

**Prisons &
Probation**

Ombudsman
Independent Investigations

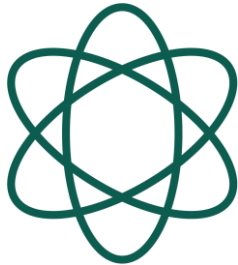
Independent investigation into the death of Mr Karl Foster, on 26 August 2022, following his release from HMP Bullingdon

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 is investigating post-release deaths that occur within 14 days of the prisoner's release.
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 Karl Foster was found dead on 26 August 2022, following his release from HMP Bullingdon ten days earlier. The cause of his death is unascertained. He was 34 years old. I offer my condolences to his family and friends.
5. When Mr Foster was recalled to Bullingdon in April 2022, he told a nurse that he misused drugs and alcohol. A nurse prescribed him diazepam and thiamine for alcohol withdrawal. Mr Foster refused to engage with substance misuse services at Bullingdon despite being found under the influence of psychoactive substances (PS) on many occasions.
6. Mr Foster's community offender manager completed a housing referral to Swindon Borough Council who agreed to house him temporarily in a hotel in Swindon on his release.
7. On 16 August, when he was released from Bullingdon, Mr Foster did not attend his planned meeting at the Swindon Probation Office. He went there the following day with a serious facial injury and told a probation officer that he had fallen over and lost his medication. He was told that temporary hotel accommodation had been arranged for him, but he never checked in.
8. Although Mr Foster's community offender manager had agreed with her supervisor to include drug testing and engagement with community drug and alcohol services as a condition of his licence, this did not happen.
9. On 26 August, a member of the public found Mr Foster's decomposed body near a path behind a recycling facility in Swindon. Police found drug paraphernalia beside his body.
10. The post-mortem report concluded that the cause of Mr Foster's death was unascertained. Post-mortem toxicology tests showed that Mr Foster had used alcohol, methadone, cocaine, cannabis, mirtazapine (an antidepressant), oxycodone (a strong semi-synthetic opioid for pain relief) and pregabalin (used to treat a number of conditions, including opioid withdrawal).

Recommendations

- The Regional Probation Director for the Southwest should ensure that when there is a clear link between substance misuse and offending behaviour, drug testing and engagement with substance misuse services should be included in the licence conditions of those released from custody.

The Investigation Process

11. The PPO investigator obtained copies of relevant extracts from Mr Foster's prison and probation records.
12. We informed HM Coroner for Wiltshire and Swindon of the investigation. He gave us the results of the post-mortem examination. We have sent the Coroner a copy of this report.
13. The Ombudsman's family liaison officer wrote to Mr Foster's father to explain the investigation and to ask if he had any matters he wanted us to consider. He did not respond.
14. We shared the initial report with the Prison Service and the Probation Service. There were no factual inaccuracies.

Background Information

HMP Bullingdon

15. HMP Bullingdon is a local and resettlement prison, serving the courts of Oxfordshire and Berkshire. It holds approximately 1,100 prisoners. Practice Plus Group provides healthcare services and Cotswold Medicare Ltd provides GP services. There is an inpatient healthcare unit, with 24-hour nursing care.

HM Inspectorate of Prisons

16. The most recent inspection of HMP Bullingdon was in November 2022. Inspectors reported that although drugs were still too prevalent, they found some evidence that the prison's drug strategy was effective in reducing the supply and use. Inspectors reported that the capability of the Offender Management Unit (OMU) was significantly constrained by staff vacancies and exacerbated by the regular cross-deployment of prison officers and prison offender managers (POMs). Contact between POMs and prisoners remained poor. Inspectors saw some evidence of effective communication between POMs and community offender managers to manage prisoners' risk on release. Inspectors reported that the resettlement team made appropriate referrals to accommodation providers, but this did not always lead to accommodation being found for those at risk of leaving prison homeless.

Probation Service

17. The Probation Service work with all individuals subject to custodial and community sentences. During imprisonment, they oversee sentence plans to assist in rehabilitation, prepare reports to advise the Parole Board and have links with local partnerships to which they refer people for resettlement services, where appropriate. After release from custody, the probation service supervises people throughout their licence period and post-sentence supervision.

Psychoactive Substances (PS)

18. Psychoactive substances (PS, previously known as 'legal highs') are a problem across the prison estate. They are difficult to detect and can affect people in a number of ways, including increasing heart rate, raising blood pressure, reducing blood supply to the heart and vomiting. Prisoners under the influence of PS can present with marked levels of disinhibition, heightened energy levels, a high tolerance of pain and a potential for violence. Besides emerging evidence of risks to physical health, PS risks precipitating or exacerbating the deterioration of mental health and increases the risk of suicide or self-harm.

