

**INVESTIGATION INTO THE CIRCUMSTANCES
SURROUNDING THE DEATH OF A MAN IN MAY 2006
AFTER RELEASE FROM HMP BIRMINGHAM ON HOME
DETENTION CURFEW**

**Report by the Prisons and Probation Ombudsman for
England and Wales**

April 2007

This is the report of an investigation into the death of a man who was found unconscious on some waste ground in Wolverhampton on 23 May 2006, having been released from HMP Birmingham on Home Detention Curfew less than two hours earlier. He was taken to hospital by ambulance, but died the next day without regaining consciousness. It seems the cause of death was morphine poisoning. The man was 31 years old.

I extend my condolences to his family and all who have been touched by his untimely death.

This investigation has been undertaken on my behalf by one of my colleagues. I would like to thank the Governor of HMP Birmingham and the District Manager of the West Midlands Probation Area and their respective staffs for their help and co-operation.

This man's death is one of a number of drug-related deaths to have occurred amongst ex-prisoners within a week of their release which I have investigated under my discretionary powers. I have considered whether this death could have been foreseen and prevented either by the Prison Service or the National Probation Service. I have concluded that it could not.

I have made one national recommendation regarding the provision of information for prisoners on the dangers of drugs following release and after a period of abstinence.

Stephen Shaw CBE
Prisons and Probation Ombudsman

April 2007

CONTENTS

Summary

The Investigation process

Background information

Key Events

Findings and Conclusions

Recommendation

SUMMARY

The man was remanded in custody to HMP Birmingham in July 2005, accused of offences of robbery and theft. He had a previous history of offending to finance the purchase of drugs for his own use. On reception, he disclosed that he was withdrawing from heroin and cocaine and that he would benefit from detoxification. However, he was not placed on a detoxification programme although he was referred to a substance misuse nurse.

Early in his period in custody, he was seen by a Counselling Assessment Referral Advice Throughcare Service (CARATS) specialist drugs worker and discussed his drug use with her. Whilst still in prison, he was contacted by his local Drug Intervention Programme to let him know they would be available to provide support on his release. He indicated that he wanted to use the CARATS service, but when appointments were made by his CARATS worker he did not keep them. Eventually it was decided that his CARATS contact would be suspended, as he did not seem committed to using the service. He agreed that he would make an application nearer to the time of his release if he wanted to see CARATS.

He became eligible for early release under the Home Detention Curfew (HDC) scheme in February 2006 but he was not actually released until May. His application was risk assessed and, after securing accommodation in Approved Premises in Birmingham, he was judged as suitable for release provided he adhered to the conditions of his licence.

On 23 May at about 11:00am, the man was released on HDC. Shortly before 1.00pm, he was found unconscious on waste ground in Wolverhampton by a passer-by. He was taken to hospital by ambulance. As he was found with his HDC licence, the hospital contacted his probation officer who agreed to identify him. He did not regain consciousness and died on 24 May. A post mortem concluded that the cause of death was probably morphine poisoning.

THE INVESTIGATION PROCESS

1. My investigator first contacted West Midlands Police to ascertain whether they had concerns about the man's death. They did not. She then visited Wolverhampton probation office and was given access to the deceased's records. She also spoke to his probation officer, and to a Practice Development Assessor.
2. The investigator visited HMP Birmingham on two occasions and spoke to several staff and a prisoner who had contact with the man who died. She also visited Welford House Approved Premises in Birmingham where the man should have resided following his release and spoke to the manager.
3. The man's family were contacted by one of my Family Liaison Officers. They did not wish to raise any issues about the man's care prior to his death.

