Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Kenneth Brook a prisoner at HMP Doncaster on 14 October 2019

A report by the Prisons and Probation Ombudsman

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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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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.

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.

Mr Kenneth Brook died of a heart attack and bronchopneumonia (inflammation of the lungs) on 14 October 2019 at a hospital while a prisoner at HMP Doncaster. This was caused by atherosclerosis (blocked arteries), heart valve disease and pneumoconiosis (a lung disease caused by dust inhalation). He was 79 years old. I offer my condolences to his family and friends.

The clinical reviewer found that overall, the clinical care that Mr Brook received at Doncaster was equivalent to that which he could have expected to receive in the community. However, I am concerned that when Mr Brook did not attend his secondary health screen, staff did not follow this up and he did not receive a falls risk assessment.

I am also concerned that when prison staff restrained Mr Brook when he went to hospital, there is no evidence that they took the poor state of his health, his poor mobility and age into account in considering his risk.

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

Sue McAllister CB
Prisons and Probation Ombudsman **3 August 2020**

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Summary

Events

1. On 16 July 2014, Mr Kenneth Brook was sentenced to 21 years in prison for rape and sent to HMP Oakwood. On 20 August 2019, he was transferred to HMP Doncaster.

2. Before he went to prison, Mr Brook had been diagnosed with chronic obstructive pulmonary disease (COPD, a group of lung conditions that cause breathing difficulties) and high blood pressure. In June 2019 he had a double knee joint replacement.

3. When he arrived at Doncaster, Mr Brook completed his initial health screen but did not attend his second health screen. Healthcare staff did not find out why he had not attended and did not reschedule the appointment.

4. Although a number of healthcare staff noted that Mr Brook needed a falls risk assessment, it was never completed.

5. On 11 October, Mr Brook was admitted to hospital during the night because he was struggling to breathe. He was restrained using a single cuff on the way to hospital. Not long after he was admitted to hospital, the restraints were removed due to his age and mobility.

6. While in hospital, Mr Brook had a heart attack and died on 14 October.

Findings

Clinical care

7. The clinical reviewer concluded that overall, the clinical care that Mr Brook received at Doncaster was equivalent to that which he could have expected to receive in the wider community. However, she found that Mr Brook did not have a secondary health screen or a falls risk assessment, as he should have done.

Restraints

8. Mr Brook was elderly, had poor mobility and a number of pre-existing medical conditions, including a serious lung condition and a recent double knee replacement. There is no evidence that staff took this into account when they restrained him using a single cuff when he went to hospital.

Recommendations

- The Head of Healthcare should ensure that when prisoners do not attend a secondary health screen, healthcare staff find out why and reschedule a second health screen to ensure attendance.

- The Head of Healthcare should ensure that staff complete a falls risk assessment for prisoners who meet the criteria in line with National Institute for Health and Care Excellence (NICE) guidance.

- 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; and
    - assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.
- The Director should revise the risk assessment form for hospital escorts to make it clear that:
    - healthcare staff must provide information on the prisoner's current state of health and mobility; and
    - prison managers must confirm that they have read and taken into account the healthcare information about the prisoner's current state of health and mobility in determining the level of security needed.

The Investigation Process

9. The investigator issued notices to staff and prisoners at HMP Doncaster, informing them of the investigation and asking anyone with relevant information to contact her. No one responded.

10. The investigator obtained copies of relevant extracts from Mr Brook's prison and medical records.

11. Spectrum Community Health (who provide healthcare services on behalf of the NHS and Public Health) commissioned an independent clinical reviewer to review Mr Brook's clinical care at Doncaster.

12. We informed HM Coroner for Yorkshire South of the investigation. She gave us the results of the post-mortem examination. We have sent the Coroner a copy of this report.

13. Our family liaison officer contacted Mr Brook's next of kin to explain the investigation. He did not have any specific questions for us to consider.

14. Mr Brook's next of kin received a copy of the initial report. He did not make any comments.

15. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies.

Background Information

HMP Doncaster

16. HMP Doncaster is a private, local prison which holds up to 1,145 remanded and sentenced men. Serco manages the prison and Care UK provides physical and mental health services, and substance misuse services. Nurses and a paramedic are available 24 hours a day.

HM Inspectorate of Prisons

17. The most recent inspection of Doncaster was in July 2017. Inspectors reported that a great deal had been achieved since their inspection two years earlier.

18. Inspectors noted that health services had improved significantly since the previous inspection in October 2015 and overall, were reasonably good. They found that there was effective clinical management, with a range of clinics, mandatory staff training and access to professional development. They noted that there were no healthcare staff shortages and appropriate policies were in place. Inspectors found that patients had access to information and testing on a wide range of conditions and access to external appointments had improved, with rare cancellations. Inspectors considered that the management of prisoners with long-term conditions was particularly good.

Independent Monitoring Board

19. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. No IMB report has been issued since the reporting year 2015-16 when they were very concerned about the overall health provision at the prison.

