

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Peter Kelly, a prisoner at HMP Oakwood, on 1 March 2021

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. 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 Peter Kelly died in hospital on 1 March 2021, while a prisoner at HMP Oakwood. He was 67 years old. The cause of his death was COVID-19 pneumonia. He also had underlying heart disease and asthma. I offer my condolences to Mr Kelly's family and friends.
4. Mr Kelly began shielding on 8 January. He tested positive for COVID-19 on 30 January and was monitored closely. His condition began to deteriorate on 6 February and he was sent to hospital on 9 February, when healthcare staff could no longer stabilise his oxygen levels. It is likely that Mr Kelly contracted the disease at Oakwood, as he had not left the prison during the accepted incubation period.
5. The clinical reviewer concluded that Mr Kelly's clinical care at Oakwood was of a good standard and equivalent to that he could have expected to receive in the community. She made no recommendations.
6. We found no non-clinical issues of concern and make no recommendations.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Mr Kelly's clinical care at HMP Oakwood.
8. The PPO investigator investigated the non-clinical issues, including aspects of the prison's response to COVID-19 and shielding prisoners; Mr Kelly's location; the security arrangements for his journey and admission to hospital; liaison with his family; and whether early release was considered.
9. The Ombudsman's family liaison officer wrote to Mr Kelly's next of kin, his son, to explain the investigation. She did not receive a reply.
10. The initial report was shared with HM Prison and Probation Service (HMPPS). They found no factual inaccuracies.

Previous deaths at HMP Oakwood

11. Mr Kelly was the 14th prisoner to die at Oakwood since March 2019. Eleven of the previous deaths were from natural causes, one was drug-related and one resulted from burns. COVID-19 caused or contributed to four of the previous deaths. There has since been a further death from natural causes, unrelated to COVID-19. There are no similarities between our findings in this investigation and those of previous deaths at Oakwood.

COVID-19 (coronavirus)

12. 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.
13. 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.)
14. 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-arrived prisoners from the main population. Other measures include social distancing and the use of personal protective equipment (PPE).

Key Events

15. Mr Peter Kelly was remanded to HMP Dovegate on 7 December 2018. He was later convicted of sexual offences and sentenced to 14 years imprisonment on 14 March 2019.
16. Mr Kelly had several long-term medical conditions, including type 2 diabetes, chronic obstructive pulmonary disease (COPD), high blood pressure, high cholesterol, heart disease, angina and abdominal aortic aneurysm (weakening of an artery wall). He also had hearing and sight problems. During the pandemic, Mr Kelly had telephone consultations with his respiratory and cardiology specialists.
17. On 1 September 2020, Mr Kelly transferred from Dovegate to HMP Oakwood. Healthcare staff carried out initial and secondary health screens and there were no concerns about his health. Mr Kelly was required to self-isolate for 14 days in the reverse cohorting unit, in line with national policy. He then moved to a single cell on a residential wing for older, vulnerable prisoners. He was allocated a prison carer to help him with tasks such as cleaning.
18. On 18 September, healthcare staff informed Mr Kelly that he was at moderate risk of developing complications from COVID-19, due to his age and underlying medical conditions. The entry in the medical record noted he was thought to be shielding (although this was not reflected in his personal records). Healthcare staff reminded Mr Kelly of the advice to shield on 23 October and 19 November. He declined both times.
19. Mr Kelly was tested for COVID-19 during the prison's mass screening programme and the result returned as negative on 5 November. However, on 8 November, Mr Kelly was placed in protective isolation, as a precaution, following information received through the track and trace process.
20. On 8 January 2021, Mr Kelly was again advised to shield and agreed to do so. Later that month, he developed a cough and a test for COVID-19 was confirmed to be positive on 30 January. Mr Kelly was instructed to isolate in his cell for 14 days and report any symptoms.
21. While isolating, healthcare staff checked Mr Kelly twice daily and his clinical observations were initially stable. However, from 6 February, his blood oxygen saturation levels began to fluctuate.
22. On 9 February, Mr Kelly was extremely short of breath, with very low oxygen levels. He was sent to hospital by emergency ambulance, escorted by one prison officer. Due to his age, condition and very poor mobility, no restraints were used for the journey or during his time in hospital.
23. The prison assigned a family liaison officer immediately. On 10 February, at Mr Kelly's request, she informed his stepdaughter that he was unwell and in hospital. She gave permission for direct contact with hospital staff to obtain updates.

24. On 15 February, the hospital asked for Mr Kelly's family to be told that his condition had deteriorated. The family liaison officer informed Mr Kelly's stepdaughter and she agreed to tell other family members, including Mr Kelly's listed next of kin, his son. The family liaison officer later arranged a video call for Mr Kelly's family.
25. Mr Kelly had struggled with receiving oxygen through a mask and repeatedly removed it. On 19 February, the palliative care consultant said that he continued to remove his mask and refuse medication, which was hindering his recovery, but it would not be beneficial to move him to the intensive care unit. The consultant estimated a life expectancy of three to seven days, depending on whether he complied with the treatment. On 27 February, Mr Kelly was placed on palliative care and relatives were given permission to visit.
26. On 1 March, the hospital withdrew treatment and Mr Kelly died shortly afterwards. Mr Kelly's family were with him. The deputy family liaison officer met them at the hospital, to offer support and provide information.
27. The prison arranged Mr Kelly's funeral, which was held on 22 March, and met the funeral costs.

Cause of death

28. No post-mortem examination was held as the coroner accepted the cause of death certified by a hospital clinician as COVID-19 pneumonia. Mr Kelly also had ischaemic heart disease and asthma, which did not cause but contributed to his death.

Findings

Clinical Findings

29. The clinical reviewer found that Mr Kelly's complex medical conditions were managed in line with national guidelines. She concluded that Mr Kelly received a good standard of care at Oakwood, equivalent to that he could have expected to receive in the community and she made no recommendations.

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

30. Prisons were expected to isolate newly-arrived prisoners. They also had to identify and offer the opportunity to shield to new and existing prisoners assessed as at risk if they contracted COVID-19. In line with this policy, Mr Kelly was in isolation for 14 days on transfer to Oakwood. After this period, he was advised to shield as he was considered at moderate risk (also termed clinically vulnerable) due to his age, cardiovascular and respiratory conditions. He declined to shield on at least three occasions over his first few months at Oakwood.
31. Mr Kelly became unwell around three weeks after he began shielding in January 2021. At that time, Oakwood was in lockdown with a restricted regime, but there had been an outbreak of the virus. Cohorts of eight men at a time were allowed out of their cells to collect meals and medication and for exercise. Prisoners had been issued with washable face masks in October 2020 and were required to wear them at all times when out of their cell. Healthcare staff and carers wore full PPE during their contact with Mr Kelly. He received regular clinical checks and was sent to hospital promptly when his condition deteriorated.
32. Mr Kelly almost certainly contracted COVID-19 at Oakwood as he had not left the prison during the incubation period, which is thought to be up to 14 days. We are satisfied that Oakwood implemented the expected measures to help control the risk of infection and that Mr Kelly was managed appropriately.

Elizabeth Moody

Deputy Prisons and Probation Ombudsman November 2021

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