BACKGROUND INFORMATION

4. HMP Birmingham has a catchment area which includes the courts of Wolverhampton. Although much of it was built in 1849, a modern extension incorporating several wings and a new Healthcare Centre has recently been completed. This includes M wing, where the man lived between December 2005 and his release.
5. M wing has been designated a Healthy Living Unit. It strives to be drug free and this is reinforced by the regular drug testing of its prisoners.
6. Approved Premises, formerly known as Probation and Bail Hostels are approved by the Secretary of State within section 9 of the Criminal Justice and Court Services Act 2000. Their purpose is to provide accommodation for persons granted bail in criminal proceedings and in connection with the supervision and rehabilitation of persons convicted of offences. They can provide a supportive and structured environment in the community for offenders whilst under supervision.
7. Welford House Approved Premises accepts persons who acknowledge they have problems with illegal drug use, as well as other serious offenders.

KEY EVENTS

8. The man was remanded in custody in July 2005. He was taken to HMP Birmingham. A Cell Sharing Risk Assessment, which is completed on all new prisoners, was carried out. This concluded that he was withdrawing from heroin, but there were no concerns or perceived risks about him harming himself or others. He spent his first evening in D wing, the First Night Centre. He was interviewed by a member of staff and, in response to a standard questionnaire, replied that he had not expected to be in custody and that no member of his family knew where he was. He was slightly concerned about being in custody and was noted to be of No Fixed Abode prior to arriving at Birmingham. He described himself as a drug addict, suffering severe withdrawal from cocaine, heroin and benzodiazepines, with occasional use of alcohol. He felt he would benefit from a detoxification programme. He did not feel at risk of self harm and said he had never tried to self harm.

9. The man was also seen by a Health Care Worker for a First Reception Health Screen. He said that he did not usually drink alcohol, but disclosed that he used heroin daily and spent upwards of £50 a day on it. He also said he used diazepam daily, including the day before he came into custody, and had used heroin and cocaine two days before. The man said he was feeling anxious as he was withdrawing. The Health Care Worker commented on the form that he "looks okay". The man was advised to drink fluids and liaise with a General Practitioner concerning medication. He was therefore put down to see the prison doctor. He was not assessed as withdrawing from opiates and the form documenting opiate withdrawal was not completed. However, a referral was made for him to see a substance abuse nurse.

10. In fact, he did not see a doctor on 12 July, as there was no doctor available. He was therefore forwarded to the next day's list. As a newly received prisoner, he had an initial assessment by the CARATS Worker. (CARATS is a voluntary service for prisoners who wish to address their drug use with specialist drugs workers.) The man told the CARATS worker that he wanted to use the service. He said he used heroin, crack and diazepam intravenously, with heroin being his main drug of choice since he was 21. He indicated that he spent between £251 and £500 per week on drugs. He further disclosed that he had shared equipment for injecting drugs.

11. The man said he had not received treatment for his drug use in the last two years, but was looking for a detoxification referral, one-to-one work with CARATS and a referral to his local Drug Intervention Programme prior to release. The CARATS worker notified the Drug Intervention Team (part of Wolverhampton City NHS Primary Care Trust), covering his home area of Wolverhampton, that he was in HMP Birmingham. She commented in his Drug Intervention Record that he did not have a self-harm history but did see intravenous drug use as self harming.

12. The last entry in his medical record on 14 July read, "said 'he's fine', just can't sleep at nights very well. No further follow up unless necessary."

13. The man signed a Voluntary Drug Testing compact on 11 August, consenting to having his urine tested for drugs at regular intervals. He asked for a one-to-one session with his CARATS worker, and said that on release he intended to live with his sister. On 26 August, when the one-to-one session was due to take place, he had already left for Education so the worker requested that he be kept behind the following day. It is not recorded whether that meeting took place. The man later passed a voluntary drugs test on 21 September.

14. A Pre-Sentence Report prepared by the National Probation Service West Midlands Area for his upcoming court appearance summarised his position on drug use:

“He has indicated to me that he is using his time constructively in prison to detoxify from his drug addiction. It seems fairly clear that his offending is inextricably linked to his felt need to support his heroin and crack cocaine drug addiction, and that the likelihood of further offending will only diminish if that addiction is addressed.”

