

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Bradley Derosa, a prisoner at HMP Wandsworth, on 26 May 2022

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

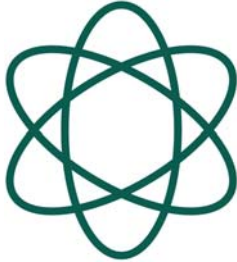
Email: mail@ppo.gov.uk
Web: www.ppo.gov.uk

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

OGI

© 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 Bradley Derosa died of stomach cancer in hospital on 26 May 2022, while a prisoner at HMP Wandsworth. He was 51 years old. We offer our condolences to Mr Derosa's family and friends.
4. We are concerned that Wandsworth failed to undertake their own risk assessment regarding use of restraints on Mr Derosa, which resulted in inappropriate restraints being used for over one month while he was seriously unwell. We are also concerned about the significant delay in Wandsworth starting Mr Derosa's application for early release on compassionate grounds. This was a serious oversight and might have prevented his application being granted before he died.

Recommendations

- The Governor should ensure that managers carry out risk assessments when reviewing the use of restraints on seriously ill prisoners in hospital, regardless of their previous location, to ensure arrangements are appropriate and individuals are safeguarded.
- The Governor at Wandsworth should ensure that applications for early release on compassionate grounds are started as soon as a prisoner becomes eligible, to ensure maximum time is available for the application to be processed before the prisoner dies

The Investigation Process

5. NHS England and NHS Improvement (NHSE&I) did not commission a clinical review because Mr Derosa's clinical care was provided by a community GP. Therefore, his care was outside of the PPO's remit.
6. The PPO investigator investigated the non-clinical issues relating to Mr Derosa's care, including Mr Derosa's location, the security arrangements for his hospital escorts, liaison with his family and whether compassionate release was considered.
7. The PPO family liaison officer wrote to Mr Derosa's next of kin, his sister, and his mother, to explain the investigation and to ask if they had any matters they wanted us to consider. They asked us to consider Mr Derosa's care while he was at Norwich, the delay to his application for early release on compassionate grounds and his treatment while he was on bed watch. These questions are answered in the body of the report or have been addressed in separate correspondence.
8. Mr Derosa's family received a copy of the draft report. They pointed out some factual inaccuracies. This report has been amended accordingly.
9. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies.

Previous deaths at HMP Norwich

10. Since May 2020, 12 prisoners have died at Norwich. Of these deaths, nine were from natural causes and three were self-inflicted. There are no similarities between our findings in the investigation into Mr Derosa's death and our investigation findings for the previous deaths.

Previous deaths at HMP Wandsworth

11. Mr Derosa was the 12th prisoner to die at Wandsworth since May 2020. Of the previous deaths, one was from natural causes, eight were self-inflicted and one was drug related and the cause of one is currently unknown. There are no similarities between our findings in the investigation into Mr Derosa's death and our investigation findings for the previous deaths.

Key Events

12. On 5 June 2020, Mr Bradley Derosa was remanded to HMP Norwich. At his initial health screening, healthcare staff recorded that he had gastric reflux disease (where acid from the stomach leaks up into the gullet).
13. On 8 January 2021, Mr Derosa was sentenced to 5 years imprisonment for drugs offences.
14. On 29 July, Mr Derosa was progressed to a category D or 'open' unit at Norwich, due to good behaviour. His movements were less restricted, and he registered with a community GP, which is standard practice for category D prisoners at Norwich.
15. On 13 January 2022, Mr Derosa made his first contact with his GP about ongoing chest pain and acid reflux. Between 13 January and 15 March, Mr Derosa's symptoms worsened. This resulted in multiple consultations with his GP, who referred him for an endoscopy, as well as one visit to a walk-in centre and two visits to A&E.
16. On 15 March, Mr Derosa attended A&E with difficulty swallowing. He was required to stay in hospital for monitoring, and Norwich granted a temporary licence which allowed him to do so without any monitoring by prison staff.
17. On 16 March, Mr Derosa told Norwich that doctors had found something with 'the appearance of stomach cancer'.
18. On 26 March, a hospital consultant contacted Norwich to inform them that Mr Derosa's cancer was terminal and that he had been told this. They said that he was struggling to accept the diagnosis. Norwich appointed a family liaison officer, to provide support to Mr Derosa's family.
19. On 27 March, the family liaison officer visited Mr Derosa in hospital. Mr Derosa told her that if he was released early on compassionate grounds (ERCG), he wanted to go to his sister's house and get a second opinion from the Royal Marsden Hospital. *ERCG applications can be made when prisoners are seriously ill, usually with a life expectancy of less than three months, to request that they are permanently released from custody before their sentence has expired.*
20. On 28 March, a custodial manager and the Governor of Norwich visited Mr Derosa to discuss the next steps in his care planning. The Governor authorised an extension of Mr Derosa's release on temporary licence, to enable him to continue to be cared for in hospital. They asked his prison offender manager unit to start an application for early release on compassionate grounds.
21. At 4.28pm on 28 March, Norwich recorded that Mr Derosa had absconded from hospital.
22. On 12 April, Mr Derosa went to hospital and was transferred to an inpatient ward.

