

**Investigation into the circumstances surrounding the
death of a man in September 2008
(the man had been released on temporary licence from
Colnbrook Immigration Removal Centre)**

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

April 2009

This is the report of an investigation into the death of a man on 1 September 2008. The man had been temporarily released on licence from Colnbrook Immigration Removal Centre (IRC) on 22 July 2008 following an Appeals Tribunal hearing. He had been detained at Colnbrook since June 2006, following release from HMP Littlehey where he served a custodial sentence for sexual offences, pending removal to his home land of Zimbabwe.

A post mortem was held at the request of HM Coroner for West London. It concluded that the man's death was due to natural causes, resulting from tuberculosis. An inquest will not be held.

I extend my condolences to all those touched by the man's death. He was just 32 years old.

This investigation was conducted under my discretionary powers to investigate deaths following release from immigration detention. The last death to be investigated by my office at a removal centre occurred in January 2006.

I would like to thank the Director of Colnbrook and his staff for their help and assistance. I am especially grateful to a member of staff at the UK Border Agency (UKBA), for her contribution. I would also like to thank a caseworker with the UKBA.

I originally made four recommendations. Two related to the medical needs of released detainees; and two to public protection. All have implications much wider than the particular circumstances of the man.

My public protection recommendations have been accepted. However, I have learnt more about access to National Health Service care, which is a matter for Department of Health policy rather than the immigration services. It seems sensible to me that a detainee with a notifiable disease which presents risks to the general public, should have access to NHS treatment and so I recommend that the policy is reviewed.

In this final report the UKBA have now only partially accepted my recommendation in regard of public protection, which has also been shared with the Public Protection Unit of the National Offender Management Service. The other recommendation remains accepted. Up to the circulation of this final report, the Department of Health have not responded to my recommendation in relation to health care services. However, I note the recent ruling by the Court of Appeal into asylum seekers access to medical treatment, which ruled that they were not entitled to free health care on the NHS.

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Prisons and Probation Ombudsman

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SUMMARY

The man came to the United Kingdom from Zimbabwe in 2002 on a visitor's visa. He failed to leave the country when his visa expired. He was sentenced to 40 months imprisonment in 2004 for serious offences at Crown Court. On passing sentence the Judge told the man that he must sign the Sex Offenders Register indefinitely.

In November 2006, the man was detained by what is now the UK Border Agency on his release from prison and escorted to Colnbrook Immigration Removal Centre (IRC) to await removal to Zimbabwe. The present political situation in Zimbabwe has resulted in a logjam, and therefore the man was detained at Colnbrook for nearly two years. He made an unsuccessful attempt at challenging his deportation order.

In May 2008, the man reported to healthcare staff at Colnbrook that he was losing weight. However, he refused medication and medical tests. In June, he agreed to have a chest x-ray as he was still losing weight and having night sweats. Following his chest x-ray, the man was admitted to hospital with a diagnosis of tuberculosis and placed in isolation. (Tuberculosis is a common and often deadly infectious disease caused by mycobacteria that affects the lungs.) Two days later, he was transferred back to Colnbrook's healthcare unit where he remained in isolation. Over the next weeks medical tests were carried out to ascertain whether the tuberculosis was infectious.

In mid July, the man was re-located to a normal wing following information from the hospital that the tuberculosis was not infectious. Six days later, the man attended an Appeals Tribunal and was released on temporary licence. In response to my draft report, the UKBA have advised that the man was granted bail by the court and so no release plans were possible. The National Asylum Seekers Service (NASS) identified accommodation and the man moved into one of their supported housing flats. As part of his release plan, the man was told to report twice a week to a reporting centre near his address.

On 1 September, a neighbour noticed that the man's door was open and the television on. The neighbour had not seen the man for a few days and entered his room. The man was in bed but not conscious. An ambulance was called and paramedics confirmed the man's death on their arrival.

Whilst in the community, the man was trying to register with a doctor but had not signed the Sex Offenders Register as directed by the court.

THE INVESTIGATION PROCESS

My office was notified of the man's death by the former Director of Detention Services, following information from HM Coroner on 9 September 2008. Under my terms of reference, I have the discretion to investigate, to the extent appropriate, deaths following release from detention that raise issues about the care provided by UKBA. Terms of reference and notices of the investigation were sent to Colnbrook the following day. A clinical review into the man's healthcare was not commissioned.

