Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Dylan Fenna, a prisoner at HMP Humber, on 8 March 2021

A report by the Prisons and Probation Ombudsman

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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

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 Dylan Fenna died in hospital of COVID-19 on 8 March 2021, while a prisoner at HMP Humber. He was 42 years old. I offer my condolences to Mr Fenna's family and friends.

4. The clinical reviewer considered that the care Mr Fenna received at Humber was not equivalent to that which he could have expected to receive in the community.

5. We are concerned that when Mr Fenna tested positive for COVID-19, healthcare staff did not take his clinical observations and he was not monitored to see if he became symptomatic. Mr Fenna was clinically obese which meant that he was at a higher risk of developing complications. Therefore, he should have been closely monitored and his observations taken regularly.

6. We are also concerned that, when a prison nurse gave Mr Fenna paracetamol for pain relief, she did not take his observations nor did she complete the required documentation to justify why she had given him 16 paracetamol tablets.

Recommendations

- The Head of Healthcare should review the COVID-19 management system to ensure that symptomatic COVID-19 patients are identified at the earliest opportunity, and that they are monitored regularly using a recognised clinical assessment tool.
- The Head of Healthcare should ensure that prisoners who test positive for COVID-19 and are obese, are closely monitored and have their observations taken regularly.
- The Head of Healthcare should ensure that when prisoners are given in possession medication, it is recorded correctly and in accordance with clinical guidelines.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Mr Fenna's clinical care at the prison.

8. The clinical reviewer conducted joint interviews with the investigator. Due to coronavirus restrictions, the interviews were conducted by telephone.

9. The PPO investigator investigated non-clinical issues, including the prison's response to COVID-19 and shielding prisoners, the security arrangements for his hospital escorts, liaison with Mr Fenna's next of kin and whether compassionate release was considered.

10. We informed HM Coroner for East Riding and Kingston Upon Hull of the investigation. We have sent the Coroner a copy of this report.

11. The Ombudsman's family liaison officer contacted Mr Fenna's mother 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.

12. Mr Fenna's family solicitor received a copy of the initial report. They raised some further questions, which have been dealt with in separate correspondence.

13. The initial report was shared with the Prison Service. The Prison Service did not find any factual inaccuracies.

Background Information

HMP Humber

14. HMP Humber is a medium security prison in Yorkshire that holds approximately 1,000 men. It was created in 2014 by the merger of two previously separate prisons, HMP Wolds and HMP Everthorpe. City Health Care Partnership provides healthcare services between the hours of 7.00am and 8.30pm.

Previous deaths at HMP Humber

15. Mr Fenna was the fourth prisoner to die at Humber since March 2019. Of the previous deaths, one was drug related and two were self-inflicted. Mr Fenna's death was the first from COVID-19. There have been three further deaths from COVID-19.

COVID-19 (coronavirus)

16. 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.

17. COVID-19 can make anyone seriously ill, but the risk is higher for some people. There are two levels of higher risk: high-risk (clinically extremely vulnerable); and moderate risk (clinically vulnerable). People at high risk include those who have had an organ transplant; have a severe lung condition; or 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, lung, or chronic kidney disease; or those who are very obese (this list is not exhaustive).

18. 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 worked together to devise measures to contain the outbreak, achieve social distancing, reduce the risk to the most vulnerable in prisons in England and protect the NHS (by reducing the number of people requiring specialist care in community-based hospitals).

Key Events

19. In May 2019, Mr Dylan Fenna was sentenced to six years in prison for burglary. On 5 June, he was moved to HMP Humber.

20. Mr Fenna was taking regular medication for high cholesterol and depression and had a long history of substance misuse.

21. At the start of the COVID-19 pandemic, Mr Fenna was not identified as someone that had any underlying health conditions that would make him clinically vulnerable if he were to catch COVID-19. Therefore, he was not advised by healthcare staff to shield.

