

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Justin MacDonald on 29 October 2021, following his release from HMP Exeter

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



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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. From 6 September 2021, the PPO also investigates post-release deaths that occur within 14 days of the prisoner's release.
3. If my office is to best assist HM 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.
4. Mr Justin MacDonald died of the combined toxic effect of heroin and methadone on 29 October 2021, the same day he was released from HMP Exeter. He was 41 years old. I offer my condolences to his friends and family.
5. In September, Mr MacDonald engaged with the substance misuse team to address his substance misuse and maintained on a methadone programme (a medication used to help treat addictions to heroin and other opioids) while at Exeter. He received good support from the substance misuse team.
6. When Mr MacDonald was released from Exeter on 29 October, staff gave him a naloxone kit (a medication used to reverse or reduce the effects of opioids). Although Mr MacDonald was not on licence when he was released, he was still supervised by the Probation Service under post sentence supervision. As part of his post sentence supervision, he was required to adhere to two requirements which included being drug tested at the Bristol Drug Project.
7. Mr MacDonald was released homeless. Prison and probation staff made efforts to support him in securing accommodation. His unwillingness to return to Bristol, and only wanting to reside in the Devon and Cornwall area restricted his opportunities to find suitable accommodation for release.
8. On 29 October, hours after he was released, Mr MacDonald was found lying unconscious in a public park in Exeter City Centre. The police and paramedics attended and confirmed that Mr MacDonald had died.

The Investigation Process

9. HMPPS notified us of Mr MacDonald's death on 29 October 2021. The PPO investigator obtained copies of relevant extracts from Mr MacDonald's prison and probation records. The investigation was then transferred to a colleague.
10. We informed HM Coroner for Devon of the investigation. He gave us the results of the post-mortem examination. We have sent the Coroner a copy of this report.
11. The Ombudsman's family liaison officer contacted Mr MacDonald's aunt to explain the investigation and to ask if she had any matters she wanted us to consider. Mr MacDonald's aunt did not have any questions.
12. Mr Macdonald's family received a copy of the initial report. They did not raise any further issues, or comment on the factual accuracy of the report.
13. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS pointed out some factual inaccuracies, and this report has been amended accordingly.

Background Information

HMP Exeter

14. HMP Exeter is a category B local prison and holds up to 561 adult men and young offenders, and serves the courts of Devon, Cornwall and Somerset. Practice Plus Group provides primary health services and Devon Partnership NHS Trust provides mental health care. At the time of Mr MacDonald's imprisonment, EDP Drug and Alcohol Services provided the psychosocial substance misuse support, and Care UK provided clinical services. The integrated substance misuse team provided support and partnership working with the prison. Since December 2022, Change, Grow, Live have provided the substance misuse service at Exeter.

Probation Service

15. The Probation Service works with all individuals subject to custodial and community sentences. During a person's imprisonment, they oversee their sentence plan to assist in rehabilitation, as well as prepare reports to advise the Parole Board. They have links with local partnerships to which, where appropriate, they refer people for resettlement services. Post-release, the probation service supervises people throughout their licence period and post-sentence supervision.

Key Events

16. On 14 August 2021, Mr Justin MacDonald was remanded to HMP Bristol for assault. On 16 September, He was sentenced to 11 weeks in prison. On 21 September, Mr MacDonald was released from Bristol.
17. On 29 September, Mr MacDonald was recalled to prison for breaching his licence conditions. He had allegedly committed further offences while on licence and was sent to HMP Exeter. Mr MacDonald was due to be released a month later, on 29 October 2021.

Pre-release planning

18. On 29 September, a nurse completed Mr MacDonald's initial health screen. A urine test was positive for benzodiazepine, cocaine, cannabis and opiates. Mr MacDonald told the nurse that he had a long history of intravenous substance misuse and was on a methadone prescription during his time at Bristol, but that he had not had any methadone since he had been released from Bristol eight days earlier. The nurse referred Mr MacDonald to the substance misuse service. The nurse also noted that Mr MacDonald had anxiety and depression. He referred him to the mental health team and to a GP for review.
19. Later that day, a GP at the prison saw Mr MacDonald. He noted that he had been using large amounts of cocaine and heroin, and that he had said that he felt low in mood, but that this was due to withdrawal. The GP prescribed Mr MacDonald with 370ml of methadone to be taken over 14 days.
20. On 1 October, Mr MacDonald's Community Offender Manager (COM) completed an Approved Premises (AP) referral to several different APs in preparation for his release later that month. (Approved Premises provide accommodation for offenders released from prison on licence. Their purpose is to provide an enhanced level of residential supervision in the community for the purpose of risk management, as well as a supportive and structured environment.) Mr MacDonald was not being released on licence, but due to his entrenched pattern of domestic violence and risk posed to vulnerable adults, he was offered accommodation at an AP in Gloucester, on the condition he agreed to adhere to the rules. They were only able to offer him a four-week place instead of the usual eight to ten weeks.
21. On 5 October, a pre-release practitioner at Exeter completed an assessment for Mr MacDonald's resettlement needs and pre-release planning. Mr MacDonald said that he was of no fixed abode prior to coming to prison and refused to return to Bristol following his release. He said that he wanted to live in Exeter instead.
22. The next day, the pre-release practitioner informed the COM what was discussed during the assessment. The COM was already aware that Mr MacDonald did not want to return to the Bristol area on release. The pre-release practitioner asked if she could complete a Duty to Refer (DTR-The Homelessness Reduction Act 2017 requires prisons and probation services to refer anyone who is homeless or at risk of becoming homeless within 56 days to a local housing authority.) The COM supported this and the practitioner completed the application and sent it to Exeter Council.