1. The investigation into the man's death was opened on 10 September when one of my investigators made contact with the office of Her Majesty's Coroner for West London. My investigator spoke to a Coroner's Officer who told her that a post mortem examination of the man had been carried out and that the cause of death was tuberculosis. The Coroner's Officer told my investigator that HM Coroner was satisfied that the man had died of natural causes and an inquest would not be held.
2. My investigator made enquires with the Coroner's Officer to establish if any next of kin had been identified. The Coroner's Officer did not have any details of the man's next of kin. His funeral and personal belongings were being looked after by a member of the chaplaincy team at Colnbrook.
3. On 22 September, my investigator and her colleague visited Colnbrook. They reviewed the man's immigration files and medical notes. My investigator requested copies of documents from the man's files to be sent to her. Later the two investigators spoke to the Healthcare Manager.
4. My investigator received information from the member of the chaplaincy team that next of kin living in this country had been traced on 3 October. They had attended a service at a funeral directors shortly before the man's body was flown back to Zimbabwe. Telephone contact numbers were passed on to one of my Family Liaison Officers. My Family Liaison Officer has tried many times to contact these family members using the telephone numbers, but as yet without success.
5. On 2 October, my investigator and her colleague visited the UK Border Agency offices in Croydon and met the man's caseworker.
6. The report was published in draft and, following feedback received from UKBA, it is issued in draft for a second time.

COLNBROOK IMMIGRATION REMOVAL CENTRE

7. Colnbrook Immigration Removal Centre (IRC) is located near London's Heathrow Airport and opened in 2004. It holds up to 383 detainees on behalf of the UK Border Agency, plus a further 20 people on behalf of HM Revenue and Customs. It is one of the busiest removal centres in the UK. Custodial services are provided by a private contractor, Serco.
8. In June 2007, an unannounced inspection of Colnbrook was undertaken by Her Majesty's Inspector of Prisons, Dame Anne Owers. The inspection report said that:

"Colnbrook mainly houses detainees who have exhausted the immigration process and are awaiting removal from the UK. The detainee population normally held in Colnbrook is likely to be perceived by the UK Border Agency as posing an unacceptable risk to a less secure establishment and may be in need of psychiatric or 24-hour medical services, and detainees subject to multi-agency public protection arrangements (MAPPA). Approximately 80% of the population of Colnbrook are former prisoners. Colnbrook has four long-term residential units each housing 66 male detainees, the short term holding facility houses 80 male/female detainees for a short period."

"Health services had improved since the last inspection. While many surveyed respondents had negative perceptions of health services, most detainees interviewed were content with the service. There were no waiting lists for the dentist or doctor. However, there was a significant shortfall in mental health provision despite the high numbers of detainees with mental health problems. The centre was at the edge of its ability to cope with mentally unwell detainees, some of whom had been transferred to Colnbrook against the wishes of its health professionals. Medicines management had improved, as had clinical governance. Inpatient beds were included, inappropriately, on the certified normal accommodation, and were also used for constant observation of some ... detainees who had no other need to be in healthcare. We were also concerned that most detainees attending outside medical appointments were handcuffed."

9. The Annual Report for 2007 of the Independent Monitoring Board (IMB) for Colnbrook commented on the healthcare services (which are also provided by Serco) as follows:

"Overall the Healthcare team at [Colnbrook] are doing a good job in difficult circumstances, but there are increasing signs of strain. This is evidenced by around 14% of concerns raised with the IMB in 2007 being related to healthcare matters."

10. Colnbrook has suffered one death since it opened. The investigation by my office raised no issues that apply to the death of the man.

