Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Thomas Dooley, a prisoner at HMP Berwyn, on 26 May 2020

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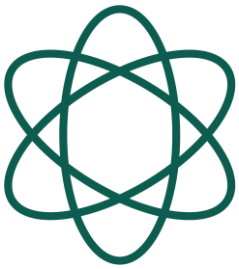
Our vision

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

OGL

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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 Thomas Dooley died in hospital on 26 May 2020, while a prisoner at HMP Berwyn. He was 60 years old. The cause of his death will be determined at inquest but has been provisionally certified as COVID-19. He also had underlying leukaemia. I offer my condolences to Mr Dooley's family and friends.

4. The clinical reviewer concluded that the clinical care Mr Dooley received at Berwyn was timely, of a high standard and equivalent to that he could have expected to receive in the community. However, he made recommendations about dispensing medication to 'extremely clinically vulnerable' prisoners and the need for operational staff to comply with infection control protocols. We make similar recommendations in this report.

5. Mr Dooley had not left the prison during the month before he developed symptoms of COVID-19. While we cannot say for certain when or where he contracted the virus, it seems likely that it was at the prison, following exposure to staff and others while collecting his medication.

6. We found that Custodial Manager A provided a high level of support to Mr Dooley, his family and prisoners on Snowdon Unit.

Recommendations

- The Governor and Head of Healthcare should ensure that 'extremely clinically vulnerable' prisoners required to shield during a pandemic are able to reduce person-to-person contact and that their medication is dispensed safely at their cell door.

- The Governor should ensure that:

  - staff comply with infection control measures, such as use of PPE and handwashing;

  - social distancing is maintained, unless there is a medical or security emergency; and

  - managers enforce compliance.

- The Governor should ensure that this report is shared with Custodial Manager A so that she is aware of the comments about her high standard of professionalism.

The Investigation Process

7. Health Inspectorate Wales commissioned an independent clinical reviewer to review Mr Dooley's clinical care at HMP Berwyn.

8. The PPO investigator investigated non-clinical issues, including aspects of the prison's response to COVID-19 and shielding prisoners; Mr Dooley's location; the security arrangements for his journey and admission to hospital; liaison with his family; and whether early release was considered.

9. The PPO investigator and clinical reviewer reviewed Mr Dooley's healthcare records, information from the Head of Healthcare and other relevant documents. In July, they jointly interviewed three members of staff and the PPO investigator interviewed another member of staff and three prisoners. All the interviews were conducted by telephone due to the restrictions in place during the COVID-19 pandemic.

10. The clinical reviewer visited the prison on 4 August, to observe the healthcare and medication arrangements for 'extremely clinically vulnerable' shielding prisoners and processes such as social distancing, use of PPE and other infection control measures.

11. The PPO family liaison officer wrote to Mr Dooley's next of kin, his mother, to explain the investigation. She did not reply.

12. The initial report was shared with HM Prison and Probation Service (HMPPS). No factual inaccuracies were found. HMPPS accepted our recommendations and their action plan is attached as an annex.

Previous deaths at HMP Berwyn

13. Mr Dooley was the sixth prisoner to die at Berwyn since May 2018. Of the previous deaths, four were from natural causes and one was due to the effect of psychoactive substances. There are no similarities between our findings in this investigation and those of the previous deaths. To date, there have been no other COVID-19 related deaths at Berwyn.

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 the risk is higher for some people. There are two levels of higher risk: high-risk ('extremely clinically vulnerable' - ECV); and moderate risk (clinically vulnerable). People at high risk include those who have had an organ transplant; have a severe lung condition; are having certain types of treatment for cancer; or have a condition with a very high risk of getting infections. Those at moderate risk include people over 70; people with a lung

condition or a chronic medical condition, such as diabetes, heart, liver, or chronic kidney disease; or those who are very obese (this list is not exhaustive).

16. To reduce the spread of the virus, the Government introduced voluntary and mandatory actions, such as 'social distancing' and 'lockdown' (on 16 and 23 March, respectively). Public Health England (PHE), HM Prison & Probation Service (HMPPS) and NHS England and Wales worked together to devise measures to contain the outbreak, achieve social distancing, reduce the risk to the most vulnerable in prisons in England and Wales and protect the NHS (by reducing the number of people requiring specialist care in community-based hospitals).

17. On 13 March, PHE's National Health and Justice team issued an interim notice providing advice on preventing and controlling outbreaks of COVID-19 in prisons. HMPPS issued further instructions over the following weeks with guidance on the appropriate use of personal protective equipment (PPE), hygiene, cleaning schedules and stock checks. The guidance set out the importance of effective preventative measures and that methodical cleaning would help prevent infection spread.