Key Events

19. On 22 July 2021, Mr Karl Foster was remanded to HMP High Down. On 24 January 2022, he was convicted of assault, sentenced to 12 months in prison and released on licence due to the time he had already spent in custody.
20. On 28 January, a probation officer was appointed as Mr Foster's community offender manager (COM).
21. Mr Foster's licence was revoked on 10 March and on 6 April, he was recalled to HMP Bullingdon.
22. At his initial health screen, a nurse noted that Mr Foster had anxiety, psychosis and depression. Mr Foster told a substance misuse nurse that he drank 350 units of alcohol a week and a litre of vodka and 10 beers every day. She noted that he had severe alcohol dependence. Mr Foster tested positive for cannabis and told her that he had smoked crack cocaine and heroin the previous day and that twice a week, he bought between £30 and £200 of crack cocaine and heroin. She noted that Mr Foster was homeless and had been 'sofa surfing' before his recall to prison. Mr Foster refused to engage with Inclusion (specialist addiction and psychosocial services).
23. On 7 April, a nurse prescribed Mr Foster diazepam and thiamine for alcohol withdrawal and mirtazapine and olanzapine for anxiety, depression and psychosis. Mr Foster refused to engage with the substance misuse service. A healthcare administrator telephoned the Swindon Community Mental Health Team, who told her that Mr Foster had not seen them for two years. Mr Foster was discharged from the care of the prison's mental health team.
24. On 8 April, a resettlement officer completed Mr Foster's basic custody screen (to identify the issues to prioritise in Mr Foster's resettlement plan). Mr Foster said that he was homeless and needed support with accommodation. She noted that Mr Foster also needed support with education, training and employment and did not have a job in place for when he was released. Mr Foster told her that he did not need substance misuse support but wanted to be referred to the mentoring service.
25. On 27 April, the COM interviewed Mr Foster by video link. She told him that he had been recalled to prison because his attendance at probation appointments was sporadic and she was concerned about his substance misuse. She told him that she was also concerned that he was not taking medication for his mental health issues. Mr Foster told her that he had not used illicit substances every day but had been given drugs and alcohol for free in return for criminal 'favours'. She told him that she would make accommodation referrals for him while he was in custody. She discussed an Education Training and Employment referral to support him in getting a forklift truck licence.
26. On 5 May 2022, the COM referred Mr Foster to Swindon Borough Council to help find him accommodation. (The Homelessness Reduction Act 2017 requires prisons and probation services to refer anyone who is homeless or at risk of becoming homeless within 56 days to a local housing authority.) She highlighted his history of homelessness, mental health issues and substance misuse. She said that Swindon

Borough Council agreed to support him on release and to provide temporary accommodation due to his complex mental health issues.

27. On 17 May, Mr Foster had an appointment with the Commissioned Rehabilitative Services (part of the Ministry of Justice which provide support services, including help in finding accommodation).
28. Mr Foster was found under the influence of PS on 2, 5 and 6 July, and was monitored closely by healthcare staff.
29. On 7 July, the COM met a senior probation officer to discuss Mr Foster's needs. They agreed that post-release accommodation for Mr Foster was the top priority and she confirmed that she had already referred Mr Foster to the local authority to find him accommodation. They agreed that Mr Foster's offending was linked to alcohol use and his poor mental health. The COM told the senior probation officer that she would find out if Mr Foster was engaging with the inreach team and if he had been referred to the community drug and alcohol service. She agreed to include drug testing and engagement with community drug and alcohol services as a condition of his licence.
30. On 9 July, an officer again found Mr Foster under the influence of PS. A nurse saw Mr Foster, who was aggressive and covered in vomit. He arranged for Mr Foster to be reviewed.
31. On 10 July, a nurse saw Mr Foster on the wing. He told her that he had used PS over the last ten days and was in significant debt. She explained the risks of using PS. Mr Foster agreed to a referral to Inclusion.
32. On 13 July, a nurse saw Mr Foster for his Inclusion referral. He told her that he was due to be released so would not engage with Inclusion and signed a withdrawal form. She gave him harm reduction advice and encouraged him to engage with Turning Point (a community drug and alcohol team in Swindon), but Mr Foster declined to do so.
33. On 15 July, an officer spoke to Mr Foster and his cellmate, who told him that they were being threatened because they owed money for PS. The officer noted that there was no capacity to move them elsewhere in the prison and that they would need to self-isolate for the time being.
34. On 16 July, an officer found Mr Foster under the influence of PS. A nurse who assessed him found that he was uncoordinated, slurring his speech and unable to answer questions.
35. On 3 August, an officer found Mr Foster unresponsive on the floor of his cell. It appeared that Mr Foster had again used PS.
36. Before Mr Foster's release from Bullingdon, staff at Swindon Borough Council arranged temporary accommodation for him at a hotel in Swindon.
37. On 16 August, a nurse prescribed Mr Foster olanzapine and mirtazapine for his release. She gave him a discharge letter to give to his community GP. A substance misuse nurse prescribed him naloxone (used to counter the effects of opioid misuse) and training on how to use it.

