmer's medical conditions and age put him at risk of becoming seriously ill if he contracted COVID-19. Although he initially followed the advice to shield, he changed his mind at the end of April, and disregarded any further advice to do so. In November, with cases of infection increasing, he was again advised to shield. As before he refused. Shortly afterwards he contracted the virus. He was treated for this in prison, but deteriorated very suddenly on 6 December, when he was found collapsed in his cell. He was taken to hospital but died the same day.
5. The clinical reviewer concluded that the clinical care Mr Palmer received at Wakefield was equivalent to that which he could have expected to receive in the community and said that he had been treated compassionately by competent staff during his time at the prison. She also found that Mr Palmer had the mental capacity to decide not to shield. She made no recommendations.
6. We found no non-clinical issues of concern. We make no recommendations.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Mr Palmer's clinical care at the prison.
8. The PPO's investigator investigated non-clinical issues, including the prison response to COVID-19 and shielding prisoners, the security arrangements for Mr Palmer's hospital escorts, liaison with his 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 contacted Mr Palmer's son to explain the investigation and to ask if he had any matters he wanted the investigation to consider. He asked why his father was not granted compassionate release from prison, given his poor health. We have addressed this question in this report. He also suggested that his father had a mental health condition and asked why he

was not treated and transferred to a secure psychiatric unit. This matter is addressed in the clinical review attached to this report.

11. The initial report was shared with Mr Palmer's son. He had some further questions about shielding and his father's transfer to hospital. These have been addressed in separate correspondence.
12. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS found no factual inaccuracies.

Background Information

HMP Wakefield

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

Previous deaths at HMP Wakefield

14. Mr Palmer was the 20th prisoner at Wakefield to die since December 2018. Of the previous deaths, one was self-inflicted and all the rest were from natural causes. Mr Palmer's death was the second from COVID-19 at Wakefield, and there have been four from COVID-19 since.

COVID-19 (coronavirus)

15. 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.
16. 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.)
17. In response to the initial pandemic outbreak, HM Prison and Probation Service (HMPPS) introduced several measures to try to 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, in a prison 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

18. On 14 June 1995, Mr James Palmer was sentenced to life imprisonment for wounding with intent. On 25 January 1996, he was sent to HMP Wakefield.
19. During his time in prison, Mr Palmer developed several significant health conditions, including diabetes and heart problems. He had a heart attack in May 2019 after which he was treated for a blocked heart artery and was put on medication to treat atrial fibrillation (a condition causing an irregular heartbeat) and to reduce cholesterol (which in higher concentrations causes fatty deposits to block blood vessels). He also had hypertension (high blood pressure) and was obese. Along with his age, this meant he had several risk factors which made him more vulnerable to serious illness if he caught COVID-19.
20. At the beginning of the COVID-19 pandemic, Mr Palmer followed advice to shield. However, on 30 April 2020, he decided to stop shielding and did not do so again despite advice that he was putting himself at risk if he did not.
21. Mr Palmer's general health began to decline a little in 2020. He stopped working in March (which he had continued despite being past retirement age), and became a little less mobile and more forgetful. However, memory tests were carried out and he was found to have capacity to make decisions.
22. On 18 November, Mr Palmer showed symptoms of COVID-19 and he tested positive for the virus. He was isolated from other prisoners.
23. On the morning of 6 December, staff found Mr Palmer collapsed in his cell and his breathing became laboured. Staff called an ambulance and Mr Palmer was taken to hospital. He was not restrained.
24. Mr Palmer deteriorated very quickly and died in hospital later that morning.

Cause of death

25. The coroner accepted the cause of death provided by a hospital doctor and no post-mortem examination was carried out. The doctor gave Mr Palmer's cause of death as COVID-19 pneumonia.

Findings

Clinical Findings

26. The clinical reviewer considered that the standard of care Mr Palmer received at Wakefield was equivalent to that which he could have expected to receive in the community. She said he was managed with compassion by confident, competent staff during his time at Wakefield, and drew attention to some impressive professional practice in the week before he died.

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

27. Mr Palmer had not left the prison in the weeks before he became ill and it appears, therefore, that he caught COVID-19 in prison. We have therefore looked at whether the prison took adequate steps to protect him.
28. In line with national prison service practice, during the first phase of the COVID-19 pandemic at the beginning of 2020, Wakefield set up a system for quarantining new prisoners, and those returning to prison from hospital. Known as reverse cohorting, prisoners are isolated for 14 days to minimise the chances of the coronavirus being brought into the prison from outside and spread among the prisoners.
29. As the pandemic persisted through the course of the year, prison and healthcare staff participated in weekly meetings with representatives from the NHS and Public Health England. Best practice initiatives from those meetings were implemented in the prison.
30. The healthcare provider Practice Plus Group have a regional data performance lead who regularly reviews the collation of lists of vulnerable prisoners to ensure that they are offered advice on shielding.
31. Mr Palmer was advised to shield and although he did so for a short period at the beginning of the pandemic, on 30 April he decided he did not want to carry on doing so. Following further advice to shield, he signed a disclaimer on 15 June, saying that he was aware of the risks he was taking in his decision not to shield.
32. On 19 September, Mr Palmer reported that he felt unwell and that he thought he had caught COVID-19. As a precautionary measure he was confined to his cell for two weeks, but he tested negative for the virus. However, this incident did not make Mr Palmer change his mind about shielding and the incidence of COVID-19 in the prison began to rise significantly in the following month.
33. Because of the increase in cases, on 12 November Mr Palmer was advised again to shield, but he declined. On 18 November, he began to have symptoms of COVID-19 and a test showed that he had contracted it.
34. On 30 November, Mr Palmer was moved to a cell in the Healthcare Centre, so that his health and social care could be monitored more closely. Although he was unwell, he was not critically ill until 6 December when he was found collapsed in his cell in the early morning. He was promptly taken to hospital, but unfortunately died there at 11.55am.

35. Mr Palmer had been identified as a prisoner at risk of serious illness if he contracted COVID-19. He initially followed shielding advice but later changed his mind. He signed a disclaimer on 15 June to show he understood the consequences of his decision.
36. The clinical reviewer was satisfied that Mr Palmer had the mental capacity to make this decision. She said that he had been provided with the necessary information about COVID-19 and the prison had respected his right to make his own choices about it. We are satisfied that the prison took appropriate steps to manage the risk of prisoners contracting COVID-19 and that Mr Palmer would have been able to continue shielding if he had wanted to do so.

Early Release on Compassionate Grounds

37. Mr Palmer's son asked why his father was not released on compassionate grounds, given his poor health.
38. Prisoners serving indeterminate sentences (like Mr Palmer) may be granted early release on compassionate grounds in exceptional circumstances if certain criteria are met. These include that the prisoner is suffering from a terminal illness and death is likely to occur very shortly, and that the risk of re-offending (particularly of a sexual or violent nature) is minimal. Although Mr Palmer had several medical conditions, he had not been diagnosed as being terminally ill. We are therefore satisfied that Mr Palmer fell outside the criteria for consideration for compassionate release.
39. We make no recommendations.

Sue McAllister CB
Prisons and Probation Ombudsman

May 2021

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