18. On 24 March, HMPPS issued an instruction, in line with Government advice, to all prisons to introduce social distancing and to implement a restricted regime and supported enforcement of social distancing of two metres for staff and prisoners wherever possible. The most vulnerable prisoners were identified and put into protective isolation.

19. From 31 March, HMPPS put in place further measures to contain COVID-19, including an order to significantly reduce transfers between prisons. Other measures, known as 'compartmentalisation' were also announced. These measures were designed to be implemented at local level, depending on the needs of each individual establishment, and included:

    - Protective Isolation Units (PIUs): to accommodate known or probable COVID-19 cases, ideally in single-cell accommodation.

    - Shielding Units (SUs): to protect 'extremely clinically vulnerable' patients identified through collaboration with NHS Wales, with enhanced levels of bio-security including dedicated staff;

    - Reverse Cohorting Units (RCUs): to accommodate new receptions or transfers in for a period of 14 days to detect any emergent infectious cases before entering general population. These units could also accommodate anyone returning from hospital.

Key Events

20. Mr Thomas Dooley was convicted of murder in October 2006 and sentenced to life imprisonment, with a minimum period to serve of 22 years.

21. In 2010, entries in Mr Dooley's medical record indicated that he had chronic leukaemia and was in remission from throat cancer.

22. Mr Dooley transferred from HMP Swaleside to HMP Berwyn on 24 October 2018 and was located on Ceiriog A lowers, known as Snowdon - a unit for older men. The move was contentious, as Berwyn had not been informed before his arrival that he was receiving specialist treatment for leukaemia. The prison subsequently made arrangements to transfer his care to a local hospital.

23. When the COVID-19 pandemic began, it was established that the medication taken by Mr Dooley, as part of his chemotherapy treatment for leukaemia, put him at increased risk of contracting COVID-19. After a discussion with his haematologist on 5 March 2020, he decided to continue taking it. (He had a further appointment on 31 March.)

24. Prisoners reported that around the same time, Mr Dooley decided to give up his job as the unit's laundry worker and self-isolate (before there was a requirement to shield high risk prisoners). Staff and prisoners said he did not leave his cell, other than to collect his medication. (However, it was noted that Mr Dooley was part of a team of prisoners who cleaned the unit on 19 March, to help prevent the spread of the infection.)

25. On 13 March 2020, the Governor issued guidance to staff on dealing with the COVID-19 pandemic and this was updated as the situation changed.

26. On 25 March, the prison designated Snowdon as the shielding unit. The healthcare department provided a list of those with relevant conditions, including 'extremely clinically vulnerable' prisoners such as Mr Dooley, and those in the (lower) clinically vulnerable category. The men were allowed out in small groups for a 20-minute exercise period each day, but Mr Dooley chose not to go. Four prisoners, known as mentors, delivered meals to cells in polystyrene containers and cleaned the communal areas, as well as the cells of those unable to do this for themselves. From 24 April, staff made daily welfare checks, by telephone, to in-cell phones. Prisoners also used the in-cell phones to report any problems.

27. Mr Dooley kept some of his medication in his cell but, along with other prisoners, he was required to attend the medication hatch daily to obtain his controlled medication (which he took for his leukaemia).

28. On 1 May, an officer told a custodial manager that he was concerned about Mr Dooley. The custodial manager went to see him and contacted healthcare. A nurse assessed Mr Dooley and noted that he appeared lethargic, with a high temperature and a cough which Mr Dooley said had started during the previous week. Mr Dooley and the custodial manager told the nurse that he had had pneumonia a few months before and the symptoms seemed the same.

29. As Mr Dooley appeared to have symptoms of COVID-19, a nurse requested an ambulance. Mr Dooley was taken to hospital, escorted by two prison officers in full PPE and no restraints were used. Mr Dooley said he did not want his family to be informed, but if his condition worsened, he would ask staff to contact them.

30. Healthcare staff contacted the hospital daily for updates on Mr Dooley's condition. On 3 May, he tested positive for COVID-19 and he was admitted to the critical care unit on 10 May.

31. On the same day, a custodial manager was appointed as the prison's family liaison officer. With Mr Dooley's consent, the family liaison officer informed his family of his condition and updated them regularly. She also visited Mr Dooley several times and was with him when his ventilator was withdrawn.

32. After Mr Dooley's death on 26 May, a prison manager debriefed the escort staff. A prison chaplain and the family liaison officer were present as members of the care team. The officers were reminded of the other support services available.

33. A memorial service was held and prisoners made a collection for flowers and a plaque for the Snowdon garden. The prison arranged and paid for Mr Dooley's funeral, which was held on 15 June.

Cause of death

34. No post-mortem examination was held. The coroner provisionally recorded the cause of death as COVID-19 and this will be finally determined at the inquest. Mr Dooley also had underlying chronic lymphocytic leukaemia which did not cause but contributed to his death.