22. On 12 February 2021, during an extensive COVID-19 outbreak at Humber, Mr Fenna tested positive for the virus. Mr Fenna was told that he would need to isolate in his cell and medication would be brought to him.

23. On 15 February, a nurse went to Mr Fenna's cell to review him. However, she did not have keys to unlock his cell and there were no prison officers available to unlock it for her, so she was unable to take his observations. Later that day, another nurse was tasked with reviewing prisoners' pain relief medication. She went to Mr Fenna's cell and gave him 16 paracetamol tablets. She noted that this was for general aches and pains. During this visit she did not take Mr Fenna's observations.

24. On the evening of 16 February, Mr Fenna pressed his emergency cell bell and told an officer that he had chest pains and needed to see a nurse. A Custodial Manager (CM) went to Mr Fenna's cell and told him that healthcare staff were not available because they did not work nights. He spoke to Mr Fenna through his cell door and tried to reassure him that staff would keep an eye on him throughout the night. Mr Fenna said that he wanted to go to hospital. When he was told that this was not possible, he told staff that he had taken ten paracetamol and seven mirtazapine (antidepressant) tablets.

25. The CM called NHS 111 to ask for advice, and they told him to call an ambulance. The control room called an ambulance at 10.30pm and the ambulance arrived at 11.25pm. The paramedics took Mr Fenna's observations and assessed that he needed to go to hospital (partly because they were unable to confirm the type and quantity of medication taken but also because of concerns about his blood oxygen level). They took Mr Fenna to hospital where he was admitted.

26. Over the next 48 hours, Mr Fenna's health deteriorated, and he was taken to the intensive care unit where he was put on a ventilator. Mr Fenna died in hospital on 8 March.

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 the cause of Mr Fenna's death as COVID-19.

Findings

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

28. Mr Fenna had not left the prison in the weeks before he became ill and it appears, therefore, that he caught COVID-19 in prison. Humber had a significant outbreak of COVID-19 infections in February 2021, which is when Mr Fenna tested positive. We have looked at whether the prison took appropriate steps to protect him from COVID-19.

29. 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.

30. Mr Fenna did not have any underlying health issues, so he was not identified as someone who was vulnerable if he were to catch COVID-19, and was therefore not offered shielding. We are satisfied that this was appropriate.

Clinical Findings

31. The clinical reviewer considered that the care Mr Fenna received at Humber was not equivalent to that which he could have expected to receive in the community.

32. The clinical reviewer was concerned that when Mr Fenna tested positive for COVID-19, he was not reviewed to see if he was symptomatic. The flow chart that is used by prison healthcare staff to monitor prisoners that have COVID-19 says that there should be care plans in place for any prisoner that tests positive. There were no such plans in place for Mr Fenna. Also, as Mr Fenna was clinically obese, he should have been monitored closely after he tested positive for COVID-19, as patients who are obese are at higher risk of developing complications. This was not done.

33. At interview the Head of Healthcare said that the COVID-19 outbreak at Humber was extensive and it was a very difficult situation to manage.

34. The clinical reviewer was also concerned that when Mr Fenna was given 16 paracetamol tablets on 15 February, his observations were not taken, and the nurse did not complete the required documentation detailing why she gave Mr Fenna paracetamol.

35. We recommend:

    The Head of Healthcare should review the COVID-19 management system to ensure that, symptomatic COVID-19 patients are identified at the earliest opportunity, and that they are monitored regularly using a recognised clinical assessment tool.

    The Head of Healthcare should ensure that prisoners who test positive for COVID-19 and are obese, are closely monitored and have their observations taken regularly.

The Head of Healthcare should ensure that when prisoners are given in possession medication, it is recorded correctly and in accordance with clinical guidelines.

Elizabeth Moody **May 2022**
Deputy Prison and Probation Ombudsman

Inquest

The inquest, heard on 26 June 2023, concluded that Mr Fenna died from natural causes.

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