

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Wayne Fenton a prisoner at HMP Prescoed on 8 August 2017

A report by the Prisons and Probation Ombudsman

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Our Vision

To carry out independent investigations to make custody and community supervision safer and fairer.

Our Values

We are:

Impartial: *we do not take sides*

Respectful: *we are considerate and courteous*

Inclusive: *we value diversity*

Dedicated: *we are determined and focused*

Fair: *we are honest and act with integrity*



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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.

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

Mr Wayne Fenton died on 8 August 2017, as a result of being stabbed repeatedly, while on home leave from HMP Prescoed. His attacker, who was known to Mr Fenton, was convicted of murder and sentenced to life imprisonment. Mr Fenton was 49 years old. I offer my condolences to Mr Fenton's family and friends.

This was an unusual investigation for our office to undertake. Mr Fenton was not in the prison when he was murdered. From the information available, I am satisfied that the prison had made reasonable preparations for Mr Fenton's home leave and could not have foreseen or prevented his death.

This version of our report, published on our website, has been amended to remove the names of staff and prisoners involved in our investigation.

Elizabeth Moody
Acting Prisons and Probation Ombudsman

April 2018

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Summary

Events

1. Mr Fenton was sent to prison in 2013 and subsequently sentenced to eight years imprisonment. He progressed through his sentence, undertook courses to address his offending behaviour and assist in his resettlement and held positions of trust.
2. In May 2016, Mr Fenton was transferred to HMP Prescoed, an open prison, where prisoners may apply for temporary release in preparation for their return to the community. Mr Fenton first had periods of day release in the local town with his family, then began working outside the prison. In December 2016 he applied to spend a weekend at home with his family. After consideration, which included a risk assessment, this was agreed.
3. The home leave passed without any problems, and throughout 2017, Mr Fenton had monthly periods of home leave over one weekend. No objections were raised to any applications and all periods were judged to have been successful.
4. While on a period of home leave, Mr Fenton became embroiled in an argument with a friend. This resulted in Mr Fenton being stabbed a number of times. Despite attempts to save him, he died in hospital.

Findings

5. Mr Fenton had not caused any problems through his prison sentence. He held positions of trust, had no disciplinary findings against him, and earned good reports.
6. When eligible, Mr Fenton applied for release on temporary licence. After successful periods of day release, he applied for overnight release. Consideration included risk assessments and consultation both with his offender manager from the Probation Service in his home area and the local police. There were no objections.
7. The period of home leave was successful, and Mr Fenton subsequently spent a number of periods of home leave with his family without any problems.
8. There was no reason for Prescoed to have anticipated the circumstances that led to Mr Fenton's death. We therefore make no recommendations.

The Investigation Process

9. The investigator issued notices to staff and prisoners at HMP Prescoed informing them of the investigation and asking anyone with relevant information to contact him. There were no responses.
10. The investigator obtained copies of relevant extracts from Mr Fenton's prison and medical records. He remained in ongoing contact with Devon and Cornwall Police throughout their investigation into Mr Fenton's death and the subsequent criminal trial.
11. We informed HM Coroner for Plymouth and South West District of the investigation. She provided us with the results of the post-mortem examination and we have sent the coroner a copy of this report.
12. One of the Ombudsman's family liaison officers contacted Mr Fenton's mother and his partner, to explain the investigation and to ask whether they had any matters they wanted the investigation to consider. Mr Fenton's mother asked a question about his health that we have answered in separate correspondence.
13. Mr Fenton'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.

Background Information

HMP Prescoed

14. Prescoed is managed as a single entity with HMP Usk but is a distinct facility serving a separate purpose. Located in Monmouthshire, about two miles away from Usk, Prescoed is an open prison, meaning there is minimal security. It holds approximately 230 prisoners.

HM Inspectorate of Prisons

15. The most recent inspection of HMP Prescoed was published in June 2013. Inspectors reported that the use of temporary release to support resettlement was creditably high. Public protection arrangements were impressive and release on temporary licence was well managed and appropriately focused on risk management.

Independent Monitoring Board

16. Each prison has an Independent Monitoring Board (IMB) of unpaid volunteers from the local community who help to ensure that prisoners are treated fairly and decently. In its latest annual report, for the year to March 2017, the IMB reported that there were very few abscondee or prisoners failing to abide by the terms of their release on temporary licence. The Board had no serious concerns about the prison.

Previous deaths at HMP Prescoed

17. Prescoed is managed with Usk, and statistics are collated across both sites. There have not been any deaths of Prescoed prisoners since 2007.

Release on Temporary Licence

18. Prisoners are given help preparing for life when they leave prison. Prison governors are allowed to grant prisoners release on temporary licence for precisely defined and specific activities that cannot be provided in the prison. A risk assessment is completed to ensure that the prisoner's temporary release does not present unacceptable risks. Prisoners in open conditions can apply for resettlement day release, to spend time with their families, to go on training courses, or to help them prepare to find work on release. They can also apply for resettlement overnight release, allowing them to spend the night at the place they will live after they are released.