23. On 7 October, a recovery worker from the Integrated Substance Misuse Service (ISMS) at Exeter noted that Mr MacDonald was naloxone trained. She agreed to make sure he was given a naloxone kit on the day of his release. Mr MacDonald told the pre-release practitioner that he used drugs because he was 'street homeless' and while he remained 'street homeless', he did not feel that he could explore stopping his drug use.
24. On 12 October, after having a discussion with the recovery worker, Mr MacDonald's Prison Offender Manager (POM) spoke to Mr MacDonald about the AP bedspace in Gloucester. Mr MacDonald said that he would not go to that AP but was willing to go to an AP in the Devon and Cornwall area. Later that day, the recovery worker was informed that the bedspace in Gloucester had been taken by another resident.
25. On 14 October, a psychiatrist completed an initial psychiatric assessment. Mr MacDonald asked him if he could be prescribed quetiapine because 'it knocks him out'. The psychiatrist attempted to educate him about the safe use of medication, but Mr MacDonald got up, left the room and made insults towards him on the way out. The psychiatrist believed that Mr MacDonald displayed that behaviour to seek out medication and recommended that he should not be prescribed an anti-psychotic medication.
26. On 18 October, the COM completed several AP referrals in the Devon and Cornwall area, but these were all rejected because there were no bedspaces available.
27. The next day, the recovery worker from ISMS emailed the COM to ask what Mr MacDonald's release plans were. She also asked if she would support her in exploring housing options with Mr MacDonald such as Emerge (a supported housing service, assisting people with homelessness, alcohol and substance misuse, learning disabilities and mental health problems) and Chrysalis (providing accommodation and support to vulnerable adults), although these were based in the Bristol area and Mr MacDonald was still unwilling to return to that area. The recovery worker from ISMS told the COM that she had sent a referral to Together (the local drug and alcohol service who support those with their recovery) in Exeter, so they would be able to continue providing a methadone prescription to Mr MacDonald once he was released.
28. The recovery worker confirmed that Together had provided Mr MacDonald with an appointment for when he was released, and she gave him the appointment letter.
29. On 27 October, the COM sent the DTR to Torbay Council. Torbay Council called the pre-release practitioner to acknowledge the referral and asked that Mr MacDonald call them on the day of his release.

Post-release planning

30. On 29 October, Mr MacDonald was released from Exeter at approximately 9:40am. He was given a naloxone kit and training information prior to being released.
31. Mr MacDonald was required to report to the COM at 1.00pm at the Bristol Central Probation Office for his supervision appointment. Mr MacDonald did not arrive. She said that she had planned to help Mr MacDonald call Torbay Council during his initial appointment and would have provided him with a travel warrant to be able to

get there. She made several attempts to call his mobile phone, but he did not respond.

Circumstances of Mr MacDonald's death

32. At approximately 12:00pm that day, a member of the public found Mr MacDonald and an associate (who had also been released from prison that week) unconscious in the bushes of a local park in Exeter City Centre. They called the Emergency Services and the police and paramedics attended. When the paramedics arrived, Mr MacDonald was having a heart attack and he was pronounced dead at the scene.
33. There was evidence of sustained recreational drug use at the scene. Mr MacDonald had injection marks on both arms, both legs and groin. He was also had the naloxone kit with him when he was found.
34. Later that day, PC from Devon and Cornwall police called the Bristol Probation Office and HMPPS and informed them that Mr MacDonald had died.

Post-mortem report

35. The post-mortem report concluded that Mr MacDonald died of the combined toxic effect of heroin and methadone. He also had bilateral bronchopneumonia which was a contributory factor. The toxicology report showed that Mr MacDonald had recently taken heroin prior to his death and had used methadone chronically.
36. At the inquest held on 26 October 2023, the coroner concluded that Mr Macdonald's cause of death was drug related.

Findings

Substance misuse services

37. EDP Drug and Alcohol Services was the substance misuse provider during Mr MacDonald's time at Exeter. They worked with Mr MacDonald to address his substance misuse. Mr MacDonald was reviewed in a timely manner when he was recalled to prison and placed on a methadone stabilisation programme straight away. Mr MacDonald was also appropriately referred to the community substance misuse team, Together, to provide ongoing support in the community. He was also trained to use naloxone prior to his release and was given a naloxone kit on release.

Homelessness

38. Homelessness on release from prison is a significant and complex challenge. This was particularly the case for Mr MacDonald, who was released from prison with no fixed abode.
39. Mr MacDonald was appropriately referred to Exeter and Torbay Council before his release, under the Duty to Refer process. Torbay Council acknowledged the referral and asked for Mr MacDonald to call them on the day of his release. Mr MacDonald did not call Torbay Council on the day of his release.
40. The COM referred Mr MacDonald to several APs, including APs in Exeter, but there were no spaces available. Mr MacDonald was offered a bedspace at an AP in Gloucester, but he refused to live in that area and the bedspace was given to someone else.
41. Prison and probation staff appropriately referred Mr MacDonald for accommodation, but, partly through his own choice and partly due to the limited options available, he was released homeless. The provision of suitable accommodation for people leaving prison, particularly for those with complex risks and needs, is an issue that extends beyond the remit of HMP Exeter, or the probation services. The Department of Housing, and the local authority may want to be aware of the issues raised in this case.

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