23. On 18 April, police attended the hospital and arrested Mr Derosa. They applied 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). His care was transferred from Norwich to HMP Wandsworth, which was the closest prison to the hospital.
24. Wandsworth made arrangements for bed watch staff (staff responsible for ensuring that prisoners are kept in secure and lawful custody) to monitor Mr Derosa. Wandsworth managers decided to continue with the risk assessment used by the police and applied an escort chain to Mr Derosa while in hospital.
25. On 21 April, staff from the healthcare team at Wandsworth visited Mr Derosa in hospital as part of his care planning. They recorded that he was mobile for short distances only, with the assistance of living aids. They also noted that he was being fed by a tube and in pain.
26. On 29 April, Mr Derosa's palliative care social worker wrote to Wandsworth to confirm her support for an ERCG application.
27. On 4 May, solicitors acting on behalf of Mr Derosa wrote to Wandsworth to request that an ERCG application be made for him.
28. On 5 May, the Wandsworth Offender Management Unit started Mr Derosa's ERCG application. Between 5-26 May they liaised with other parties who were required to contribute to the application. They submitted the application to the Public Protection Casework Section (PPCS) on 26 May 2022.
29. On 20 May, the Governor authorised a new bed watch risk assessment, which requested the removal of Mr Derosa's escort chain restraints. They noted in the paperwork that this was 'due to terminal cancer treatment'.
30. At 11.05am on 26 May, Mr Derosa died.

Post-mortem report

31. The coroner accepted the cause of death provided by the hospital doctor and no post-mortem examination was carried out. The doctor gave Mr Derosa's cause of death as stomach cancer, which had spread to other parts of the body.

Non-Clinical Findings

Restraints, security, and escorts

32. The Prison Service has a duty to protect the public, but this has to be balanced with a responsibility to treat prisoners with humanity. Prison Service Instruction (PSI) 33/2015 *External Prisoner Movement* requires that any restraints are necessary and proportionate. It also requires that decisions are based on the security risks presented by the individual, with consideration for factors such as the prisoner's health and mobility.
33. The 2007 Graham judgment in the High Court 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 suffering from a serious medical condition. It said 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.
34. On 18 April, the police arrested Mr Derosa in hospital and applied an escort chain. When Wandsworth took over bed watch duties from the police, they did not carry out their own risk assessment. They based their restraints approach on that of the police, until 20 May when they completed their own risk assessment. This was despite his poor condition, as recorded by the healthcare team on 21 April, who reported that Mr Derosa was only mobile for short distances with living aids and was in pain. While we recognise that Mr Derosa had previously absconded from hospital, it was clear at the time that his health had deteriorated significantly, and that therefore it is reasonable to suggest that his risk had decreased considerably. There is no evidence that this was taken into consideration by Wandsworth when they decided to continue to restrain Mr Derosa. Therefore, we make the following recommendation:

The Governor should ensure that managers carry out risk assessments when reviewing the use of restraints on seriously ill prisoners in hospital, regardless of their previous location, to ensure arrangements are appropriate and individuals are safeguarded.

Early Release on Compassionate Grounds (ERCG)

35. Prisons can apply for ERCG on behalf of prisoners who are seriously unwell, to enable them to be permanently released from custody before sentence expiry. Typically, this is used to enable prisoners to be with their family in the final stages of their life. Chapter 12 in the Parole, Release and Recall Prison Service Order (PSO) sets out the criteria for applications for ERCG, where a prisoner is seriously unwell. Among the criteria is that the risk of reoffending is expected to be minimal, further imprisonment would reduce life expectancy, there are adequate arrangements for the prisoner's care and treatment outside prison, and release would benefit the prisoner and his family. An application for early release on compassionate grounds must be submitted to the Public Protection Casework Section (PPCS) of HM Prison and Probation Service (HMPPS) as soon as possible.

36. On 28 March 2022, the Governor at Norwich requested that Mr Derosa's prison offender manager begin his application. Mr Derosa absconded the same day and we consider it reasonable that the application was not started during the period he was AWOL. However, an application was not started for 18 days following his arrest and recall into custody, at which point his health was very poor and he met all of the ERCG criteria. This was a significant and unacceptable delay. When we asked Wandsworth if there was a reason for this delay, they were unable to provide an explanation. Therefore, we make the following recommendation:

The Governor at Wandsworth should ensure that applications for early release on compassionate grounds are started as soon as a prisoner becomes eligible, to ensure maximum time is available for the application to be processed before the prisoner dies.

**Tallulah Frankland
Assistant Ombudsman**

January 2023

**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