

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Peter Tuckwell, a prisoner at HMP Oakwood, on 13 February 2021

A report by the Prisons and Probation Ombudsman

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



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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. If my office is to best assist His Majesty's Prison and Probation Service (HMPPS) in ensuring the standard of care received by those within service remit is appropriate, our recommendations should be focused, evidenced and viable. This is especially the case if there is evidence of systemic failure.
3. Mr Peter Tuckwell died in hospital on 13 February 2021 from COVID-19 pneumonia while a prisoner at HMP Oakwood. He was 71 years old. I offer my condolences to Mr Tuckwell's family and friends.
4. The clinical reviewer concluded that the overall clinical care Mr Tuckwell received at Oakwood was equivalent to that which he could have expected to receive in the community.
5. However, the clinical reviewer was concerned that there was a four week delay in December 2020/January 2021 before a prison GP told Mr Tuckwell that he had type 2 diabetes and that he was therefore at an increased risk of becoming seriously ill if he contracted COVID-19. She concluded that this aspect of Mr Tuckwell's care was not equivalent to that which he could have expected to receive in the community. She made one recommendation which we repeat below.
6. We found that the decision to send Mr Tuckwell to hospital single cuffed with an escort chain was not justified given his poor health. We consider this also placed an escort officer at greater risk of infection of being in close proximity to him.
7. We also found that the delay in telling Mr Tuckwell's next of kin that he was in hospital was not justified.

Recommendations

- The Head of Healthcare should ensure that any increase in health risk factors relating to COVID-19 is flagged to the prisoner as soon as it is known.
- The Director and Head of Healthcare should ensure that:
 - healthcare staff fully and accurately reflect the current health and mobility of a prisoner when they complete an escort risk assessment;
 - all staff undertaking risk assessments for prisoners taken to hospital understand the legal position, and assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.

- The Director should ensure, in line with Prison Rule 22, that the next of kin of seriously ill prisoners are informed as soon as possible when a prisoner is admitted to hospital.

The Investigation Process

8. NHS England commissioned an independent clinical reviewer, to review Mr Tuckwell's clinical care at HMP Oakwood. Her report is attached as Annex 1.
9. The PPO investigator investigated the non-clinical issues, including aspects of the prison's response to COVID-19 and shielding prisoners; Mr Tuckwell's location; the security arrangements for his journey and admission to hospital; liaison with his family; and whether early release was considered.
10. The PPO family liaison officer wrote to Mr Tuckwell's next of kin, his daughter, to explain the investigation. She asked for full details of the events leading to Mr Tuckwell's death and raised several queries about Mr Tuckwell's management and care at Oakwood. We have addressed her questions in this report and the clinical review.
11. Mr Tuckwell's family received a copy of the initial report. They did not make any comments.
12. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS did not find any factual inaccuracies and their action plan is annexed to this report.

Previous deaths at HMP Oakwood

13. Mr Tuckwell was the 12th prisoner to die at Oakwood since February 2019. Of the previous deaths, one was drug-related, one resulted from burns, and nine were from natural causes (including two from COVID-19 in April and May 2020).
14. There have been four deaths since Mr Tuckwell's death: one was drug-related and three were from natural causes (including two COVID-19 related deaths).
15. This is the second time this year that we have made recommendations about the inappropriate use of restraints at Oakwood. The prison told us in October 2021 that they had reviewed the escort risk assessment process, given refresher training to all clinical staff and communicated the message to prison staff through multiple means.

Background Information

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, sneezes, speaks or breathes heavily. On 11 March 2020, the World Health Organisation (WHO) declared COVID-19 a worldwide pandemic.
17. COVID-19 can make anyone seriously ill, but some people are at higher risk of severe illness and developing complications from the infection. In response to the pandemic, HM Prison and Probation Service (HMPPS) introduced several measures to try and contain outbreaks - to be implemented at local level, depending on the needs of individual prisons. (A key strategy was '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

18. On 11 February 2019, Mr Peter Tuckwell was sentenced to six years and three months imprisonment for fraud. His sentence was reduced to four years and six months on appeal. He was sent to HMP Hewell and then transferred to HMP Oakwood on 23 July 2019.
19. At Mr Tuckwell's reception screen at Oakwood, healthcare staff noted that he did not suffer from any long term physical health conditions. He was obese and healthcare staff advised him to lose weight.