KEY FINDINGS

11. In September 2004, the man was sentenced to 40 months imprisonment at Crown Court for sexual offences. As part of the sentence, the man was required to sign the Sex Offenders Register indefinitely. The man was first received into HMP Winchester and later transferred to HMP Littlehey.
12. On 26 November 2006, the man was detained by officers of what is now the UK Border Agency following his release from Littlehey. He was escorted to Colnbrook Immigration Removal Centre (IRC) to wait for deportation to Zimbabwe. His first reception health screen document noted that he was healthy, with no medical or mental health problems, although he was concerned about his deportation.
13. The man made an unsuccessful attempt to challenge his deportation and remained at Colnbrook. On 26 June 2007, he transferred to Dover IRC, returning to Colnbrook on 17 October. His case was reviewed on a monthly basis by UKBA (from April 2008, by his caseworker).
14. On 26 January 2008, the man's medical records note that he had begun to refuse to eat. There are no details about his refusal to take food other than that he was seen in healthcare and the situation was discussed with him. The situation seems to have been resolved as there are no further entries until 29 May when he was seen by a triage nurse. The man was complaining of weight loss. He told the nurse he was stressed about his situation, and he was referred to the doctor.
15. Two days later, the man saw the doctor who examined him and noted that he had lost nine kilograms in weight since his reception into Colnbrook. The man told the doctor he had little appetite and did not like the food at the centre. He also said he had occasional night sweats and a slight cough. It was recorded in the medical notes that the man refused blood tests and medication (despite the doctor explaining the reason for the tests). Apparently, they were against his religion. The man did agree to provide samples of faeces and urine, and to have his weight monitored. The doctor told the man he would see him in a week's time.
16. On 10 June, the man saw the doctor for a review, and as a result he was referred for a chest x-ray. On 23 June, the man was seen by a triage nurse. The nurse noted that the man was complaining about getting his proper vegetarian diet. He also told the nurse he had refused the blood tests, and that he was not ill and just did not eat well. His medical notes show that he had lost another four kilograms in weight in the last four weeks.
17. The following day, the man was escorted to hospital for a chest x-ray and returned to Colnbrook. His medical notes show the x-ray indicated an abnormal result. At 2.00pm, the man was taken to a hospital chest clinic where a diagnosis of pulmonary tuberculosis was made. He remained at the hospital in isolation, whilst further tests were carried to identify the specific strain of tuberculosis. (It is common practice to isolate patients who have tuberculosis)

18. On 26 June, the hospital made contact with healthcare staff. The man was ready to be discharged back to Colnbrook. He would need to remain isolated from other detainees, and three sputum samples would need to be collected from him on alternate days.
19. At about 6.30pm, the man arrived back into Colnbrook and was taken to an isolation room in the healthcare unit. The man was now taking anti-biotic medication for his illness.
20. From 27 June to 7 July, the man remained in isolation in the healthcare unit. He was taking his medication regularly, as well as Fortisips (a food supplement drink), and was seen daily by the doctor. The man told staff he was feeling better and had some appetite. On 8 July, the man was escorted to hospital for an appointment at the Respiratory Clinic and then returned to Colnbrook healthcare unit. He was again located in an isolation room. The man continued to be cared for by healthcare staff, although he became frustrated by his isolation.
21. On 16 July, the hospital made contact with healthcare staff to say the man could now come out of isolation and no further sputum samples were required as the latest specimens were clear. The man was transferred back to his wing within the centre.
22. Six days later, the man was released on temporary licence by an Appeals Tribunal Hearing to an address in south east London. Since my draft report was published the UKBA have advised that the man was granted bail by the court and so no release arrangements were made. It may be that his health was a contributing factor in his release although my investigator could not identify the specific reasons. The man had possession of his medication when he was released.
23. The man's release address was accommodation used by the National Asylum Support Service (NASS). He was placed under the care of a hospital for outpatient appointments to oversee his tuberculosis. Information from the Coroner's Officer indicates that the man was trying to register with a doctor in the community for his medication.
24. A condition of his licence was that he should report to a UK Border Agency Reporting Centre twice weekly. There is no evidence that on release the man reported to his local police station to sign the sex offenders register, as directed by his sentencing Judge in 2004.
25. On 1 September, a neighbour of the man's became concerned as he had not been seen for several days. The neighbour noticed that his television was on and the door to the man's flat was open. The neighbour gained access to the man's room and found him in his bed. An ambulance was called and paramedics confirmed that the man had died.

26. The man's body was flown back to Zimbabwe after some relatives were traced by the member of the chaplaincy team at Colnbrook.

ISSUES

Clinical Care

27. The man's death had taken place whilst he was living in the community on licence from Colnbrook. The care of the man's tuberculosis was overseen by a local hospital. From records held by the Coroner's office, the man had not registered with a doctor on his release from Colnbrook.
28. The man's medical records from Colnbrook noted all the interventions made by healthcare staff following his reception into the centre until he was discharged from the healthcare unit following his diagnosis of tuberculosis. The notes detail the actions by healthcare staff in relation to the man's symptoms.

Medical care in Colnbrook

29. On arrival at Colnbrook, the man was seen by medical staff and details of his medical history were noted. His first reception health screen document was correctly completed, recording his blood pressure, temperature and pulse rate. It concluded that he was well, he was not prescribed any medication, and had no thoughts of self-harm.
30. Following sputum tests carried out over a two-week period in July, the hospital informed healthcare staff that the man could now be taken out of isolation and he returned to normal location in Colnbrook.
31. It would appear from this investigation that Colnbrook healthcare has good links with Hillingdon Hospital. As Colnbrook holds many Foreign National Detainees (FNDs), tuberculosis is an illness which healthcare staff have some experience of treating. As soon as a detainee shows symptoms related to suspected tuberculosis (weight loss, night sweats, cough), they are referred for a chest x-ray and if needed to the Chest/Respiratory Clinic at the hospital.
32. From information held within the man's medical notes it is evident that his symptoms were treated appropriately and in a timely way once he reported them.

