Investigation into the circumstances surrounding the death of a man, a resident at an Approved Premises, at a local hospital in November 2008

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, who died in November 2008 at hospital whilst a resident at an Approved Premises. He had been a resident at the Approved Premises for five months. The man had been diagnosed with bowel cancer and transferred to hospital the day before he died. He was 64 years old.

I offer my sincere condolences to those touched by his death, especially his family and friends and the staff at the Approved Premises.

The investigation was undertaken by one of my investigators. A review of the man's healthcare whilst at the Approved Premises was commissioned from the local Primary Care Trust (PCT). I am grateful to the appointed doctor for completing the review. I would also like to thank the manager of the Approved Premises and her staff for their help and assistance.

I make one recommendation to the National Offender Management Service regarding the Multi Agency Public Protection Arrangements for terminally ill residents. I note two points of good practice to the Chief Officer of the Probation Area. There is one housekeeping point for the manager of the Approved Premises regarding the recording of next of kin details.

The HM Coroner has been informed of my investigation. One of the Coroner's Officers has told my investigator that an inquest would not be held into the man death.

In this final version of my report I note the response from the MAPPA policy unit in reference to the recommendation for terminally ill residents. The housekeeping point has been turned into a recommendation, at the request of the Approved Premises National Unit, and the recommendation as been accepted. The man's family have not commented on the report.

Stephen Shaw CBE
Prisons and Probation Ombudsman **April 2009**

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SUMMARY

The man entered the Approved Premises on 26 June 2008 as a temporary resident. He had previously been living in another area and was subject of supervision by the Probation Service for breaching licence conditions under a Notification Order of the Sexual Offences Act 2003.

The man had been unable to attend religious services following a decision by the Jewish community in the area where he had previously lived, that his offences made it unacceptable for him to practise his faith in the city. As a result, the man wished to move area's. He had been turned down for two accommodation places before arriving at the Approved Premises on 26 June 2008.

Whilst still in the area where he previously lived, the man's doctor had referred him to hospital for medical investigations for suspected bowel cancer. This was not reported by the man to his then probation officer, when she took over his case. Nevertheless, his new doctor in the area where he relocated, referred him to the local hospital when he became aware of the man's medical history.

He attended the hospital on 30 July, and as a result of medical investigations was diagnosed with bowel cancer. Following a short stay in hospital on 20 August to treat anaemia, the man had a surgical procedure to remove part of his bowel a week later. On discharge from hospital he returned to the Approved Premises.

A voluntary Jewish organisation worked with the probation officer to offer support and access to religious services for the man. He was subject of Multi Agency Public Protection Arrangements at level three. (MAPPA level three offenders have committed an offence indicating they are capable of causing serious harm to the public.) Category 1 (Registered Sexual Offenders) MAPPA offenders are managed by the police in relation to the notification requirements and also by the Probation Service where they are subject to a Community Order or a licence. The level of management the offender requires in the community is assessed and agreed through a multi-agency MAPPA meeting. The man was assessed as requiring the highest level of management, level 3.

On 20 October 2008, the man was admitted to hospital with a blood infection. The probation officer notified the hospital of the conditions of the man's licence and made them aware of public protection issues. She also made contact with the hospital social worker so that assessments could be made of his physical condition and support needs, ready for his discharge. The man returned to the Approved Premises on 4 November. An en suite room was allocated to him to allow him privacy with his personal hygiene needs, taking into account his medical condition.

In the early hours of 22 November, the man saw a member of the night staff at the Approved Premises and told them he was unwell. An ambulance was

called and he was admitted to a local hospital. He was later transferred to the another hospital due to his deteriorating condition. The next day the hospital made enquiries with the Approved Premises to trace his next of kin. After a search of his room and Probation Service files, a community care worker from the area where he previously lived, was identified and this information was passed to hospital staff.

The man’s care worker telephoned the Approved Premises at 2.40pm on 23 November to inform them that the man had died in hospital.

THE INVESTIGATION PROCESS

1. On 25 November 2008, the Ombudsman's terms of reference and notices of investigation were sent to the Approved Premises. My investigator spoke to the Approved Premises Manager to arrange a visit to the premises.

2. On 12 December, my investigator spoke to the associate medical director of the Primary Care Trust. The associate medical director agreed to carry out a clinical review into the man's medical care whilst he was resident at the Approved Premises.