Findings

Clinical Findings

35. The clinical reviewer concluded that Mr Dooley's clinical care throughout his time at Berwyn was excellent and equivalent to that he could have expected to receive in the community. Healthcare staff were organised, caring and motivated. The clinical reviewer said that healthcare staff should be commended for this and lessons should be learned to share with other prisons in Wales.

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

36. The investigation found that, overall, there was timely planning and implementation of the measures across the prison to reduce the risk of infection from COVID-19.

37. Prisoners showing symptoms of COVID-19, such as a cough or a high temperature, were admitted to the Prisoner Isolation Unit (PIU), with all their property, and medication was dispensed to them from trolleys, with staff in full PPE and prisoners standing at the back of the cell.

38. From 25 March, 'extremely clinically vulnerable' prisoners, such as Mr Dooley, and other clinically vulnerable prisoners were located in Snowdon, the shielding unit. No one was allowed to enter Snowdon, other than the dedicated team of staff who supervised the unit. However, unlike prisoners in the PIU, prisoners in Snowdon had to collect their medication at the medication hatch.

Dispensing medication to 'extremely clinically vulnerable' prisoners

39. Several prisoners contacted the investigator, as they were angry about Mr Dooley's death. Those interviewed were highly complimentary about the staff and emphasised that their complaints were only about processes, not the staff. Their principal concern was that, despite the significant steps Mr Dooley took to protect himself, including giving up a highly sought-after job and shielding before it became a clinical requirement, he had to leave his cell twice a day to collect his medication, increasing his risk of contracting COVID-19. They said that one or two others who might be equally vulnerable had to do the same.

40. The clinical reviewer noted that during the pandemic "patients with blood cancers were at the greatest risk of dying of patients with all cancers if admitted to hospital with Coronavirus infection" and that "the only real protection they had to reduce risk of death was effective isolation in all circumstances". He also noted that people in the community deemed to be 'extremely clinically vulnerable' were able to self-isolate and have their medication delivered to their homes. Of the 36 prisoners on Snowdon at the height of the pandemic, only 13 were 'extremely clinically vulnerable'.

41. We cannot say for certain where and when Mr Dooley contracted COVID-19, but as he did not leave his cell at all after 26 March, except to collect his controlled medication, it is highly likely that it was when he left his cell to go to the medication hatch.

42. The Head of Healthcare said that it was unfeasible to deliver medication to the cells for safety and logistical reasons due to the number of prisoners on Snowdon. However, the investigation found that medication was delivered to those in the PIU. At interview, the Head of Security said that in exceptional circumstances, there would be no security objections to prisoners receiving a controlled drug on Snowdon.

43. The clinical reviewer considers that for the 'extremely clinically vulnerable', the risk of infection probably outweighs the risk of medication error. We agree with his view that to reduce the risk of infection for this relatively small group of prisoners, medication should be dispensed at their cells and healthcare staff should supervise them taking it. We make the following recommendation:

The Governor and Head of Healthcare should ensure that 'extremely clinically vulnerable' prisoners required to shield during a pandemic are able to reduce person-to-person contact and that their medication is dispensed safely at their cell door.

Social distancing and use of PPE

44. Prisoners were also concerned that operational staff did not always practice social distancing or wear PPE when they were in close physical contact with others, and they gave several examples of this. There had also been a delay in installing proper handwashing facilities.

45. When the clinical reviewer visited Berwyn on 4 August, he found that healthcare staff adhered to the policy on appropriate PPE and social distancing. However, he observed many instances where prison officers worked closely together (within one metre) and interacted socially, without social distancing or PPE such as face masks. We share prisoners' concerns that prison staff are not following proper infection control measures. We make the following recommendation:

The Governor should ensure that:

- **staff comply with infection control measures, such as use of PPE and handwashing;**
- **social distancing is maintained, unless there is a medical or security emergency; and**
- **managers enforce compliance.**

Good practice

46. Although Custodial Manager (CM) A was no longer the operational manager of Snowdon when Mr Dooley became unwell with symptoms of COVID-19, she played a big part in supporting him and the other prisoners on the unit. The prisoners we interviewed singled her out for particular praise.

47. CM A went to see Mr Dooley immediately that she heard he was unwell and arranged for healthcare to examine him. As the family liaison officer, she kept in close contact with Mr Dooley's family, acting on their wishes; she visited Mr Dooley

in hospital several times and remained with him when his ventilator was removed; and as a matter of respect, she personally delivered the news of his death to prisoners on Snowdon, although she was no longer the manager. We commend her dedication, responsiveness and compassion. We make the following recommendation:

The Governor should ensure that this report is shared with Custodial Manager A, so that she is aware of the comments about her high standard of professionalism.

Sue McAllister CB
Prisons and Probation Ombudsman **December 2020**

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