Previous deaths at Doncaster

20. Mr Brook was the 15th prisoner to die at Doncaster since October 2017. Of the previous deaths, eight were from natural causes and six were self-inflicted. We have previously made a recommendation about secondary health screens and falls risk assessments. We have also previously made a recommendation about restraints which Doncaster agreed to implement in November 2019.

Key Events

21. On 16 July 2014, Mr Kenneth Brook was sentenced to 21 years in prison for rape and sent to HMP Oakwood. On 20 August 2019, he was transferred to HMP Doncaster.

22. Mr Brook had been diagnosed with COPD in the community. He also needed and was given appropriate care for a double knee replacement and high blood pressure.

23. On 20 August, a nurse completed Mr Brook's initial health screen at Doncaster. He discussed Mr Brook's medical history, took clinical observations and noted that he had mobility issues as a result of a double knee replacement in June, that he presented as frail and used a Zimmer frame to walk. The nurse referred Mr Brook to the social care team because of his poor mobility.

24. A second health screen was booked for the following day and his medical records indicate that Mr Brook was told about it and given a written appointment slip but he did not attend. Although there is no evidence in Mr Brook's electronic medical records to indicate that healthcare staff followed this up with Mr Brook, there is an entry which noted that a nurse examined Mr Brook at 2.51pm that afternoon, he noted that Mr Brook presented as frail, that his knees were swollen, stiff and hot to touch. He noted that Mr Brook asked for help to shower. He referred Mr Brook for occupational therapy and told him that he would forward his request for help to the Head of Healthcare.

25. Mr Brook did not attend for his evening medication that day, despite healthcare staff calling for him numerous times.

Location

26. When he first arrived at Doncaster, Mr Brook was sent to Houseblock 1D. On 24 August, healthcare staff assessed Mr Brook and recommended that he should move to Houseblock 1C (for the over 50s) until space became available for him in the social care unit (where Mr Brook could access support with social and/or personal care). On 29 August, Mr Brook was moved to Houseblock 1C and on 8 October, he was moved to the social care unit.

Falls risk assessment

27. On 5 September, an occupational therapist reviewed Mr Brook and assessed that he was at risk of falls. On 7 September, healthcare staff also noted that Mr Brook was at risk of falls. On 1 October, a nurse noted that a falls risk assessment was needed but was not completed.

28. On 30 September, Mr Brook complained of feeling unwell and healthcare staff reviewed him at 5.51pm, recorded his vital signs and that his National Early Warning Score (NEWS) was zero. (NEWS is a tool used to detect and respond to clinical deterioration. The higher the score, the higher the clinical risk.) Due to Mr Brook's history of COPD, he was added to the asthma review clinic waiting list the next day. He also had a GP appointment booked for 2 October.

29. At midnight on 1 October, a nurse saw Mr Brook as he had complained of feeling breathless. The nurse recorded Mr Brook's vital signs and a NEWS of 4 (which indicated that a nurse should assess him at least every 4-6 hours and escalate his care if necessary). He administered Mr Brook's inhaler and healthcare staff monitored him at 1.05am, 2.15am, 4.25am and 6.50am. Both his condition and NEWS of 4 remained the same overnight.

30. At 9.51am, a nurse examined Mr Brook and recorded that he said that he felt better and that his NEWS had reduced to 3. She recorded that Mr Brook did not need a hospital admission and she prescribed oral steroids (medication to help reduce lung inflammation). She re-prescribed his inhalers. Mr Brook's health was monitored for the remainder of the day and he had a continuous NEWS of 3.

31. On 2 October, a prison GP saw Mr Brook. Mr Brook was also discussed at the multidisciplinary healthcare team meeting that day and was assigned a case manager to review his care.

10 and 11 October

32. On 10 October, at midday, healthcare staff noted that Mr Brook was struggling to walk without support and that he spent the morning resting in bed. Later that day, a nurse noted that Mr Brook had fallen. She examined Mr Brook and noted that his temperature was 38.1ºC (for which she gave him paracetamol), that he could move his limbs easily and said he felt fine but had some pain in his right leg. She advised Mr Brook and prison staff to contact healthcare staff if they had any further concerns.

33. The next day at 12.30am, a nurse saw Mr Brook in his cell because he was struggling to breathe. On examination, Mr Brook said that he had felt this way for a couple of weeks and that his recent antibiotics had not worked. The nurse recorded his vital signs and that his NEWS was 3. The nurse advised prison staff that Mr Brook needed hospital admission but noted that this could not be facilitated because another prisoner was attending hospital at that time and there were insufficient staff available to escort him. The nurse planned to review Mr Brook again in an hour.

34. At 1.35am, the nurse examined Mr Brook again in his cell and recorded his vital signs and that his NEWS was 8. (A NEWS of over 7 should prompt emergency clinical assessment and usually transfer to a higher dependency care unit.) The nurse informed prison staff that Mr Brook needed to transfer to hospital as soon as possible. Due to a lack of available prison staff, this did not happen immediately, and it took 46 minutes before Mr Brook left the wing.

