Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Paul Wooder, a prisoner at HMP Frankland, on 9 November 2020

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*

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. We carry out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

3. Mr Paul Wooder died in the University Hospital of North Durham on 9 November 2020 of COVID-19 pneumonia while a prisoner at HMP Frankland. He was 43 years old. I offer my condolences to Mr Wooder's family and friends.

4. The clinical reviewer concluded that the clinical care Mr Wooder received at Frankland was of a reasonable standard and equivalent to that he could have expected to receive in the community.

5. She did, however, identify some concerns and made four recommendations which are included in this report. In particular, she noted that when Mr Wooder first complained of feeling unwell, this was not acted upon by healthcare staff, and that following his positive COVID-19 test, there was no clinical management plan to inform his care and healthcare staff failed to monitor any deterioration in his health.

6. We found one non-clinical issue of concern regarding the use of restraints and include a recommendation about this.

Recommendations

- The Governor and Head of Healthcare should ensure that prisoners who are either at high risk of contracting COVID-19 or of developing complications if they contract it, or who display symptoms of the infection, are managed in line with national guidance.

- The Head of Healthcare should ensure that:

    - all patients with confirmed COVID-19 have a clinical management plan that reflects their needs; and

    - healthcare staff record clinical observations appropriately and accurately to monitor any deterioration in condition.

- The Head of Healthcare should ensure that:

    - all key information about a patient's clinical condition is communicated between healthcare teams and with prison staff in a timely way; and

    - healthcare staff record their findings and actions in the clinical record with particular regard to the possibility of COVID-19 infection.

- The Head of Healthcare should:
    - ensure that all healthcare contributions to the prison escort risk assessments are accurate and sufficiently detailed and reflect the patient's current clinical condition; and
    - work with the Governor to ensure the use of/type of restraints are proportionate and reflect any change in the patient's condition.
- The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position, and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Mr Wooder's clinical care at HMP Frankland.

8. The PPO investigator has investigated non-clinical issues, including Mr Wooder's location, the security arrangements for his hospital escort/s, liaison with his family and whether compassionate release was considered.

9. The PPO family liaison officer wrote to Mr Wooder's next of kin, his mother, to explain the investigation. She did not respond to our letter.

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

Previous deaths at HMP Frankland

11. Mr Wooder was the 14th prisoner to die at HMP Frankland since November 2018. All the 13 previous deaths were from natural causes. Since Mr Wooder's death, there have been four further deaths at HMP Frankland, all related to COVID-19.

12. In two previous investigations at Frankland, we expressed concerns and made recommendations about the inappropriate use of restraints.

Coronavirus (COVID-19)

13. COVID-19 is an infectious disease that affects the lungs and airways. It is mainly spread through droplets when an infected person coughs, sneezes, speaks or breathes heavily. On 11 March 2020, the World Health Organisation (WHO) declared COVID-19 a worldwide pandemic.

14. 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 have 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.)

15. 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. A key strategy is 'compartmentalisation' to cohort and protect prisoners at high and moderate risk, isolate those who are symptomatic, and separate newly arrived prisoners from the main prison population.

16. The Ministry of Justice and Public Health England later issued joint guidance, *Preventing and controlling outbreaks of COVID-19 in prisons and places of detention*. It provides operational recommendations for custodial and healthcare staff on preventing and managing outbreaks of COVID-19, including specific advice on population management, social distancing, actions to take if a prisoner,

or staff member develops symptoms, and the use of personal protective equipment (PPE). (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.)

17. After a period of complete lockdown, the Ministry of Justice and HM Prison and Probation Service produced *COVID-19: National Framework for Prison Regimes and Services.* This outlines strategies for easing restrictions and modifying regimes, where severe constraints are disproportionate, or unsustainable. Prisons are expected to devise local policies within the parameters set in the framework.

Key Events

18. On 30 June 2006, Mr Paul Wooder was sentenced to life in prison with a minimum tariff of five years for unlawful imprisonment. He transferred to HMP Frankland on 15 December 2006. It was not his first time in prison.

19. Mr Wooder had several long-term health conditions, including epilepsy, type 2 diabetes, high blood pressure, obesity, bilateral leg lymphoedema/gravitational eczema, leg ulcers and osteoarthritis. He used a walking stick to get around. Care plans were put in place for his long-term conditions. Mr Wooder refused assessments and reviews which formed part of the process for managing his diabetes.

