Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr David Donner, a prisoner at HMP Risley, on 21 February 2021

A report by the Prisons and Probation Ombudsman

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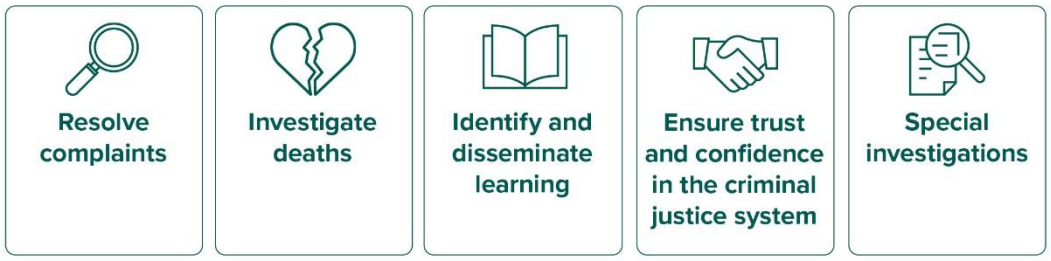
OUR VISION

To deliver high quality and timely independent investigations and work closely with partners to achieve tangible benefits for the safety and confidence of those in custody and under community supervision.

WHAT WE DO



WHAT WE VALUE

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 David Donner died in hospital on 21 February 2021, while a prisoner at HMP Risley. He was 69 years old. The cause of Mr Donner's death was COVID-19 pneumonia. He also had underlying hypertension, heart disease and diabetes. I offer my condolences to Mr Donner's family and friends.

4. Mr Donner suddenly became unwell on 18 February, during an outbreak of COVID-19 on his wing. He was sent to hospital and diagnosed with COVID-19 the same day. He later refused treatment, against medical advice. While we cannot say for certain, it seems likely that he contracted the virus during an outbreak at the prison in which a high number of prisoners had tested positive.

5. The clinical reviewer concluded that Mr Donner's clinical care, in relation to his long-term conditions, was equivalent to that he could have expected to receive in the community. However, she was concerned that his risk of complications from COVID-19 was not identified; he did not receive a secondary health screen; and no care plans were in place to manage his chronic health conditions.

6. We reflect the clinical reviewer's recommendations. We also consider that the reason for COVID-19 tests should be recorded to enable continuity of care.

Recommendations

- The Governor and Head of Healthcare should ensure that staff adhere to the national guidance on managing prisoners at risk of complications from COVID-19.

- The Head of Healthcare should ensure that the reasons for clinical actions, such as testing for COVID-19, are recorded in prisoners' medical records.

- The Head of Healthcare should ensure that care plans are in place for patients with diabetes, hypertension and other chronic health conditions.

- The Head of Healthcare should ensure that a second-stage health assessment is carried out within seven days of a prisoner's initial health screen.

The Investigation Process

7. NHS England commissioned an independent clinical reviewer to review Mr Donner's clinical care at HMP Risley. She interviewed three healthcare staff remotely due to the COVID-19 restrictions.

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

9. The Ombudsman's family liaison officer wrote to Mr Donner's next of kin, his sister, to explain the investigation. She asked a question about events unrelated to Mr Donner's death which will be addressed in correspondence.

10. Mr Donner's sister received a copy of our initial report. She pointed out a factual inaccuracy in the clinical review report, which has been amended. She also commented on information in Mr Donner's medical record, which has been dealt with in correspondence.

11. The initial report was shared with HM Prison and Probation Service (HMPPS). They found no factual inaccuracies and accepted our recommendations.

Previous deaths at HMP Risley

12. Mr Donner was the 11th prisoner to die since February 2019. Three of the previous deaths were self-inflicted and seven were from natural causes, including one from COVID-19. There have since been two further deaths. One was a self-inflicted death and the other due to natural causes, unrelated to COVID-19. We have previously raised weaknesses in the care of COVID-19 positive patients, care plans for long-term conditions and conducting secondary health screens.

COVID-19 (coronavirus)

13. COVID-19 is an infectious disease that affects the lungs and airways. It is mainly spread through droplets when an infected person coughs, sneezes, speaks or breathes heavily. On 11 March 2020, the World Health Organisation (WHO) declared COVID-19 a worldwide pandemic.

14. 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.)

15. In response to the initial pandemic outbreak, HM Prison and Probation Service (HMPPS) introduced several measures to try and 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, 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-arrived prisoners from the main population. Other measures include social distancing and the use of personal protective equipment (PPE).

Key Events

16. Mr David Donner was remanded to prison in July 1983, charged with arson and burglary. He was convicted on 8 March 1984 and sentenced to life imprisonment. After moving between several prisons, Mr Donner transferred to HMP Risley on 18 December 2018.

17. Mr Donner had several long-term health conditions, including type 2 diabetes, high blood pressure, angina, a heart attack in 2003, arthritis and depression. After his reception health screen, he was referred to the long-term conditions clinic and was regularly reviewed. There was no secondary health screen.

18. Mr Donner lived in a single cell on E wing. He had a peer support 'buddy' to assist with daily tasks, such as cleaning and collecting meals.

19. In June 2020, Mr Donner's diabetes was found to be poorly controlled due to his choice of food and drink. Despite dietary advice from a nurse and a prison GP, his problems continued and (in November) he began to take insulin.

20. Mr Donner was tested for COVID-19 on 3 October. There is no record as to what had led to this test and whether he had reported symptoms. The result was negative.

21. On 27 January 2021, Mr Donner was sent to hospital after reporting chest pain. He returned to the prison in the early hours of 28 January.