2020

20. On 26 March 2020, Oakwood went into lockdown due to the COVID-19 pandemic and implemented a special regime.
21. The same day, a member of the safer custody team conducted a welfare check and explained the details of the special regime to Mr Tuckwell, as well as reminding him to use his cell bell in the event of an emergency. Mr Tuckwell raised no issues.
22. On 28 April, a prison manager told Mr Tuckwell that healthcare staff had identified him as being in the at risk group of contracting COVID-19 and he was offered a separate regime. Mr Tuckwell said that he was aware of the risks but was managing this as he was social distancing from others. He signed a disclaimer form confirming that he had declined to shield.
23. On 14 May, Mr Tuckwell had a meeting with the prison manager after he had written to the Director with concerns about the implications of the shielding disclaimer form he had signed. After talking with the prison manager, Mr Tuckwell confirmed that he did not wish to shield but would continue to social distance from others. He signed another disclaimer form to confirm this.
24. On 3 September, Mr Tuckwell's security categorisation was lowered from category C to D. His transfer to open conditions was delayed because he requested a move to an open prison in Scotland so that he could be closer to his family.
25. In September, Oakwood was in full lockdown with a restricted regime. Prisoners were allowed out of their cells in small groups at a time to collect meals and medication and for exercise.
26. On 5 September, Mr Tuckwell told an officer, his keyworker, that he was self-isolating from everyone because he was at high risk due to his age. He said that he thought he had COVID-19 already but healthcare staff had refused to allow him to have a test. He said that until he had confirmation that he did not have COVID-19, he would continue to self-isolate. However, the officer noted that after the meeting, Mr Tuckwell joined other prisoners on the wing and went down to the servery to collect his meal. Mr Tuckwell also told prison staff that he was minimising his contact with others.
27. In October, all prisoners were issued with washable face masks and were required to wear them at all times when out of their cell. On 23 October, Mr Tuckwell was provided with a face covering.

28. On 2 November, Mr Tuckwell took a COVID-19 test as part of a mass testing programme at the prison. The result was negative. As a preventative measure he self-isolated on 20 November because he had been exposed to someone who was COVID-19 positive.
29. On 2 December, Mr Tuckwell complained of feeling unwell. Healthcare staff arranged urine and blood tests and results showed that he had type 2 diabetes, high cholesterol and a urine infection. A prison GP prescribed an antibiotic for the infection and requested a face to face GP appointment to discuss the type 2 diabetes and cholesterol results.

Events from January 2021

30. On 4 January 2021, a prison GP discussed the blood and urine test results with Mr Tuckwell. She prescribed statin medication for his cholesterol level. Mr Tuckwell said that he did not want to take any diabetic medication and would manage his condition through diet management and exercise. The GP arranged for repeat blood tests and the results indicated abnormal levels for cholesterol and diabetes.
31. On 8 January, Mr Tuckwell told a nurse that he would not take any medication. Despite repeated conversations with nurses, Mr Tuckwell refused to change his mind and returned his medication to healthcare.
32. At approximately 6:40pm on 20 January, Mr Tuckwell fell over in his cell. He shouted for assistance. An officer looked through his cell door and saw him on the floor and radioed a code blue (a medical emergency code indicating that a prisoner is unconscious or has breathing difficulties). A nurse checked his observations and noted that Mr Tuckwell was pale and clammy, short of breath, had a high temperature and his oxygen saturation levels were low. The nurse took a COVID-19 swab and sent it to hospital for assessment and then arranged for an ambulance to take him to hospital.
33. Mr Tuckwell was taken to New Cross Hospital, Wolverhampton. He was escorted by two prison officers who were wearing PPE. Mr Tuckwell was restrained using single handcuffs and an escort chain.
34. In hospital, Mr Tuckwell tested positive for COVID-19.
35. On 21 January, the escort staff were given permission to remove the restraints. Prison healthcare staff contacted the hospital daily for updates on Mr Tuckwell's condition.
36. On 22 January, Mr Tuckwell asked the escort staff to contact the prison and ask them to tell his daughter that he was in hospital. The escort staff spoke to offender management unit (OMU) staff at the prison who said that the security department would complete the necessary checks to see if this was approved, and that after 36 hours Mr Tuckwell would be allowed to have the telephone number to make the call to his daughter.
37. On 23 January, Mr Tuckwell asked the escorting staff if his daughter had been told he was in hospital. The staff checked with the prison security department and they said that staff in the safer custody unit would let them know.