15. On 24 October 2005, he was sentenced to two years imprisonment for burglary. He was also sentenced to nine months concurrently for an offence committed in 2002. On 25 October, The man was assessed as being suitable for a category C prison. This would offer a lower level of security than Birmingham and increased resettlement opportunities.

16. In his Record of Events, where staff should make regular entries on a prisoner's progress, an officer wrote that he “can be a touch demanding at times, as time on wing has progressed he has settled well.”

17. On 10 December, his Incentives and Earned Privileges level was reviewed and it was decided that he met the criteria for the highest level (enhanced). On 15 December, he began a full-time hairdressing course and continued it until his release.

18. On 17 January 2006, his CARATS worker requested that he should be kept on the wing for a one-to-one session. Once again, he had gone to Education and an officer had to bring him back. The man was told that day that Birmingham City Council had decided they would not place him on their waiting list for accommodation.

19. On 26 January, the Prison Liaison Officer of the Drug Intervention Programme (DIP) wrote to the man to let him know that they would be available to provide him with support on his release. He was sent a Harm Reduction Pack which consisted of a Harm Reduction/Minimisation booklet and a card with the DIP contact details and a summary on ‘surviving’ release from prison.

20. On 31 January, he again did not remain on his wing for a one-to-one session with a CARATS worker. On 8 February, he spoke to his CARATS worker and it was agreed that, as he was apparently not committed to making

effective use of the service, he would make an application to see CARATS nearer to his release date.

21. The man passed a further voluntary drug test. On 23 March, he asked to be removed from the voluntary testing regime. Entries in his Record of Events describe him variously as polite, compliant, sometimes displaying immature attitude or not problematic.

22. The man became eligible for Home Detention Curfew (HDC) on 25 February 2006. Home Detention Curfew is a scheme which enables prisoners serving a sentence of less than four years to be released from prison early, subject to electronic surveillance. It has been in operation since 1999. In order to be eligible for early release on HDC, a prisoner should have a suitable residential address approved by the National Probation Service and be appropriately risk assessed.

23. Using form HDC (1), suitability assessment for release on HDC, a prison officer completed section two, prison staff member's report. He described him as being polite, courteous and adhering to the wing regime. Section three of the suitability assessment showed that whilst he was predicted to be at high risk of re-imprisonment, he was not seen as a high risk for violent offending. However, a more detailed Risk Prediction for Sentence Planning identified him as having a low-medium risk of reconviction for other offending, some risk for violent offending and low risk of re-imprisonment. (The risk predictor showed him as having only served one previous custodial sentence, although his list of previous convictions indicates at least four previous sentences of imprisonment.) After an initial review of the papers, it was flagged up that the Probation Service should be invited to comment on his home circumstances and his last Pre-Sentence Report. In the summary of comments by the Probation Service (section five of the form), it was noted that he could stay at Welford House Approved Premises in Birmingham. The form recorded that he would have to co-operate with his licence conditions and that he had an "extensive career in offending".

24. On 29 March, in preparation for his release, he was allocated a probation officer based in Wolverhampton. His probation officer is a trainee, who began his training in October 2005. His Practice Development Assessor, told my investigator that she had considered the man a suitable case for his allocated probation officer, as he was not a sexual or a violent offender.

25. On 7 April, HMP Birmingham informed the man's probation officer that the man had applied for Home Detention Curfew, for which he had been eligible since 25 February, but was of no fixed abode. The probation officer agreed to contact Welford House Approved Premises to see whether they would take him, and made a written referral that day.

26. The probation officer told my investigator he was notified by telephone that the Welford House application had not been successful, but he was not given a reason. However, the records at Welford House show that the man

was accepted pending a date to be fixed. My investigator was unable to ascertain how this apparent discrepancy had occurred.