Key Events

19. In September 2013, Mr Wayne Fenton was remanded to HMP Exeter. He was subsequently sentenced to eight years imprisonment for drugs offences. Health screening showed no significant health issues.
20. Although it was his first time in custody, Mr Fenton settled well into prison life in Exeter. He maintained good contact with the outside world, with frequent telephone contact and regular visits from friends and family. He undertook offending behaviour programmes, including those addressing victim awareness, alcohol and violence. He took a smoking cessation course, and had minimal contact with prison healthcare services. He worked for a National Vocational Qualification in decorating, and was the violence reduction representative on his wing. He was trained by the Samaritans to work as a Listener (a peer mentor) for other prisoners.
21. In August 2014, Mr Fenton was transferred to Dartmoor where his progress continued. He carried on with his work as a Listener and a wing representative. In 2016 he applied to move to an open prison, and in May of that year transferred to Prescoed.
22. Mr Fenton settled well. He was due to be released in September 2017. As a category D prisoner, he applied for escorted day release from the prison to help his resettlement. This was successful. He went on to apply for unescorted day release and, in October, began to undertake resettlement day release. He had several days out of the prison, spending time with his family who had travelled to meet him. In December 2016, he began a job, working in the local town on day release. He also had an offer of employment near his home for when he was finally released from prison.
23. In December, Mr Fenton was granted release on temporary licence to spend four days with his family in Devon, staying at his mother's address. Risk assessments were made, and Prescoed confirmed that his family were happy with these arrangements. The local police were content for Mr Fenton to have contact with his partner and their children. Mr Fenton attended a probation appointment as directed while on leave, and returned to the prison as expected.
24. Mr Fenton applied for further release on temporary licence in January 2017. His offender manager contacted Mr Fenton's mother to confirm arrangements, and learned that on his previous home leave Mr Fenton had only spent one night at her home. She was also unaware that he had proposed her address for home leave at this time, although she was happy to accommodate him. Investigations showed that there had been an error on Mr Fenton's release documentation, and he had in fact stayed at the address that was printed on his licence. His offender manager and one of the prison's managers concluded that it had been a genuine error and Mr Fenton had not deliberately misled anyone. His application was approved, and he spent four days with his family at the end of January.
25. Mr Fenton spent a further period of home leave with his family in February. In March, he moved to a new job in the community on day release. Reports from his previous employer were very positive, showing him to have been a valued and trusted employee. His new employers were equally happy with his work.

26. Mr Fenton continued to undertake periods of home leave, staying with his partner and their children at their home in Plymouth. No issues were reported by Mr Fenton himself, his partner, or the local police during any of the periods of leave. He had periods of home leave in March, April, May, June and July. Mr Fenton was judged to be a low risk of causing harm or of further offending, and no objections were raised to any of his applications for home leave.
27. Mr Fenton applied for a further period of home leave from 4–8 August. As previously, he was to reside at his partner's address and spend time with his family. On 8 August, a friend, Mr X, drove Mr Fenton back to Plymouth railway station so he could catch a train to return to prison. At the station, Mr X attacked Mr Fenton with a knife, stabbing him multiple times. Mr Fenton died in hospital from his injuries.
28. The police investigation did not find any clear reason for the assault, although Mr X alleged that Mr Fenton had made threats towards his mother. Mr X was subsequently charged with and convicted of Mr Fenton's murder. He was sentenced to life imprisonment.

Contact with Mr Fenton's family

29. Local police contacted Mr Fenton's family. The governor and a trained family liaison officer from Prescoed subsequently contacted and visited Mr Fenton's partner. In line with guidance, they offered a contribution to the cost of the funeral.

Support for prisoners and staff

30. After Mr Fenton's death the prison posted notices informing other prisoners of Mr Fenton's death, and offering support.

Post-mortem report

31. The post-mortem report said that Mr Fenton had no natural disease that might have contributed to his death. He died as a result of multiple stab wounds.

Findings

32. Mr Fenton had worked through his prison sentence with minimal problems. He settled well at each prison, completed offender behaviour courses, and worked as a mentor and representative for prisoners.
33. Mr Fenton was at the highest level of the Prison Service's Incentive and Earned Privileges' scheme, used to encourage and reward good behaviour. There were no suggestions of involvement in the prison drug culture and he had no disciplinary findings against him during his time in prison. Work reports were all positive. He had good family support, and had undertaken a number of periods of home leave with no problems.
34. After arriving at Prescoed, Mr Fenton received good reports for his work and behaviour. This continued when he began to work outside the prison, and no problems arose from his releases on temporary licence.

Assessment of risk for temporary release

35. Arrangements for release on temporary licence are set out in Prison Service Order (PSI) 13/2015, *Release on temporary licence*. The PSI states that the offender assessment system of Her Majesty's National Prison and Probation Service (HMPPS) – known as OASys - must be used to assess the risk presented by prisoners applying for temporary release. Mr Fenton's OASys assessment had been reassessed as recently as July 2017 so was up to date. He was judged to present a low risk of reoffending and there were no issues around spending his time in his home area with his family.
36. The decisions to allow Mr Fenton to take his periods of home leave were made after joint assessments by a prison manager, a prison offender manager, Mr Fenton's home offender manager, and prison officers who knew Mr Fenton. Each application form contains notes reflecting an appropriate risk assessment, and local police were informed that temporary release had been granted.
37. Mr Fenton had undertaken a number of periods of leave on temporary licence with no problems. The address where he stayed had been assessed as suitable and local police had not highlighted any concerns about his staying there. During his previous periods of home leave no issues had arisen to suggest that there was any raised risk, either to him or to other parties.
38. We are satisfied that the prison had made reasonable preparations for Mr Fenton's home leave and could not have foreseen or prevented his death. We, therefore, make no recommendations.

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