

**Prisons &
Probation**

Ombudsman
Independent Investigations

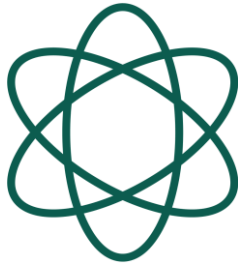
Independent investigation into the death of Mr Adam Herbert on 27 December 2022, following his release from HMP Leicester

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

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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 detained people in immigration centres.
2. If my office is to best assist His Majesty's Prison and Probation Service (HMPPS) in ensuring the standard of care received by those within service remit is appropriate, our recommendations should be focused, evidenced and viable. This is especially the case if there is evidence of systemic failure.
3. Since 6 September 2021, the PPO has been investigating post-release deaths that occur within 14 days of the person's release from prison.
4. Mr Adam Herbert died from a drug overdose on 27 December 2022, following his release from HMP Leicester on 22 December. He was 28 years old. We offer our condolences to his family and friends.
5. Mr Herbert had a long history of substance misuse. The day after he was released from Leicester, he collapsed from a drug overdose (which included opiate drugs) and was taken to hospital where he died four days later.
6. We found that Mr Herbert received a good level of support from his community offender manager and that pre-release planning was good. We make no recommendations.
7. We note, however, that Mr Herbert was not offered naloxone (a medication that rapidly reverses the effects of an opiate overdose) before his release, despite his history of substance misuse. The prison offers naloxone only to prisoners currently on an opiate replacement programme (which Mr Herbert was not). Leicester may wish to consider expanding the offer of naloxone to include those with a history of substance misuse as they too could benefit.

The Investigation Process

8. HMPPS notified us of Mr Herbert's death on 4 January 2023.
9. The PPO investigator obtained copies of relevant extracts from Mr Herbert's prison and probation records.
10. We informed HM Coroner for Rutland and North Leicestershire of the investigation. She gave us the cause of death. We have sent the Coroner a copy of this report.
11. The Ombudsman's family liaison officer contacted Mr Herbert's next of kin, his sister, to explain the investigation and to ask if she had any matters she wanted us to consider. She did not have any questions but asked for a copy of our report.
12. The initial report was shared with Mr Herbert's sister. She did not make any comments.
13. The initial report was shared with HM Prison and Probation Service (HMPPS). HMPPS found no factual inaccuracies.

Background Information

HMP Leicester

14. HMP Leicester is a local prison that holds up to 348 men and serves the courts of Leicester and Leicestershire. It has a very high turn-over in its population with many prisoners serving short sentences, and with over 40 men released into the community each month. Nottinghamshire Healthcare NHS Foundation Trust provides 24-hour healthcare and substance misuse services (SMS) at the prison.

HM Inspectorate of Prisons

15. In February 2023, HMIP made their first full inspection of Leicester in five years. They found that the prison was doing its best in difficult circumstances. They said that outcomes for rehabilitation and release planning remained reasonably good. Inspectors found that for prisoners with substance misuse issues, the prison sought to link them with appropriate community services and gave them information and advice on avoiding overdose and injuries post-release, along with medication or a prescription on leaving the prison.

Probation Service

16. The Probation Service work 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. They have links with local partnerships to whom, where appropriate, they refer people for resettlement services. Post-release, the Probation Service supervise people throughout their licence period and post-sentence supervision.

HM Inspectorate of Probation

17. HM Inspectorate of Probation carried out an inspection of Leicester, Leicestershire and Rutland Probation Services in November and December 2022. Inspectors gave the service an overall rating of inadequate. They said that in too many cases, there was insufficient contact by community offender managers with prisoners prior to release from prison. They also said there was insufficient resettlement work, support plans and risk planning by them before release.