27. The probation officer arranged to visit the man in prison on 20 April. At their meeting, the man told him about the education courses he was pursuing. He said he had not taken drugs since being in prison, had been subject to voluntary testing for drugs, and had been going to the gym. The man was anxious about his early release and having somewhere to live. The probation officer told him that Welford House had declined his application and gave him a list of housing associations that might be able to assist.

28. On 12 May, the probation officer received a letter from the man expressing frustration with not having a place to stay on release. On 16 May, the probation officer asked Welford House to reconsider the application. He recorded in the man's case record that he "really needs intensive drug help which Welford offers." On 17 May, Welford House conditionally accepted him. The probation officer informed the Home Detention Curfew Clerk at HMP Birmingham the same day in order to hasten the process for release. On 19 May, the probation officer told the manager of Welford House that the man was likely to be released early the following week. It was agreed that the probation officer would retain responsibility for managing his case. As an additional condition of the man's release licence, it was agreed that an exclusion zone would be included so that he would not be able to come into contact with his victims in Wolverhampton.

29. On 22 May, an HDC Board met at Birmingham and agreed that the man could safely be released the next day provided he accepted the terms and conditions of his licence. It went on, "Good prospect for him to reform. FTE [full time education], good attitude. Family man course completed. Recommended."

30. On 23 May, six prisoners were due for release from Birmingham prison. The Principal Officer (PO) was the member of staff responsible for checking that they had been correctly discharged. He told my investigator that he recalled releasing the man because, after checking his warrant, he noticed that he was serving two prison terms but had not been sentenced until 2005 even though one of the offences had been committed in 2002. He asked him to wait until the Discipline Office re-checked whether he was supposed to be released.

31. Once the man's position had been clarified, the PO went through his HDC licence conditions with him to make sure he understood their requirements.

32. The man's licence said that he would be subject to a curfew from 7:45pm to 7:45am, but on the first day the curfew would start at 4:00pm. He was required to report to his Probation Officer in Wolverhampton and he would have to live at Welford House Approved Premises in Birmingham. In addition, he would be expected to stay out of a specified exclusion zone in Wolverhampton. The man was given £301.51 in cash which he had

accumulated whilst in prison, a £46.00 discharge grant and £2.70 travel grant. He left HMP Birmingham at about 11:00am.

33. According to the post mortem report, the man seems to have travelled to Wolverhampton immediately after release and purchased some clothes. He was then found by a passer-by just before 1:00pm, collapsed and unconscious on some waste ground in the town. He had no heart beat and appeared to have suffered a cardiac arrest. He was resuscitated by paramedics who noted he had a needle mark on his left forearm. The man was taken to hospital, but did not regain consciousness.

34. As his HDC licence was found on him, at 2:00pm the hospital contacted his probation officer who checked Probation Service records but was unable to find any family contact details. His probation officer attempted to contact his Practice Development Assessor, but as she was not available he decided to go to the hospital himself to identify the man as they needed someone to confirm his identity. On his return to the office, he notified Welford House and HMP Birmingham of the man's condition. His probation officer felt that he had been supported by his colleagues in what had undoubtedly been an emotionally experience. Birmingham subsequently provided the hospital with contact details for the man's sister.

35. The man suffered further cardiac arrests and did not respond to brain stem tests. On 24 May, after his family had been informed of his condition, he died in the Critical Care Unit at 6:20pm. On 25 May, a post mortem was carried out by a Home Office approved pathologist. The examination concluded that, on the balance of probabilities, the likely cause of his death was morphine poisoning.

36. My investigator asked Birmingham prison about the arrangements for warning prisoners about the risks of drugs use in the immediate period following release. She was told that, for prisoners who are not for HDC, there is a voluntary day session two weeks before they are due to leave. This is run by staff trained in resettlement needs, so that any outstanding issues can also be addressed. Each participant is given two booklets – "After a break: low tolerance and high risk" and "Overdose: protect and survive". These booklets are produced by the National Treatment Agency, a body funded by the NHS. Prisoners released on HDC do not receive these booklets, unless they are clients of CARATS, as the time between HDC approval and release is usually very short (on some occasions, approval and release have occurred on the same day).