38. On 16 August, Mr Foster was released on licence from HMP Bullingdon. His licence conditions required him to report at 2.00pm to the Swindon Probation Office. Mr Foster's licence conditions did not require him to engage with community substance misuse services or require him to provide drug tests when instructed.

Post-release

39. Mr Foster did not report to the Swindon Probation Office.
40. The COM said that Mr Foster telephoned the office the following day and as she was not working in the office, she agreed that he should meet her colleague for an initial appointment.
41. At about 3.00pm on 17 August, Mr Foster went to the Swindon Probation Office. He had serious facial injuries and told the COM's colleague that he had fallen over and lost his medication. The colleague was unable to complete the induction paperwork because of Mr Foster's injuries. He told Mr Foster that he had temporary accommodation at a hotel. Mr Foster agreed to go to the hotel later that day but did not check in. He asked for a new probation officer because he was not happy that he had previously been recalled to custody.
42. On 17 August, the senior probation officer told the COM to issue Mr Foster with a first warning because he had failed to comply with the condition of his post-sentence supervision.
43. On 23 August, Mr Foster did not show up for his appointment with the COM. She wrote to him to tell him that he had breached his licence and that he should provide an explanation within five days.

Circumstances of Mr Foster's death

44. At 1.34pm on 26 August, a member of the public found a body near a path behind a recycling facility in Swindon. The body was in a sitting position and had decomposed. Following police enquiries, the body was identified as Mr Foster's. A cannabis grinder was found on the ground next to him. And a bag was found nearby which contained a Probation Service letter addressed to Mr Foster, £115 in cash, a crack pipe, lighters and tobacco. The police concluded that the death was unexplained but not suspicious. Staff at the recycling facility told the police that the location was often used for drug-taking, and they had previously asked the Council to remove needles from the area.

Post-mortem report

45. The post-mortem report concluded that the cause of Mr Foster's death was unascertained.
46. Post-mortem toxicology tests showed that Mr Foster had used alcohol, mirtazapine, methadone, oxycodone (a strong semi-synthetic opioid for pain relief), tetrahydrocannabinol (the principal psychoactive constituent of cannabis), pregabalin (a medication used to treat a number of conditions, including opioid withdrawal) and cocaine.

47. A pathologist concluded that the levels of the drugs found in Mr Foster indicated therapeutic and recreational use but that the toxicological assessment could have been confounded by the advanced decomposition of Mr Foster's body.

Contact with Mr Foster's family

48. The police informed Mr Foster's father of his death.

Support for staff

49. After Mr Foster's death, the senior probation officer reminded the COM of the Probation Support services that were available.

Findings

Substance misuse services

50. We are satisfied that Mr Foster was appropriately assessed by a substance misuse nurse. Mr Foster refused to engage with substance misuse services and signed a disclaimer to that effect.
51. Mr Foster's COM identified that Mr Foster's offending was linked to his substance misuse, and she agreed to include drug testing and engagement with community drug and alcohol services as a condition of his licence. However, there is no reference to this in Mr Foster's licence conditions, other than a condition that he should participate in activities in line with his supervisor's instructions. Given Mr Foster's history of substance misuse and that it was a significant and ongoing issue for him, we would have expected a specific licence condition to address this. We make the following recommendation:

The Regional Probation Director for the Southwest should ensure that when there is a clear link between substance misuse and offending behaviour, drug testing and engagement with substance misuse services should be included in the licence conditions of those released from custody.

Issues to highlight outside of our remit

52. Homelessness on release from prison is a significant and complex challenge. Mr Foster told a nurse at Bullingdon that he was homeless before he was recalled to prison. Mr Foster's COM appropriately referred him to Swindon Borough Council who arranged temporary post-release accommodation in a hotel for him. We do not know where Mr Foster stayed following his release, but he did not stay in his temporary hotel accommodation, and it is likely that he died soon after his release.
53. While we recognise that the local authority found emergency temporary accommodation for Mr Foster which would have prevented him from immediate homelessness on release, in practice, Mr Foster did not use the accommodation.
54. We are concerned that like many leaving prison, Mr Foster had significant vulnerabilities: significant substance misuse, poor mental health and the risk of homelessness. He did not engage with substance misuse services or mental health services in the community.
55. The provision of suitable and longer-term accommodation for people leaving prison, particularly for those with complex vulnerabilities, risks and needs, is an issue that extends beyond the remit of HMP Bullingdon or local probation services, and the Department for Levelling Up, Housing and Communities and the local authority may want to be aware of the issues raised in this case.

Inquest

56. The inquest held on 15 September 2023, concluded that it was not possible to reveal a cause of death.

Kimberley Bingham
Acting Prisons and Probation Ombudsman

September 2023

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