

**Prisons &  
Probation**

**Ombudsman**  
Independent Investigations

# Independent investigation into the death of Mr Dennis Smalley, a prisoner at HMP Wakefield, on 16 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. 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 Dennis Smalley died in hospital of COVID-19 pneumonia on 16 March 2021, while a prisoner at HMP Wakefield. He was 70 years old. I offer my condolences to Mr Smalley's family and friends.
4. Mr Smalley's medical conditions and age put him at risk of becoming seriously ill if he contracted COVID-19. Mr Smalley followed staff's advice to shield. He received his first dose of the COVID-19 vaccination on 25 February 2021. However, he tested positive for COVID-19 on 2 March.
5. Mr Smalley's condition deteriorated and on 11 March, he was taken to hospital. He died there on 16 March.
6. The clinical reviewer concluded that Mr Smalley's clinical care at Wakefield was of a good standard and equivalent to that which he could have expected in the community. However, she made two recommendations. One was not related to Mr Smalley's death, but we have included the other recommendation in our report.
7. We found no non-clinical issues of concern.

## Recommendations

- The Head of Healthcare should ensure that staff consistently use the National Early Warning Score (NEWS2) tool and record the results in the prisoner's medical record.

## The Investigation Process

8. NHS England commissioned an independent clinical reviewer to review Mr Smalley's clinical care at the prison.
9. The PPO's investigator investigated non-clinical issues, including the prison response to COVID-19 and shielding prisoners, the security arrangements for Mr Smalley's hospital escorts and liaison with his next of kin.
10. The Ombudsman's family liaison officer contacted Mr Smalley's son to explain the investigation and to ask if he had any matters he wanted the investigator to consider. Mr Smalley's son did not respond.

11. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS found no factual inaccuracies. Their action plan is annexed to this final report.

## Background Information

### HMP Wakefield

12. 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

13. Mr Smalley was the 26th prisoner at Wakefield to die since March 2019. Of the previous deaths, two were self-inflicted, and the rest were from natural causes. Mr Smalley's death was the sixth from COVID-19 at Wakefield. There have been no further deaths from COVID-19 since. We have previously made a recommendation to Wakefield about the use of the NEWS2 tool.

### COVID-19 (coronavirus)

14. 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.
15. 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.)
16. 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

17. Mr Dennis Smalley was remanded in prison custody on 18 July 2015. On 17 March 2016, he was sentenced to 25 years in prison for sexual offences. On 20 March 2017, he was sent to HMP Wakefield.
18. Mr Smalley had several health conditions, including emphysema (a lung condition that causes breathing difficulties); hypertension (high blood pressure); high cholesterol; chronic back pain; and was at risk of diabetes.
19. On 26 March 2020, Mr Smalley presented with COVID-19 symptoms. In line with Public Health England guidelines, he was isolated from other prisoners for 14 days.
20. On 21 April, healthcare staff at Wakefield assessed that Mr Smalley was at high risk of complications if he contracted COVID-19 (clinically extremely vulnerable). They advised him to shield and placed him on a 'shielding regime'. On 12 November, Mr Smalley was again reminded by staff to shield. Throughout the COVID-19 pandemic, Mr Smalley followed the advice from staff to shield.
21. On 25 February 2021, Mr Smalley received his first dose of the COVID-19 vaccine.
22. On 2 March, despite consistently shielding, Mr Smalley presented with COVID-19 symptoms and so was isolated from other prisoners. On 3 March, Mr Smalley's COVID-19 test result came back as positive.
23. On 11 March, Mr Smalley told a nurse he felt breathless and had frequent chest pains. The nurse recorded that Mr Smalley's oxygen saturation level was 76% (a normal level is between 95-100%) and his pulse was 120 beats per minute (a normal pulse rate is between 60-100 beats per minute). The nurse gave Mr Smalley oxygen and after a little persuasion from the nurse, he agreed to go to hospital. He was taken by ambulance to Pinderfields General Hospital and was admitted.
24. While in hospital, Mr Smalley was treated for COVID-19. On 12 March, his condition deteriorated further and a do not attempt cardiopulmonary resuscitation order (DNACPR - if the heart or breathing stops, the healthcare team will not try to restart it) was put in place. Mr Smalley was deemed unsuitable for ventilation.
25. Mr Smalley's condition continued to deteriorate and he died in hospital on 16 March.

### Cause of death

26. There was no post-mortem examination as the Coroner accepted the cause of death provided by a hospital doctor. The doctor gave Mr Smalley's cause of death as COVID-19 pneumonia. Emphysema was listed as a contributory factor.

# Findings

## Clinical Findings

27. The clinical reviewer considered that the care Mr Smalley received at Wakefield was of a good standard and was equivalent to that which he could have expected to receive in the community.

### *Management of Mr Smalley's risk of catching COVID-19*

28. Mr Smalley had not left Wakefield 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.
29. 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, in line with national Prison Service guidance. Under this system, 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.
30. 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.
31. We were told that 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.
32. In April 2020, healthcare staff identified that Mr Smalley was at high risk of complications if he contracted COVID-19 and advised him to shield. Mr Smalley complied with staff's advice.
33. Although Mr Smalley contracted COVID-19 at Wakefield shortly before 2 March 2021, we are satisfied the prison had appropriate policies and procedures in place and had taken reasonable steps to manage the risk to prisoners, including Mr Smalley, of being infected by COVID-19.

### *Monitoring Mr Smalley after he contracted COVID-19*

34. The clinical reviewer noted that after testing positive for COVID-19, Mr Smalley was appropriately reviewed regularly by healthcare staff to monitor his physical health and allow for early identification of physical deterioration. However, when conducting Mr Smalley's observations, healthcare staff did not complete and record NEWS2 scores. Although this did not affect the care given to Mr Smalley, or impact on the frequency of clinical reviews provided to him, good practice would have been for the NEWS2 tool to be used consistently within the medical records.

35. We recommend:

**The Head of Healthcare should ensure that staff consistently use the NEWS2 tool and record the results in the prisoner's medical record.**

**Elizabeth Moody**  
**Deputy Prisons and Probation Ombudsman**

**November 2021**



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