

**Prisons &
Probation**

Ombudsman
Independent Investigations

Independent investigation into the death of Mr Brian Kerr on 15 October 2022, following his release from HMP Durham

A report by the Prisons and Probation Ombudsman



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

OGL

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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. 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 Brian Kerr died of a kidney infection on 15 October 2022, following his release from HMP Durham on 5 October. He was 59 years old. We offer our condolences to those who knew him.
5. Two weeks before Mr Kerr's release, a urine test identified that he might have a problem with his kidneys. He refused to have any further tests as he said he was about to be released from prison and would see his community GP.
6. It appears that Mr Kerr did not see his community GP after his release from prison and that he got no further tests or treatment for his kidney condition.
7. Prison staff identified that Mr Kerr would be homeless on release and made a referral for accommodation under the duty to refer scheme. However, the council did not offer accommodation to Mr Kerr and he was released homeless.
8. We found that Mr Kerr's community offender manager (COM) did not make a Commissioned Rehabilitative Services (CRS) referral (used to request support from external partnerships) as she should have done.

Recommendations

- The Head of the Stockton-on-Tees Probation Delivery Unit should ensure that staff make CRS accommodation referrals for prisoners facing homelessness on release.

The Investigation Process

9. The PPO investigator obtained copies of relevant extracts from Mr Kerr's prison and probation records.
10. We informed HM Coroner for Teesside of the investigation, who gave us the results of the post-mortem examination. We have sent the Coroner a copy of this report.
11. The PPO family liaison officer wrote to Mr Kerr's sister to explain the investigation and to ask if she had any matters she wanted us to consider. She did not respond.
12. We shared our initial report with HM Prison and Probation Service (HMPPS). They found no factual inaccuracies. They provided an action plan which is annexed to this report.

Background Information

HMP Durham

13. HMP Durham is a local prison, serving the courts of Tyneside, Durham and Cumbria. It holds approximately 1,000 men. Spectrum Community Health CIC provides primary healthcare services. Tees, Esk and Wear Valleys Foundation NHS Trust provides mental health services.

Probation Service

14. 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 and have links with local partnerships to whom, 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

15. On 24 March 2022, Mr Brian Kerr was recalled to prison for breaching his licence conditions by failing to engage with probation. He was moved to HMP Durham on 8 September 2022.
16. Mr Kerr was a heroin user. He was put on a methadone (heroin substitute) programme and monitored by the prison's Drug and Alcohol Recovery Team (DART).
17. On 20 September, a prison GP told Mr Kerr that the results of a urine test suggested something was wrong with his kidneys. The GP advised further tests but Mr Kerr said he would see his community GP when he was released on 5 October.
18. On 23 September, Mr Kerr declined to have his blood taken and said again that he would see a GP after his release.

Pre-release planning

19. On 14 September, Mr Kerr submitted a friend's address as his proposed release address to the prison's pre-release team. They told him that because there was no contact number, the address could not be approved.
20. A member of the prison's pre-release team then made a referral under the duty to refer scheme (used to refer people for accommodation if they are homeless). She emailed Mr Kerr's community offender manager (COM) to let her know that she had done the duty to refer and that she needed to make the Commissioned Rehabilitative Services (CRS) referral (used to request support from external partnerships). The COM did not make the CRS referral.
21. On 5 October, the day of his release, healthcare staff offered Mr Kerr a naloxone kit (medication that can rapidly reverse opioid overdose), which he accepted.
22. Mr Kerr was released homeless. The prison's pre-release team gave him a letter within his release paperwork, which told Mr Kerr how to present as homeless to the council.

Post-release planning

23. On 5 October, Mr Kerr did not attend the Stockton on Tees Probation Centre as instructed. However, he did attend START, a community-based drug and alcohol service, to collect his prescription for methadone. START notified Mr Kerr's COM.
24. On 6 October, prison healthcare staff emailed a discharge letter to Mr Kerr's community GP.
25. On 7 October, Mr Kerr's COM emailed START asking them to give Mr Kerr her phone number so he could call her and arrange an appointment, or to attend the probation office.

26. On 10 October, START replied to Mr Kerr's COM saying that Mr Kerr had a clinic appointment on 12 October and that they would pass him the information then. The COM replied saying if he could not contact her, he should attend the probation office on 14 October.
27. At around 3.00pm on 12 October, Mr Kerr attended the Stockton on Tees Probation Centre. Reception staff wrongly told Mr Kerr that his COM was not in the office, took a contact address from him and gave him an appointment for 14 October.
28. Mr Kerr did not attend his probation appointment on 14 October. The COM sent Mr Kerr a letter telling him that she had arranged an appointment for 21 October and reminding him of his licence condition to engage with probation.

Circumstances of Mr Kerr's death

29. On the night of 14 October, Mr Kerr stayed with a friend. The next morning, his friend was unable to wake him.
30. On 18 October, the COM saw on social media that Mr Kerr had died and emailed the police for confirmation.
31. On 19 October, the friend Mr Kerr was staying with called the COM and informed her of Mr Kerr's death.

Post-mortem report

32. The post-mortem report concluded that Mr Kerr died of acute on chronic pyelonephritis (a sudden and severe kidney infection). It said that while chronic drug use did not cause his death it did contribute to it in some way.

Findings

Cause of death

33. Mr Kerr died from a kidney infection. His medical records show that two weeks before his release, prison healthcare staff identified that he might have a problem with his kidneys. However, Mr Kerr refused to have any further tests at the prison and said he would see his community GP after his release. He did not do so.
34. Once released into the community, it is the individual's responsibility to manage their own health care. Mr Kerr chose not to engage with community health care and did not seek any treatment for his kidney condition.
35. We are satisfied that prison healthcare staff notified Mr Kerr's community GP of his care needs and handed over his care when he was released.

Accommodation

36. Staff had identified that Mr Kerr would be homeless on release and correctly made a referral to the local council under the duty to refer scheme. However, the council did not respond. The provision of accommodation is a matter for the council and beyond making relevant referrals, probation staff cannot arrange accommodation.
37. However, Mr Kerr's COM should have made a CRS referral for accommodation in addition. It is unlikely that this would have altered the accommodation situation for Mr Kerr but should nevertheless have been done. We recommend:

The Head of the Stockton-on-Tees Probation Delivery Unit should ensure that staff make CRS accommodation referrals for prisoners facing homelessness.

Susannah Eagle
Deputy Prisons and Probation Ombudsman

April 2023

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

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

T | 020 7633 4100