38. The same day, Mr Tuckwell's daughter contacted the prison and asked about her father's wellbeing. A prison family liaison officer (FLO), called Mr Tuckwell's daughter back and told her that Mr Tuckwell had been in hospital since 20 January and that he was not considered to be seriously unwell so they needed to get consent from prison managers to agree that she could contact him. The FLO gave Mr Tuckwell's daughter the hospital contact details and told her to call the hospital for an update on his health.
39. The FLO offered support as Mr Tuckwell's condition deteriorated in hospital.
40. On 24 January, Mr Tuckwell was moved to the hospital's intensive care unit and was placed on a CPAP machine to support his breathing. On 28 January, he was placed on life support as he was critically ill. Prison healthcare staff were told that Mr Tuckwell's prognosis was very poor.
41. Mr Tuckwell's life support was switched off and at 1.50pm on 13 February, a hospital doctor confirmed that Mr Tuckwell had died.

Post-mortem report

42. The Coroner accepted the cause of death provided by hospital clinicians and no post-mortem examination was carried out. The hospital clinicians gave Mr Tuckwell's cause of death as COVID-19 pneumonia.

Inquest

43. At an inquest held on 21 March 2024, the Coroner concluded that Mr Tuckwell died from natural causes.

Findings

Clinical Findings

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

44. The clinical reviewer concluded that the care Mr Tuckwell received at Oakwood was equivalent to that which he could have expected to receive in the community.
45. Prisons were expected to identify new and existing prisoners assessed as at particular risk if they contracted COVID-19 and offer them the opportunity to shield. In line with this policy, Mr Tuckwell was identified as clinically vulnerable because of his age and obesity and was appropriately advised to shield. He declined to shield and said that he would practice social distancing. He signed a disclaimer to that effect on two occasions. We are satisfied that the risks were explained to Mr Tuckwell and that he had the mental capacity to make this decision.
46. The clinical reviewer noted that on one occasion Mr Tuckwell asked healthcare staff to test him for COVID-19. He was not experiencing any symptoms at the time of his request so he was not eligible to be tested. This was in line with the guidance at the time.
47. Mr Tuckwell was tested for COVID-19 on 2 November as part of a mass testing programme, under the direction of Public Health England, due to an outbreak of the virus on the wing where he lived. His results were negative.
48. Mr Tuckwell became unwell in January 2021. At that time, there were 69 people who were COVID-19 positive at Oakwood. Twenty-seven prisoners who were infected with the virus lived on the same wing as Mr Tuckwell. The clinical reviewer considered that it was likely that the COVID-19 outbreak that started in November 2020 had continued and was still spreading in the prison at the time Mr Tuckwell tested positive for the virus.
49. Healthcare staff wore PPE, in line with national requirements, during their contact with Mr Tuckwell. A restricted regime was in place on all the wings at the time that he became unwell. When he displayed possible COVID-19 symptoms, he was immediately sent to hospital for further assessment.
50. In spite of the measures to control the risk of infection and protect prisoners, it is likely that Mr Tuckwell contracted COVID-19 at Oakwood as he had not left the prison. We are satisfied that Oakwood implemented the expected measures to help control the risk of infection and that Mr Tuckwell was managed appropriately.
51. The clinical reviewer did, however, find one area of concern.

Mr Tuckwell's type 2 diabetes diagnosis

52. The clinical reviewer was concerned that in December 2020 when test results indicated that Mr Tuckwell had developed type 2 diabetes, there was a four week delay before a prison GP saw him to tell him about his diagnosis and that this increased his risk of serious illness if he caught COVID-19. The clinical reviewer

concluded that the four week waiting time was not equivalent to that which he could have expected in the community. We recommend:

The Head of Healthcare should ensure that any increase in health risk factors relating to COVID-19 is flagged to the prisoner as soon as it is known.