3. My investigator visited the Approved Premises on 19 December, and spoke to the man's key worker, and toured the premises. She saw his room and communal areas. Later, she received a telephone call from the man's probation officer.

4. On of my family liaison officers has been in contact with the man's brother in law. He has not raised any issues in relation to this investigation. My family liaison officer has maintained contact with him and will send him a copy of my report.

THE APPROVED PREMISES

5. The Approved Premises was built in the 1960s as a children's home, but was purchased in the 1970s by the Probation Service and is one of seven approved premises in that probation area. Six of the premises accommodate adult men, whilst the seventh houses women. The purpose of an Approved Premises is to provide an enhanced level of residential supervision in the community in a supportive and structured environment.

6. The Approved Premises is a 29 bed building. It is also a specialist approved premises, accepting offenders with psychiatric disorders.

7. The residents at the Approved Premises are men aged 18 years and over who are on bail, subject to community orders, or subject to licence after being released from a prison sentence. Offenders in the latter category currently make up approximately 70 per cent of the population.

8. Approved Premises offer a way of managing in the community those offenders assessed as being of high risk. The Approved Premises works closely with other agencies and organisations such as the police and local community drug teams. Each resident is subject to conditions within their court order or licence that enable staff to monitor and manage their behaviour. The supervision of order and licence conditions is of great importance to ensure protection of the public. Residents are also subject to rules which include a curfew from 11.00pm to 7.00am. If a resident breaches the rules his bed space could be withdrawn. Action would also be taken, as the offender would then be unable to comply with the residence condition which is part of the court order or licence.

9. The staffing profile at the Approved Premises is made up of the Manager who is a senior probation officer (SPO), one probation officer (PO), four assistant managers, two weekend supervisors, five night supervisors and one approved premises administration officer. There is always a minimum of two staff within the approved premises, 24 hours a day. Out of normal office hours, an SPO is always on call. The Approved Premises also has the benefit of a full-time community psychiatric nurse (CPN) based in the hostel. Other mental health support staff, as well as three consultant psychiatrists, regularly visit to see individual residents under their care.

10. On reception into the Approved Premises, residents receive an induction. They are told about the local house rules and the behaviour expected of them. Each resident is assigned a key worker. The key worker's role is to provide one-to-one sessions underpinned by objectives outlined in the sentence plan. The key worker also acts as a

link between the resident, the approved premises PO, and the resident’s offender manager. The offender manager is responsible for assessing an offender’s risks and needs, planning how a sentence will be organised, and deciding what activities need to be carried out and how they will be delivered. They are also responsible for reviewing the offender’s progress against their sentence plan and for adjusting the plan in the light of changing circumstances. Residents are required to maintain regular contact with the key worker, approved premises PO and the offender manager.

KEY FINDINGS

11. The man was 64 years old when he died. He was estranged from his wife and family, but had some contact with a community care worker who was also a family friend. He was self-employed, selling toys and stationery to markets and fairs.

12. On 27 February 2006, the man was sentenced to three years probation supervision for breach of a Notification Order of the Sexual Offences Act 2003. He was subject to management through Multi-Agency Public Protection Arrangements (MAPPA) at level three. (Level three offenders pose the greatest risk, and their supervision is overseen by a multi-agency panel. A MAPPA meeting has members from the probation service, police, prison service and other organisations.)

13. The man lived at an address in one area until June 2008 when he made his probation officer aware that he intended to move into another area. He wanted to relocate as he was unable to practise his Jewish faith where he was residing, due to the community having knowledge of his offences. He found accommodation in the new area, but this was withdrawn by the landlord shortly after he placed a deposit on the flat. Further accommodation was sought and he gave his supervising probation officer another address in the new area. This address was deemed inappropriate by the police due to its location and concern about public protection issues.

14. A MAPPA panel met to discuss the man's accommodation difficulties. The panel was hesitant to accept the referral from the orginating Probation Area until all information on his transfer was completed.

15. On 26 June, the man was accepted by the new Probation Area and placed in hostel accommodation. It was noted in his probation case notes that he had been a frequent visitor to the new area from where he was originally residing to attend religious services at a synagogue. It was further recorded that he had been travelling to the new area without the knowledge of the local MAPPA panel, and that this raised concerns. A probation officer was allocated as the man's supervising officer.