FINDINGS AND CONCLUSIONS

37. I have considered whether the risk of releasing the man on HDC was properly assessed and whether his death could have been foreseen and prevented.

38. The man was considered to be a good candidate for successful release. Although he entered Birmingham having recently used drugs and disclosed regular drug misuse, he signed up to a voluntary drug testing compact and was not thought to have been using drugs whilst in prison. He had made real efforts to use his time in custody productively by studying, going to the gym and learning a new skill in hairdressing.

39. All stages of the HDC process were correctly documented and given due consideration. Welford House was used to supervising ex-prisoners with long histories of offending including serious offending. Arrangements were put in place by the man's probation officer and the Approved Premises manager for adequate supervision. Although he was eligible for HDC in February, he did not in fact gain it until May when he had secured a suitable place to stay.

40. I appreciate that it would have been difficult for his probation officer to have talked to him in any depth about tackling his long-established drug use, given that the date of his release was not known until shortly before it happened. Once suitable accommodation had been found for him, there was probably too little time to do any meaningful work in terms of highlighting the risks of overdose. Had he arrived at the Approved Premises as planned, his key worker would have expected to have explored those issues with him.

41. In considering whether Birmingham prison could have done more to warn him of the dangers of drug overdose, I have to bear in mind the real constraints under which all local prisons labour. The man knew of CARATS and had chosen not to renew his contact with them. As their service is voluntary, they could not have been expected to be involved without an indication from the man himself that such intervention would be welcome.

42. Nevertheless, the duty of care may extend beyond the moment of release. Given the number of former prisoners who die within a few days of release, the Prison Service has a responsibility to warn of the immediate risks they may face – in particular, those associated with renewed intravenous drug use.

43. I therefore recommend that HM Prison Service should consider the feasibility of producing a basic information sheet, to be given to all prisoners at the time of discharge, to alert them to the dangers of returning to drug use and providing information about agencies who can support them in a crisis.

44. I am mindful of the pressures the man's probation officer has had to experience as a result of his death. As a trainee, he was assigned a case that appeared straightforward and offered opportunities to build on his skills.

However, he found himself in the unenviable position of confirming the identity of a seriously ill man in hospital and then learning of their death a day later. His actions in wanting to assist the hospital were commendable.

45. If the man had arrived at the Approved Premises, he would have been asked to provide contact details of someone in case of an emergency. Whilst there may be some value in the Probation Service holding contact details for next-of-kin, I have decided not to recommend that referral forms for HDC should be altered to ask for such information. The focus of the HDC application should only be whether a prisoner is suitable for HDC and I do not believe that the cost of introducing a new form could be justified.

RECOMMENDATION

I recommend that HM Prison Service should consider the feasibility of producing a basic information sheet, to be given to all prisoners at the time of discharge, to alert them to the dangers of returning to drug use and providing information about agencies who can support them in a crisis.

The Prison Service has partially accepted this recommendation and has responded:

“In the face of the number of tragic deaths linked to ex-offenders overdosing post-release – following reduced tolerance to drugs whilst in custody. Prisons are conscious of the need to do more to build on existing harm minimisation initiatives. These already include as part of the CARATs pre-release intervention one-to-one work, provision of overdose awareness cards and the use of a video in group-work that depicts the risks of re-using opiates.”

“In addition there is increasing use of stabilisation/maintenance prescribing through the introduction of the Integrated Drug Treatment System (IDTS) which will make available a wider range of options for the management of substance misuse in order to ensure continuity of treatment on entry to prison and to reduce the risk of overdose on release. By March 2008, IDTS will see at least 17 prisons offering enhanced clinical and psycho-social (CARATs) support, and 32 offering enhanced clinical support.”

“Locally at HMP Birmingham advice regarding drug misuse is routinely given to discharged prisoners; this system has been revised to ensure that anyone released on HDC will also benefit from this guidance.”