Non-clinical Findings

Security risk assessments and the use of restraints

53. The Prison Service has a duty to protect the public when escorting prisoners outside prison, such as to hospital. It also has a responsibility to balance this by treating prisoners with humanity. The level of restraints used should be necessary in all the circumstances and based on a risk assessment, which considers the risk of escape, the risk to the public and takes into account the prisoner's health and mobility.
54. A judgment in the High Court in 2007 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 he has a serious medical condition. The judgment indicated 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. These requirements are reflected in Prison Service Instruction (PSI) 33/2015 on external prisoner movements.
55. The medical section of the risk assessment for Mr Tuckwell's last journey to hospital was ticked to indicate that there were no medical reasons to prevent the use of handcuffs or for him to remain handcuffed during treatment or admission. It also indicated that he had the physical ability to attempt an escape (unaided) from the escorting staff if the handcuffs were removed. However, no explanation was given for this. It also failed to alert staff that Mr Tuckwell was suspected of having the COVID-19 virus.
56. The security assessment noted that Mr Tuckwell was a medium risk to the public. He was assessed as low risk for risk to hospital staff, hostage taking, risk of escape and likelihood of outside assistance. A prison manager decided that Mr Tuckwell should be restrained and accompanied by two escorting officers for the journey and treatment/consultation.
57. On 21 January, when hospital staff told the escort officers that Mr Tuckwell had COVID-19, the restraints were removed and the escort officers sat in the corridor outside the ward.
58. We recognise that many factors have to be taken into account in determining the level of restraints. However, Mr Tuckwell was a Category D (the lowest security categorisation) prisoner, on the enhanced level of the incentives scheme and, given his age, breathing difficulties and two escort officers, we question whether the use of any restraints was proportionate when he was escorted and then admitted to hospital on 20 January.
59. We find it difficult to understand how Mr Tuckwell was assessed as a medium risk to the public, given the fact that he had no convictions for violence, that he had displayed no recent behavioural problems in prison and was classified as the lowest

security categorisation. We cannot see the justification for using an escort chain which needlessly placed one of the escort officers at greater risk of being physically closer to someone with symptoms of COVID-19.

60. We, therefore, consider that the authorising manager's decision to use restraints was unsound. We repeat our recommendation from our previous investigation at Oakwood where we found a similar inappropriate use of restraints:

The Director and Head of Healthcare should ensure that:

- **healthcare staff fully and accurately reflect the current health and mobility of a prisoner when they complete an escort risk assessment;**
- **all staff undertaking risk assessments for prisoners taken to hospital understand the legal position, and that assessments fully take into account the health of a prisoner and are based on the actual risk the prisoner presents at the time.**

Contact with Mr Tuckwell's next of kin

61. Prison Rule 22 says that prisons should inform the next of kin immediately if a prisoner becomes seriously ill. Prison Service Instruction 64/2011 says that if a prisoner suffers an unpredicted or rapid deterioration in their physical health, an appropriate member of prison staff should engage with their next of kin to provide information and support. In March 2020, this obligation was reinforced in national Prison Service guidance on family liaison and communicating with prisoners' families during the pandemic.
62. We accept that it was unclear how serious Mr Tuckwell's condition was when he was taken to hospital on 20 January. However, we consider that when Mr Tuckwell tested positive for COVID-19 on 21 January, particularly given his clinical vulnerability, the prison should have appointed a FLO and contacted his family. We are concerned that they did not contact his family until after his daughter had rung the prison on 23 January. Despite prison managers claiming they needed Mr Tuckwell's consent for family contact, our investigation found that this had already been provided. We recommend:

The Director should ensure, in line with Prison Rule 22, that the next of kin of seriously ill prisoners are informed as soon as possible when they are admitted to hospital.

Early release on compassionate grounds

63. Release on compassionate grounds is a means by which prisoners who are seriously ill, usually with a life expectancy of less than three months, can be permanently released from custody before their sentence has expired. The criteria for early release for determinate sentenced prisoners are set out in Prison Service Order (PSO) 6000. An application for early release on compassionate grounds must be submitted to the Public Protection Casework Section (PPCS) of HMPPS.
64. On 8 February, the prison submitted an application for Mr Tuckwell's early release on compassionate grounds to PPCS. At this time, Mr Tuckwell was terminally ill and nearing the end of his life. However, we have been told that the application got lost

in the PPCS email system. We cannot say whether Mr Tuckwell would have been granted compassionate release but his application should have been considered before he died.

65. While the loss of his form was not acceptable, we note that PPCS have put measures in place to ensure that this cannot happen again. We do not, therefore, make a recommendation.

Sue McAllister CB
Prisons and Probation Ombudsman

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