Key Events

18. On 19 August 2022, Mr Adam Herbert was released from prison on post-sentence supervision (PSS), having fully completed his sentence. (Normally only half the sentence is served in prison with the other half served under licence in the community. However, Mr Herbert had been recalled to prison after breaching his licence conditions and served the rest of his sentence in prison.) PSS enforces a supervision period to help with the offender's rehabilitation after they leave prison. The offender must comply with a number of PSS requirements. Failure to comply would count as a breach and could result in them being returned to prison for up to 14 days.
19. Despite Mr Herbert not always being compliant with his PSS requirements, his community offender manager (COM) developed a good working relationship with him and arranged three-way meetings with him and the community substance misuse service (SMS) to help him address his issues (he had a long history of substance misuse).
20. However, from November, Mr Herbert stopped contact with his COM and failed to respond to warning letters. He had also admitted to his COM that he had relapsed into drug use. This, together with pending further criminal matters awaiting a court hearing, resulted in the Probation Service asking for Mr Herbert to be recalled to prison for breaching his PSS. On 9 December, he was sent to HMP Leicester for 14 days, with court dates for the further offences set for January 2023.
21. When Mr Herbert arrived at Leicester, he said that he was not using drugs, despite signs of withdrawal (he told staff he had flu) and refused to engage with the SMS there. As he was not under the care of the SMS, he was not issued with naloxone (a medicine that rapidly reverses the effects of opioid overdose) on his release.

Pre-release planning

22. Mr Herbert's COM maintained contact with him in prison and on 14 December spoke to him by video link to explain what to do on the day he was released. She also made arrangements with him for his next three appointments with the Probation Service.
23. On 15 December, the resettlement team at Leicester contacted Mr Herbert's COM about accommodation for him when he left prison. He did not have a fixed address before he went into prison, and the COM said that although there were outstanding applications for accommodation for Mr Herbert, his previous non-compliance and refusal to engage with organisations that could help him, were a barrier to sourcing accommodation for him.
24. On 16 December, the prison resettlement team notified the local Job Centre of Mr Herbert's impending release so that he would be able to access money and arranged for him to attend on the day of his release.
25. On 22 December, Mr Herbert was released from prison.

Post-release

26. On the day of his release, Mr Herbert was over two hours late for his probation appointment. He told probation staff that he got held up at the Job Centre where he went first. He said that he had been using drugs before going to prison but did not want to return to that behaviour. He said that he wanted help with accommodation and a member of staff at the probation office advised him to register as homeless with the council that day. It is not known if he contacted them.

Circumstances of Mr Herbert's death

27. On 23 December, the day after his release from prison, Mr Herbert collapsed after taking illicit drugs and was taken to hospital. He did not recover and died in hospital on 27 December.

Cause of death

28. There was no post-mortem examination in this case as the coroner accepted the cause of death given by the hospital. The hospital gave Mr Herbert's death as hypoxic brain injury (a lack of oxygen to the brain), which was caused by a cardiac arrest (the sudden stopping of the heart), which was caused by an illicit drug overdose. Blood samples taken by the hospital showed that Mr Herbert had taken opiates, cocaine and pregabalin (a medication that Mr Herbert was prescribed but which is frequently misused as it increases euphoric effects of opiates).

Inquest

29. At the inquest, held on 3 January 2023, the coroner concluded that Mr Herbert's death was drug related.

Findings

30. Mr Herbert was a very challenging person to manage, with a long history of offending mixed with substance misuse. He often refused to engage with services and his previous lack of engagement with housing services made it difficult for him to receive stable accommodation. He also did not engage with the prison SMS in December and said that he had not been taking drugs prior to entering Leicester despite signs to the contrary.
31. Mr Herbert's COM managed his risk well and was beginning to establish a working relationship with him in the months before his death. She was alert to his problems and risks, and liaised with the community SMS and police, and there was little more that either the prison or probation services could have done to prevent his death.

Other learning

Naloxone

32. Opiate drugs were among the drugs that caused Mr Herbert's death. Naloxone is a medication that can rapidly reverse the effects of an opiate overdose, but it was not offered to Mr Herbert before his release. The prison told us that only prisoners currently on an opiate replacement (such as methadone) programme were offered naloxone before release. As Mr Herbert refused to engage with SMS at Leicester, he did not meet the prison's criteria for an offer of naloxone.
33. We make no recommendations but suggest that Leicester considers whether they should expand the offer of naloxone to prisoners like Mr Herbert, who have a known history of substance misuse but who are not currently under the care of SMS, as they too could benefit from receiving naloxone on release from prison.

Adrian Usher
Prisons and Probation Ombudsman

September 2023

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