Prisons & Probation Ombudsman
Independent Investigations

Independent investigation into the death of Mr Ben Foley on 23 October 2022, following his release from HMP Exeter

A report by the Prisons and Probation Ombudsman

Third Floor, 10 South Colonnade
Canary Wharf, London E14 4PU

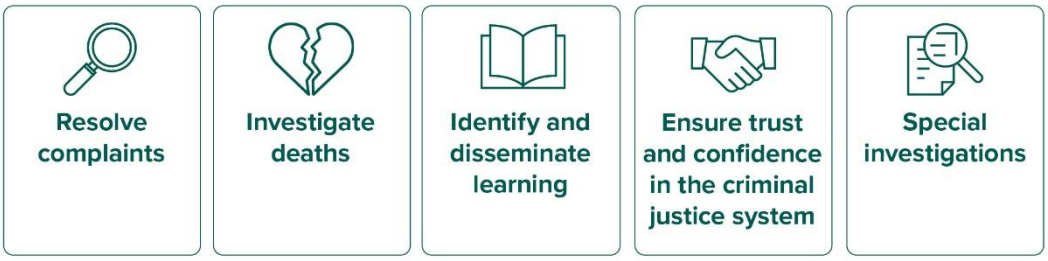
Email: mail@ppo.gov.uk
Web: www.ppo.gov.uk

T I 020 7633 4100

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. Since 6 September 2021, the PPO has been investigating post-release deaths that occur within 14 days of the person's release from prison.

3. We carry out investigations to understand what happened and identify how the organisations whose actions we oversee can improve their work in the future.

4. Mr Ben Foley died of asphyxia (lack of oxygen to the brain) due to hanging on 23 October 2022, following his release from HMP Exeter on 11 October. He was 39 years old. I offer my condolences to those who knew him.

5. Mr Foley was monitored using suicide and self-harm procedures (known as ACCT) during his time at Exeter. We found that prison staff did not handover ACCT information to community probation staff as they should have done. We are satisfied, however, that Mr Foley's community offender manager was fully aware of the risk Mr Foley posed to himself on release and that she acted appropriately to manage his risk.

Recommendations

- The Governor of HMP Exeter should ensure, in line with the Annex to PSI 64/2011, that when a prisoner has been subject to ACCT monitoring within 12 months of release, staff share relevant risk information with probation colleagues, including the community offender manager, prior to release.

The Investigation Process

6. The PPO investigator obtained copies of relevant extracts from Mr Foley's prison and probation records.

7. We informed HM Coroner for Exeter and Greater Devon of the investigation. He gave us the results of the post-mortem examination. We have sent the Coroner a copy of this report.

8. The Ombudsman's family liaison officer contacted Mr Foley's next of kin, his sister, to explain the investigation and to ask if she had any matters she wanted us to consider. She did not respond.

9. 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. The action plan has been annexed to this report.

Background Information

HMP Exeter

10. HMP Exeter 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.

HM Inspectorate of Prisons

11. The most recent full inspection of Exeter was in November 2022. Following the inspection, HM Chief Inspector of Prisons invoked the Urgent Notification protocol and wrote to the Secretary of State setting out significant concerns. The Chief Inspector's letter highlighted that levels of self-harm were higher than at any comparable prison and 44 per cent higher than the year before their previous inspection. The Chief Inspector also found that the provision of mental healthcare was not good enough, with too few staff to provide adequate support.

12. Inspectors found that offender managers held reasonable caseloads and were familiar with the details of their cases. They had received training, support and supervision which they found helpful. Good links with community probation teams had been developed and there were robust systems for escalating concerns.

Probation Service

13. The Probation Service work 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 and have links with local partnerships to whom, where appropriate, they refer people for resettlement services. Post-release, the Probation Service supervise people throughout their licence period and post-sentence supervision.

Key Events

14. On 14 September 2022, Mr Ben Foley was remanded in custody, charged with stalking, and was sent to HMP Exeter. When he arrived, staff noted that he was low in mood and had a history of self-harm. They started suicide and self-harm monitoring (known as ACCT).

15. At the first ACCT review, Mr Foley told his ACCT manager that he had anxiety and depression and that he had tried to end his life three times in the last three months. He told him that he had been sectioned under the Mental Health Act and had spent time in local psychiatric units. Although Mr Foley told his ACCT manager that he did not have any current thoughts of suicide or self-harm, his ACCT manager kept the ACCT open to ensure he was monitored regularly.

16. On 16 September, the mental health team assessed Mr Foley and accepted him onto their caseload.

17. On 22 September, during an ACCT review, Mr Foley spoke positively about his future. He said that he liked the structure of the prison regime and was receiving the care and medication he needed from the mental health team. He told his ACCT manager that he had no thoughts of suicide or self-harm. Given the improvement in Mr Foley's mood, his ACCT manager lowered the frequency of his observations but kept the ACCT open.

18. On 27 September, a mental health nurse saw Mr Foley for a mental health review. He engaged well in the review and spoke about his future.