22. In early February, there was an outbreak of the virus on Mr Donner's wing.

23. Mr Donner received the first dose of the AstraZeneca COVID-19 vaccine on 2 February.

24. Just after 11.00am on 18 February, Mr Donner told a nurse at the medication hatch that he felt unwell. A nurse later assessed him in his cell and sent a swab to be tested for COVID-19.

25. At around 2.20pm the same day, wing staff contacted healthcare as Mr Donner was short of breath, and a nurse reviewed him. She found that his blood oxygen saturation level was low and suspected that he had COVID-19. Using the National Early Warning Score 2 (NEWS 2) assessment tool (which identifies clinical deterioration), the nurse calculated a score of 7. (A total score of 7 or over suggests high risk and requires emergency assessment by a critical care team.)

26. Paramedics took Mr Donner to hospital, escorted by two prison officers. No restraints were used due to his age and reduced mobility. He was diagnosed with COVID-19 that day.

27. Healthcare staff obtained updates on Mr Donner's condition. On 19 February, they were informed that he was finding it difficult to tolerate his treatment. A member of the safer custody team informed Mr Donner's sister that he was in hospital and provided the contact details so she could speak to clinicians directly about his condition.

28. On 20 February, Mr Donner was moved to the enhanced care unit. He persistently removed his oxygen mask and then refused to wear it at all. A nurse warned him that he was likely to die. He accepted this and the hospital began end of life care. Mr Donner said that he did not want his family to know.

29. Mr Donner died at 2.47pm on 21 February. The hospital informed Mr Donner's sister, who had called to check on him minutes after his death. Shortly afterwards, the prison's family liaison officer telephoned Mr Donner's sister to offer support and information.

30. Notices were issued to staff and prisoners, informing them of Mr Donner's death and reminding them of the support available.

31. Mr Donner's funeral was held on 4 March. In line with national policy, the prison contributed to the funeral expenses.

Cause of death

32. No post-mortem examination was conducted. The Coroner accepted a hospital doctor's certification that the cause of Mr Donner's death was COVID-19 pneumonia. He also had underlying hypertension, ischaemic heart disease and diabetes mellitus, which had contributed to, but did not cause his death.

Findings

Clinical Findings

33. The clinical reviewer concluded that Mr Donner's clinical care at Risley was of an acceptable standard and equivalent to that he could have expected to receive in the community. However, she found shortcomings in some aspects of his care and made recommendations which the Head of Healthcare will need to address. Full details of the clinical reviewer's findings are in the clinical review report. We summarise the key issues below and make similar recommendations.

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

34. During the COVID-19 pandemic, prisons were expected to identify prisoners vulnerable to complications from COVID-19, inform them of the risks and offer the opportunity to shield to those considered to be clinically extremely vulnerable (and any other prisoners who requested it). It also specified that after shielding was stopped in the community, it should continue to be offered to such prisoners, due to the high-risk nature of the prison environment.

35. HM Inspectorate of Prisons conducted a short scrutiny visit to Risley in November 2020. Inspectors reported that prison managers had worked effectively with healthcare staff to minimise transmission and control COVID-19 outbreaks in 2020 and had implemented shielding arrangements.

36. Risley had two dedicated shielding units for vulnerable men, as well as others who had asked to shield. Mr Donner was not identified as clinically vulnerable to COVID-19 and therefore did not live on either of these units. Around the time he became unwell, around 50 men on his wing were COVID-19 positive.

37. The government's shielding guidance and terminology has changed over the course of the pandemic. However, the clinical reviewer confirmed that due to his diabetes, Mr Donner fell within the NHS category of clinically vulnerable (one of the at-risk categories at that time). There is no evidence that he received a letter or advice about his health status under COVID-19 or was told about the chance to shield. In response to a question about the reasons for this, the Head of Healthcare said that Mr Donner did not meet the criteria.

38. We share the clinical reviewer's concern that Mr Donner's risk was not identified. We recommend:

    The Governor and Head of Healthcare should ensure that staff adhere to the national guidance on managing prisoners at risk of complications from COVID-19.

39. We also consider that to ensure consistency in clinical management and to aid better communication between healthcare and operational staff, the reason for testing a prisoner for COVID-19 should always be documented. We recommend:

    The Head of Healthcare should ensure that the reasons for clinical actions, such as testing for COVID-19, are recorded in prisoners' medical records.

40. We cannot say for certain when and where Mr Donner contracted COVID-19. However, we consider that it was likely to have been at Risley, given the number of positive men on his wing. Although he had been to hospital in January, 22 days had elapsed before he reported symptoms, and this was outside the accepted incubation period.

Management of Mr Donner's long-term medical conditions

41. The clinical reviewer found that although healthcare staff regularly reviewed Mr Donner's health conditions, care plans were not in place to customise his clinical management. We recommend:

The Head of Healthcare should ensure that care plans are in place for patients with diabetes, hypertension and other chronic health conditions.

Secondary health screen

42. National Institute for Health and Care Excellence (NICE) Guidance 57 specifies that healthcare staff should conduct a secondary health assessment within seven days of a prisoner's initial health screen. There is no evidence that Mr Donner received a secondary screen. Although this did not adversely affect his health, this is the second recent investigation at Risley in which there has been an irregularity with a secondary health screen. We recommend:

The Head of Healthcare should ensure that a second-stage health assessment is carried out within seven days of a prisoner's initial health screen.

Sue McAllister CB
Prisons and Probation Ombudsman **March 2022**

Inquest

The inquest, held on 13 December 2023, concluded that Mr Donner died from natural causes.

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