

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Robert Benfield, a prisoner at HMP The Verne, on 6 February 2021

Third Floor, 10 South Colonnade
Canary Wharf, London E14 4PU

Email: mail@ppo.gov.uk
Web: www.ppo.gov.uk

T | 020 7633 4100



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

OGL

© Crown copyright, 2023

This report is licensed under the terms of the Open Government Licence v3.0. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

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 Robert Benfield died in hospital of COVID-19 pneumonia on 6 February 2021, while a prisoner at HMP The Verne. He was 75 years old. I offer my condolences to Mr Benfield's family and friends.
4. The clinical reviewer concluded that the clinical care Mr Benfield received at The Verne was in part equivalent to that which he could have expected to receive in the community. The clinical reviewer was satisfied that Mr Benfield's long-term health conditions were properly managed. However, the clinical reviewer was concerned that the prison did not do everything it could to prevent Mr Benfield from catching COVID-19 and concluded that the care in this respect was not equivalent.
5. Mr Benfield's medical conditions and age put him at risk of becoming seriously ill if he contracted COVID-19. However, these risks were not explained to Mr Benfield.

Recommendations

- The Head of Healthcare should ensure that where staff assess that a prisoner is clinically extremely vulnerable to COVID-19, they explain to them the risks of not shielding, satisfy themselves that the prisoner understands their options and record the outcome of the discussion in the prisoner's medical record.

The Investigation Process

6. NHS England commissioned an independent clinical reviewer to review Mr Benfield's clinical care at the prison.
7. The PPO's investigator investigated non-clinical issues, including the prison response to COVID-19 and shielding prisoners, the security arrangements for Mr Benfield's hospital escorts, liaison with his next of kin and whether compassionate release was considered.
8. We informed HM Coroner for Bournemouth of the investigation. We have sent the Coroner a copy of this report.
9. The Ombudsman's family liaison officer contacted Mr Benfield's wife to explain the investigation and to ask if she had any matters she wanted the investigation to consider. She asked several questions which have been addressed in the clinical review.
10. Mr Benfield's family received a copy of the initial report, they raised a number of questions that do not impact on the factual accuracy of this report and have been addressed through separate correspondence.
11. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

Background Information

HMP The Verne

12. HMP The Verne is a medium security prison for 580 men convicted of sexual offences. The healthcare department is staffed between 7.30am and 6.00pm. Outside those hours prison staff call either the emergency services for an ambulance, or the NHS 111 telephone line for health advice, depending on the prisoner's need. There is no inpatient facility.

Previous deaths at HMP The Verne

13. Mr Benfield was the fourth prisoner at The Verne to die since February 2019. The previous deaths were all from natural causes. Mr Benfield's death was the first from COVID-19, but there have been three further deaths from COVID-19 since.

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. In July 2014, Mr Robert Benfield was sentenced to 20 years in prison for sexual offences. On 29 July 2019, he was sent to HMP The Verne. Mr Benfield had several long-term health conditions including diabetes and high blood pressure.
18. In March 2020, Mr Benfield was admitted to hospital and diagnosed with acute pancreatitis. While he was in hospital, he was also seen by the cardiology team for atrial fibrillation (an irregular heartbeat). He was prescribed medication that aimed to reduce the heart rate to manageable levels, and he was also started on blood thinning medication to prevent any blood clots. Two weeks later, Mr Benfield was discharged from hospital and returned to prison.
19. At the end of April, Mr Benfield was admitted to hospital again with atrial fibrillation. He stayed in hospital for 10 days, when he was discharged and sent back to prison.
20. On 15 May, due to Mr Benfield's declining health, staff reviewed his risk assessment for COVID-19 and considered he was at high risk of developing complications if he were to catch COVID-19.
21. On 27 January 2021, Mr Benfield fell over and was found on the floor with a bump on his head. As The Verne does not have 24-hour healthcare, prison staff sought advice from the out of hours GP, who said that Mr Benfield would be seen the following morning.
22. The following day, a nurse saw Mr Benfield and gave him paracetamol. Later that morning another nurse saw Mr Benfield and noted that he had a rapid respiration rate, low blood pressure, low oxygen levels and a fast pulse. She called an ambulance and Mr Benfield was taken to hospital.
23. At hospital Mr Benfield was diagnosed with an acute kidney injury (where the kidneys stop working properly). He also tested positive for COVID-19. He was given oxygen and his condition stabilised. He was sent back to The Verne the same day.
24. On 29 January, a nurse saw Mr Benfield. She took his clinical observations and noted that he had a National Early Warning Score (NEWS) of 10. (NEWS is a tool used to assess clinical deterioration in adult patients – a score of 10 indicates high clinical risk.) Healthcare staff called an ambulance and Mr Benfield was taken to hospital, where he was later admitted.
25. On 31 January, Mr Benfield's health deteriorated, so he was moved to intensive care. He was treated with intravenous antibiotics and fluids for possible sepsis, pneumonia and COVID-19.
26. On 3 February, the hospital stopped Mr Benfield's medication and he was put on an end of life care plan. Mr Benfield deteriorated further and he died on 6 February.

Cause of death

27. The coroner accepted the cause of death provided by a hospital doctor and no post-mortem examination was carried out. The doctor gave Mr Benfield's cause of death as COVID-19 pneumonia with diabetes as a contributing factor.

Findings

Clinical Findings

28. The clinical reviewer considered that the standard of care Mr Benfield received at The Verne was in part equivalent to that which he could have expected to receive in the community. Mr Benfield had several health conditions including diabetes, high blood pressure and atrial fibrillation. Mr Benfield was regularly seen at the hospital and received appropriate medication. The clinical reviewer was satisfied that Mr Benfield's long-term health conditions were properly managed.
29. However, the clinical reviewer was not satisfied that the prison did everything it could to prevent Mr Benfield from catching COVID-19 and found that his care in this respect was not equivalent.

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

30. In line with national guidance for the general population, prisons were expected to identify prisoners at risk of serious illness if they contracted COVID-19 and provide them with the opportunity to shield.
31. On 15 May 2020, Mr Benfield was identified as being at high risk of complications if he caught COVID-19. On 20 May and 8 January 2021, prison healthcare staff sent Mr Benfield a letter advising him to shield. On neither occasion was this letter followed up with a conversation, nor were the risks of not shielding explained to Mr Benfield.
32. Mr Benfield was located on D Wing in a dormitory. The Head of Healthcare told us that many prisoners on D Wing were identified as clinically extremely vulnerable and were advised to shield. However, we have not seen any evidence to show that this advice was discussed directly to Mr Benfield.
33. When we asked the Head of Healthcare why staff had not discussed the risks with Mr Benfield, she said that there were several adverts on television about the risk of contracting COVID-19 and that prisoners would have been aware of the risks whether spoken to directly or not. We do not find this acceptable.
34. Mr Benfield had not left the prison in the weeks before he became ill and it appears, therefore, that he caught COVID-19 in prison. We are not satisfied that the prison did everything it could to prevent Mr Benfield from catching COVID-19. We make the following recommendation:

The Head of Healthcare should ensure that where staff assess that a prisoner is clinically extremely vulnerable to COVID-19, they explain to them the risks of not shielding, satisfy themselves that the prisoner understands their options and record the outcome of the discussion in the prisoner's medical record.

**Sue McAllister CB
Prisons and Probation Ombudsman**

October 2021

**Prisons &
Probation**

Ombudsman
Independent Investigations

Third Floor, 10 South Colonnade
Canary Wharf, London E14 4PU

Email: mail@ppo.gov.uk
Web: www.ppo.gov.uk

T | 020 7633 4100