20. Mr Wooder also had poor mental health He was diagnosed as having a personality disorder. He spent four years in the Westgate Unit (a specialist unit for those with personality disorders) at Frankland. After his discharge to a standard wing at Frankland, the mental health team regularly reviewed him.

Events from October 2020

21. On 13 October 2020, there was an outbreak of the COVID-19 virus at Frankland.

22. In response to the COVID-19 restrictions, Mr Wooder was accommodated in a single cell and had limited contact with other prisoners and staff.

23. On 27 October, Mr Wooder told a nurse (a mental health nurse who had frequent contact with him) that he felt unwell and wanted a GP appointment. There is no record of any clinical observations being taken.

24. For the next four weeks from 28 October, there were 30 COVID-19 positive cases among prisoners on Mr Wooder's wing (C wing) and 65 confirmed cases in the prison.

25. On 29 October, a nurse told Mr Wooder that she was unable to accompany him to his scheduled GP appointment booked for 2 November. Mr Wooder asked for the appointment to be rescheduled.

26. On 2 November, a senior nurse examined Mr Wooder. He said that he felt unwell, had collapsed, had a sore throat, productive cough, an ongoing ear infection and dental problems. The nurse examined him and checked his observations. She used the National Early Warning System (NEWS2, a tool to identify clinical deterioration). His NEWS2 score was 0 (low risk, indicating a need for routine monitoring and a 12 hourly review). She asked another senior nurse to review him.

27. Another senior nurse reviewed Mr Wooder. She tested him for COVID-19 and recorded COVID-19 as a provisional diagnosis, which was later confirmed as a positive.

28. Later that day, prison staff asked healthcare staff to visit Mr Wooder because he was having breathing difficulties. A nurse attended in full PPE (personal protective equipment) and examined him. Mr Wooder was coughing up orange

sputum and sounded “chesty”. His NEWS2 score was 3. A nurse gave him paracetamol.

29. On 4 November, a nurse examined Mr Wooder because prison staff had reported he was coughing up blood. She noted his chest “still sounded chesty” and he was coughing up orange sputum. The nurse discussed this with a senior nurse who advised Mr Wooder should have a GP review.

30. On 5 November, a prison GP examined Mr Wooder and noted that there were no breathing difficulties, no discoloured skin, no heart murmurs and his heart had a regular rhythm. The GP diagnosed COVID-19 and an outer ear infection. He prescribed antibiotics and ibuprofen and advised Mr Wooder to increase his fluid intake and notify healthcare staff if he felt worse.

31. On 8 November, a nurse examined Mr Wooder in his cell because his health had deteriorated. She checked his observations and noted that they were deteriorating. She recorded his NEWS2 score as 9 (high risk, requiring emergency assessment by a critical care team). She discussed Mr Wooder’s symptoms with the on call advanced nurse practitioner and then requested an ambulance.

32. Mr Wooder was taken to hospital. Two prison officers escorted him and he was handcuffed to an officer using a single handcuff. When he was admitted to hospital as an inpatient, the handcuff was changed to 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).

33. On 8 November, while in hospital, Mr Wooder said that he did not want anyone to resuscitate him if his heart or breathing stopped and signed an order to that effect.

34. When Mr Wooder was moved to the hospital’s high dependency unit, he asked the prison escort officers to ensure that his parents were aware. They told the prison’s family liaison officer, who notified them.

35. On 9 November at 11.30am, Mr Wooder died in hospital. A prison manager authorised the removal of the restraints 20 minutes before his death.

Post-mortem report

36. The post-mortem gave Mr Wooder’s cause of death as COVID-19 pneumonia. He was also obese, which did not cause but contributed to his death.

Findings

Clinical Findings

37. The clinical reviewer concluded that the majority of Mr Wooder's clinical care at Frankland was of a reasonable standard and equivalent to that which he could have expected to receive in the community.

38. However, she identified some weaknesses in Mr Wooder's care.

Management of Mr Wooder's risk of infection from COVID-19

39. Mr Wooder had not left Frankland in the 14 days before he tested positive for COVID-19 and it, therefore, appears that he contracted the virus in prison.

40. It was initially impractical to create a designated isolation unit at Frankland, due to population pressures. Symptomatic prisoners and those suspected of contracting COVID-19 were, therefore, isolated in their cells. The prison provided detailed guidance to wing staff on protecting themselves and prisoners while providing meals and performing welfare checks.