The man's release into the community

33. There is no documentation to indicate that the man was seen by a member of healthcare staff before his release. He was granted bail by the courts and so Colnbrook did not make any pre-release arrangements. Consequently there are no records of information passed to him in relation to his illness, his medication, or registering with a doctor. The man's medical record ends on the day he was discharged from healthcare back to his wing on 16 July. No entries were made following this date.
34. The man's caseworker told my investigators that he was not made aware of the man's serious medical condition. When other concerns are raised by Colnbrook staff about a detainee, such as serious self harm or discipline issues, a form is forwarded to the caseworker to provide up to date information about the

Release of detainees with a notifiable illness

35. I believe that the state has a duty of care to those it is releasing from immigration detention. Detainees released on licence should be given help and information to allow them to access medical care in the community and obtain their medication. Since I published my draft report I have been advised by UKBA that detainees are only entitled to minimum emergency treatment and not to the full range of National Health Services.
36. I acknowledge that the man was placed in accommodation by NASS, and would have received some support through them. Nevertheless, there were no documents in his case file that detailed what support he was to be given. Whilst recognising the importance of medical confidence, the caseworker was unaware of the man's condition, and so he too was not in a position to advise him. The man could have been asked if details of his medical condition could be released to the caseworker.

The Department of Health should review its policy regarding access by detainees, particularly those with a notifiable disease, to medical care in the community.

Public Protection Issues

37. When convicted of his offence in 2004, the man was told he must sign the Sex Offenders Register indefinitely. On 22 July 2008, the man was released on temporary licence by an Appeals Tribunal and moved into a local community. As part of the conditions of his release licence, he had to attend a reporting centre twice a week. (The man did in fact report twice weekly to the centre in line with his licence conditions.) This was in addition to reporting to the police for registering as a sex offender. Enquiries were made by my investigators with the Metropolitan Police. It was found that the man had not signed on the Sex Offenders Register after his release from Colnbrook.
38. My investigators raised this issue with the caseworker. He said that he had been on leave when the paperwork for the man's appeals tribunal hearing was prepared. The document did not indicate that he should sign the Sex Offenders Register on release, but did show that he had been convicted of a serious sexual offence and had served a custodial sentence. On release, the man did not register his address with the local police and the police were not informed of his whereabouts in the community. Nor had Colnbrook raised this issue when he was released from their charge.
39. The caseworker said that the relevant caseworker would not be informed that 'their' detainee had been released until the following day when the paperwork from the appeals tribunal hearing was forwarded to them. I believe the issue of the man signing the Sex Offenders Register should have been identified at that

The UK Border Agency should ensure that any detainee who is required to sign the Sex Offenders Register is reminded to do so in the event of their release.

The UK Border Agency should ensure that all caseworkers and managers dealing with convicted detainees understand Multi Agency Public Protection Arrangements, and check that detainees comply with the conditions of their release.

RECOMMENDATIONS

For the Head of Criminal Casework Directorate UK Border Agency and the Director of Colnbrook IRC

1. The UK Border Agency should ensure that any detainee who is required to sign the Sex Offenders Register is reminded to do so in the event of their release.

Accepted

2. The UK Border Agency should ensure that all caseworkers and managers dealing with convicted detainees understand Multi Agency Public Protection Arrangements, and check that detainees comply with the conditions of their release.

Partially Accepted by UKBA – UKBA are working with the National Offender Management Service (NOMS) to look at whether more can be done to ensure detainees understand the conditions of their release and the consequences of them not doing so.

The Public Protection Agency of NOMS have commented – “ Offender managers supervise offenders on licence and are responsible for enforcing licence conditions. They will be fully aware of MAPPA, as the probation service is one of the responsible agencies. The key to managing offenders released from immigration detention is making sure that the probation area responsible for the offender’s supervision is made aware that the offender is back in the community so that they can activate supervision.

3. The Department of Health should review its policy regarding access by detainees, particularly those with a notifiable disease, to medical care in the community.

A recent ruling by the Court of Appeal said that failed asylum seekers with chronic illnesses were not entitled to free healthcare on the National Health Service but, hospitals have the discretion to provide free treatment to such individuals if they cannot afford to pay. The Health Secretary said that his department accepted the lack of clarity in the official guidance for hospitals and will ensure guidance is amended.

At the time of circulation of this draft report, no comment has been received from the Department of Health.