35. The night orderly officer completed an escort risk assessment for Mr Brook. Healthcare staff did not contribute to it and the investigator was told that this was because "it was late". The risk assessment form was not the standard template which has been used in previous risk assessments at Doncaster. It did not include a medical section for healthcare to complete and did not list the types of risk which a prisoner may pose – for example, risk of escape or risk to staff and the public. The night orderly officer ticked a box on the form to say that restraints should be used and that the "illness/infirmity of a prisoner" had been considered. No further detail was included and nor was there space on the form to do so.

36. Mr Brook was taken to hospital in a taxi, accompanied by two prison officers and restrained using a single cuff. He arrived at hospital at 3.15am and remained restrained. At 10.50am the following day (12 October), his restraints were removed due to his "age and mobility and condition". The risk assessment form included a section on 'medical information' which was to be completed when his escort risk was reviewed at hospital. It says that a security manager visited Mr Brook and assessed his risk before removing his cuff.

37. Mr Brook died at hospital on 14 October.

Contact with Mr Brook's family

38. Shortly after Mr Brook died, Doncaster appointed an officer as the family liaison officer (FLO). At 4.30am, the Assistant Director and the FLO visited Mr Brook's next of kin to break the news of Mr Brook's death. They offered their condolences and support. The FLO visited him again the next day with another family liaison officer.

39. Mr Brook's funeral took place on 6 November. Mr Brook had already paid for his funeral and so the prison did not contribute towards its cost.

Support for prisoners and staff

40. The prison posted notices informing other prisoners of Mr Brook's death and offering support. Staff reviewed all prisoners assessed as being at risk of suicide or self-harm in case Mr Brook's death had adversely affected them.

Post-mortem report

41. The post-mortem report established that Mr Brook died of an acute myocardial infarction (heart attack) and bronchopneumonia (a type of pneumonia/a condition that causes inflammation on the lungs) caused by coronary artery atherosclerosis (blocked arteries), heart valve disease and pneumoconiosis (a type of lung disease caused by dust inhalation).

Findings

Clinical care

42. The clinical reviewer was satisfied that the clinical care that Mr Brook received at Doncaster was of a reasonable standard and equivalent to that which he could have expected to receive in the wider community. She concluded that healthcare staff completed both an appropriate initial health screen and necessary referrals to health professionals where needed.

43. However, she made a number of recommendations that the Head of Healthcare will need to address. She found that although Mr Brook was offered a second health screen, he did not attend and staff did not follow up his non-attendance. A second health screen is an important opportunity for healthcare staff to ensure that they have identified a prisoner's health needs and put in place measures to address them. The clinical reviewer also found that although several healthcare staff noted that Mr Brook required a falls risk assessment, it was never completed. We make the following recommendations:

The Head of Healthcare should ensure that when prisoners do not attend a secondary health screen, healthcare staff find out why and reschedule a second health screen to ensure attendance.

The Head of Healthcare should ensure that staff complete a falls risk assessment for prisoners who meet the criteria in line with NICE guidance.

44. The clinical reviewer identified as good practice that healthcare staff used the NEWS tool to complete recordings of vital signs. This allowed them to identify Mr Brook's health deterioration promptly.

Restraints

45. 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 considers a prisoner's health and mobility.

46. 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, including the risk to the public in the event of an escape and the prisoner's risk when he has a serious medical condition. The judgment indicated 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. The judgement found that using handcuffs or other restraints on terminally ill or seriously ill prisoners was inhumane, unless justified by security considerations.

47. Mr Brook was 79 years old, he had a number of serious pre-existing medical conditions, poor mobility, had had a double knee replacement and had fallen over in his cell the day before he went to hospital. We are therefore concerned that the prison's decision-making process did not evidence that prison staff had taken into account the state of his health, mobility and age in considering his risk,

as required by the High Court judgment, and that there was no input from healthcare staff when assessing his risk.

48. We recognise that a security manager reviewed the restraints decision the following morning when Mr Brook was in hospital and arranged for restraints to be removed because of his "age and mobility and condition". However, there is no evidence that his health or mobility had changed since he was transferred to hospital or that these factors were taken into account before he went to hospital. We are not satisfied that the decision to restrain Mr Brook was justified, particularly as he was accompanied by two prison officers.

49. In November 2019, following an investigation into another death, Doncaster confirmed that their risk assessment form included a section for medical information to be completed by healthcare staff about any medical factors which may influence whether a prisoner needs to be restrained. However, the risk assessment form used when Mr Brook was taken to hospital in October 2019 did not include a section about medical information.

50. Doncaster also told us that healthcare staff did not provide a medical opinion in Mr Brook's case because it was "late at night". Doncaster has 24-hour nursing cover and there was a 46-minute wait before Mr Brook left the wing, so we can see no reason why the information about Mr Brook's current medical condition could not have been obtained and taken into account.

51. We recommend that:

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; and**
- **assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.**

The Director should revise the risk assessment form for hospital escorts to make it clear that:

- **healthcare staff must provide information on the prisoner's current state of health and mobility; and**
- **prison managers must confirm that they have read and taken into account the healthcare information about the prisoner's current state of health and mobility in determining the level of security needed.**

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