41. Mr Wooder was at high risk of developing complications from COVID-19 due to his underlying medical conditions and obesity. However, he was not shielded as he should have been at that time. (The national guidance on shielding has since changed.)

42. The clinical reviewer was also concerned that when Mr Wooder first complained of feeling unwell, this was not acted upon as it should have been and he was not placed in protective isolation, bearing in mind that there was an outbreak of COVID-19 at the prison at the time.

43. In addition, there was no clinical management plan to inform his care following his positive COVID-19 test. As a result, there were no regular clinical observations to monitor any deterioration.

44. The clinical reviewer also said that it is not clear how and when Mr Wooder's COVID-19 positive status was shared with prison staff as there is no mention in the clinical record.

45. The clinical reviewer noted that both prison and healthcare staff were under immense pressure at this time due to the COVID-19 outbreak, which impacted on the health of staff as well as prisoners. We make the following recommendations:

    The Governor and Head of Healthcare should ensure that prisoners who are either at high risk of contracting COVID-19 or of developing complications if they contract it, or who display symptoms of the infection, are managed in line with national guidance.

    The Head of Healthcare should ensure that:

    - **all patients with confirmed COVID-19 have a clinical management plan that reflects their needs; and**

- **healthcare staff record clinical observations appropriately and accurately to monitor any deterioration in condition.**

The Head of Healthcare should ensure that:

- **all key information about a patient's clinical condition is communicated between healthcare teams and with prison staff in a timely way; and**
- **healthcare staff record their findings and actions in the clinical record with particular regard to the possibility of COVID-19 infection.**

Restraints, security and escorts

46. 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.

47. 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 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.

48. The risk assessment requires input from healthcare staff. The medical section of the risk assessment for Mr Wooder on 8 November said that there were 'no medical objections to the use of restraints' and did not alert the escorting prison staff to the COVID-19 risks. The medical section also said that Mr Wooder's 'medical condition did not restrict his ability to escape' and that the restraints should not be removed for consultation or treatment. It made no mention of his long-term medical conditions, reduced mobility, or the fact that he was extremely unwell and would have had difficulty breathing without oxygen support.

49. A second risk assessment was completed on 8 November which also raised no objections to the use of restraints. Healthcare staff noted that Mr Wooder had long-term conditions, received a large amount of medication and used a walking stick. It also noted that as of 2 November, there was an active COVID-19 alert on his record.

50. Prison staff assessed Mr Wooder as a medium risk to the public and hospital staff. He was considered to be high risk for hostage taking, and a low risk for escape potential and outside assistance.

51. A single handcuff (for the journey to hospital) and an escort chain (for hospital admission) was authorised. The escort chain was temporarily removed in hospital on 9 November at 10.05am for treatment and to protect the escort staff. However, at 10.40am the duty manager instructed the officers to reapply the restraints on the grounds that Mr Wooder's behaviour had changed (he had tried

to remove his oxygen hood), and they were not permanently removed until 11.10am when hospital staff asked for them to be removed. Mr Wooder died 20 minutes later.

52. We are not satisfied that there was appropriate and considered healthcare input into Mr Wooder's risk assessment.

53. We recognise that Mr Wooder had a history of hostage taking. However, we are concerned that prison managers did not take into account that Mr Wooder was acutely ill with a life-threatening condition, even when he was moved to the hospital's high dependency unit. Taking into account his long-term heath conditions and his limited mobility when he went to hospital, and his deteriorating health after his admission, we consider it is unlikely that Mr Wooder would have had the ability to escape or to have posed a risk to the public while being escorted by two officers. We consider that the restraints should have been removed earlier.

54. The clinical reviewer also expressed concern that the escort staff were exposed to an increased risk of contracting COVID-19 as a result of being closely handcuffed to Mr Wooder. We make the following recommendations:

The Head of Healthcare should:

- **ensure that all healthcare contributions to the prison escort risk assessments are accurate and sufficiently detailed and reflect the patient's current clinical condition; and**
- **work with the Governor to ensure the use of/type of restraints are proportionate and reflect any change in the patient's condition.**

The Governor and Head of Healthcare should ensure that all staff undertaking risk assessments for prisoners taken to hospital understand the legal position, and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

Sue McAllister **July 2021**
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