19. On 29 September, Mr Foley had an ACCT review. He told his ACCT manager that he had no thoughts of suicide or self-harm. He stopped ACCT monitoring.

20. On 3 October, Mr Foley was convicted of stalking and was sentenced to eight weeks in prison. As Mr Foley had already served most of his sentence on remand, his date of release was set for 11 October.

21. On 6 October, a supervising officer held an ACCT post-closure review with Mr Foley. He said that he had no thoughts of suicide or self-harm and spoke about his future and his release from prison. The officer assessed that the ACCT could remain closed.

Release from HMP Exeter

22. On the morning of 11 October, a GP assessed Mr Foley before his release from prison. Mr Foley told the GP that he had no thoughts of suicide or self-harm. The GP gave him seven days' worth of anxiety and depression medication, as well as a discharge summary letter to give to his new GP. Later that morning, Mr Foley was released from Exeter.

23. The same day, he attended his initial appointment at Plymouth Probation Office. Mr Foley told his community offender manager (COM) that he was low in mood, however he said he did not have any thoughts of suicide or self-harm. The COM gave him his next appointment for 13 October.

24. At 8.45am on 13 October, the COM interviewed Mr Foley over the telephone. The COM was concerned about Mr Foley's lack of plans for the future and constant thoughts of suicide. Due to these concerns, the COM decided to raise his risk level from medium to high, so she was able to monitor him more closely.

25. Later that afternoon, Mr Foley rang his COM three times. She was not available to answer these calls. She then tried to return his calls, but he did not answer. Given her concerns about his low mood, the COM asked the local police force to carry out a welfare check on Mr Foley. The police told the COM that Mr Foley had been arrested (in relation to a restraining order in place to protect his ex-partner) and was currently in police custody. There was no further action taken against Mr Foley and he was released from police custody later that evening.

26. Mr Foley's COM was becoming increasingly concerned about the risk that Mr Foley posed to his son, who lived with his ex-partner. She decided to put further safeguarding measures in place. On 17 October, the COM rang Mr Foley to tell him he had been given two new licence conditions: to not enter the area of Plymouth and to not have unsupervised contact with any children without the prior approval of his supervising officer. The COM noted that although Mr Foley was not happy about these conditions, he sounded more positive now that he was back on his depression and anxiety medication.

27. On 20 October, the COM rang Mr Foley for a planned telephone appointment. She noted that the appointment was a constructive one and that Mr Foley's medication was having a positive effect on his mood.

28. On 21 October, Mr Foley asked his COM if he could have permission to see his son (aged 16) over the weekend. The senior probation officer (SPO) advised the COM that she would not approve this given Mr Foley's current risk level. The COM texted Mr Foley to say that he would not be able to see his son that weekend. Mr Foley texted a reply which said, "okay have a good weekend". The COM was not concerned about this response.

Circumstances of Mr Foley's death

29. In the early hours of 23 October, Mr Foley rang his sister and told her that he was at a local rugby club with a noose around his neck. His sister rang the police. When they arrived, they found Mr Foley hanged. They pronounced him dead at 2.01am.

30. On 25 October, the police informed Mr Foley's COM that he had died.

Post-mortem report

31. The post-mortem report concluded that Mr Foley died of asphyxia due to hanging.

Support for staff

32. Mr Foley's COM was given support by her line manager. She was offered catch ups, emotional support and signposted to external avenues of support.

Findings

Management of risk of suicide and self-harm

33. Mr Foley was managed using ACCT at Exeter, from when he arrived in September 2022 up to around two weeks before he was released. The Annex to Prison Service Instruction (PSI) 64/2011, which sets out the ACCT process, says that if a prisoner who is due to be released has been supported using ACCT in the previous 12 months, relevant risk information from their most recent ACCT must be shared by the Offender Management Unit with probation colleagues prior to release wherever possible. Relevant risk information includes the Risks, Triggers and Protective Factors Form, the Care Plan and the record of the final case review.

34. This did not happen in Mr Foley's case. We are satisfied that Mr Foley's risk of harm was recorded by probation staff and his COM was fully aware of his risk on release. She acted appropriately to try to manage this risk. However, prison policy was not followed with regard to sharing ACCT information prior to release. We recommend:

    The Governor of HMP Exeter should ensure, in line with the Annex to PSI 64/2011, that when a prisoner has been subject to ACCT monitoring within 12 months of release, staff share relevant risk information with probation colleagues, including the community offender manager, prior to release.

Kimberley Bingham
Acting Prisons and Probation Ombudsman **June 2023**

Inquest

At the inquest, held on 24 February 2026, the Coroner concluded that Mr Foley died by suicide.

Prisons & Probation Ombudsman
Independent Investigations

Third Floor, 10 South Colonnade
Canary Wharf, London E14 4PU

Email: mail@ppo.gov.uk
Web: www.ppo.gov.uk

T I 020 7633 4100