16. A social worker from a voluntary Jewish organisation made contact with the probation officer on 30 June. Issues concerning the extent the man could worship at a local synagogue and be part of the Jewish community were discussed to ensure public protection issues would not be compromised. Three rabbis were told of his wish to be part of the community and attend religious services. Some concerns were raised by the rabbis in relation to his previous offending behaviour and any perceived implications should this become knowledge within the Jewish community in the new area.

17. A local doctor's practice made contact with the man's former doctor in the originating area. The doctor's practice requested information on his medical history as they had not yet received the transfer of his medical notes. The doctor in the originating area indicated that the man had recently lost weight and was anaemic. A referral had been made to a hospital in the originating area to investigate the possibility of bowel cancer. (The man had not informed staff and the Approved Premises or his new probation officer that he was unwell.)

18. On 7 July 2008, a successful application was made to the Magistrates Court to transfer the man's place of residency and for him to be supervised by the new Probation Area. The probation officer contacted one of the rabbis to find a suitable place of worship for him and to ask if there was any appropriate accommodation for him through the Jewish community. Four days later, the man's doctor referred him to hospital for urgent medical investigations.

19. The man attended an outpatient appointment on 18 July. Twelve days later, he attended the hospital for a colonoscopy. (A colonoscopy is an examination of the bowel using a small camera via the anus.) The probation officer in the man's probation notes that enquiries for accommodation were still being made with community housing associations. The following day, he attended the same hospital for a computerised tomography (CT) scan. (A CT scan is an x-ray procedure that takes images of the whole body.)

20. On 5 August, the man attended the hospital for the results of his tests and was told he had cancer. He was also told he would need an operation once his iron levels were increased. Two further CT scans were booked for the following week. He was offered support from his case worker when he returned to the Approved Premises and told him of his diagnosis.

21. The probation officer saw the man on 14 August. She noted that he had been diagnosed with bowel cancer and an operation for a colostomy/iliostomy would be likely. (A colostomy/iliostomy is a surgical procedure where part or the entire bowel is removed, and a stoma bag is externally sited, attached to the stomach area, to store bodily waste.)

22. On 20 August**,** the man was discharged from hospital after a short stay to treat his anaemia. Six days later, he returned to the hospital for a CT scan. On 27 August, he was admitted to hospital for his colostomy. The social worker from the voluntary Jewish organisation arranged for a hospital visitor to visit him. A week later, he was discharged from hospital and returned to the Approved Premises. He was told by hospital staff not to drive until they advised him he could do so.

23. The following day, the keyworker noted that the man was having a few problems with his stoma bag, and arrangements were made with the

catering manager for him to receive a kosher diet until he was well enough to cater for himself. The keyworker further noted that on 16 September, following a visit by a specialist nurse, the man was advised about the disposal of his stoma bags. The keyworker also spoke to the man about the importance of keeping himself and his room to an acceptable standard of cleanliness.

24. On 25 September, a MAPPA level three meeting was held to discuss the man's progress. The panel agreed that he should stay at level three. Four days later, the probation officer and the Approved Premises manager met with the man to inform him of the panel's decision and talk about any concerns. Notes from that meeting indicate that he was becoming more demanding. The probation officer told the man that the voluntary Jewish organisation was working to help him access religious services, and that he should not have contact directly with the community. She assured him that she and the social worker from the voluntary Jewish organisation, would continue to explore what services his community could provide. He was also advised to take more care of himself whilst undergoing medical treatment for his cancer.

25. The man saw a consultant oncologist on 30 September. Discussion took place over him receiving further chemotherapy (a treatment for cancer). It was agreed with him that he would start a three month course of the medication.

26. The probation officer prepared a warning letter to the man on 3 October as he had failed to give her details of his motor vehicle and addresses other than the Approved Premises where mail had been sent to him. Three days later, he provided the information to the probation officer. On 9 October, the man was chaperoned to a synagogue for a Jewish festival.

27. Three days later, the man told a member of the Approved Premises staff that he was feeling unwell with a fever and headache. The staff member telephoned NHS Direct (a telephone service for medical advice) and was advised that the man should take paracetamol and plenty of fluids. He said he felt much better a few hours later. On 15 October, he attended hospital for a CT scan. His probation notes record that he looked unwell and had been suffering with a bad cold.

28. The man was admitted to the hospital with a blood infection on 20 October. The probation officer spoke to hospital staff in confidence to alert them to public protection issues. He was placed in a side room on the critical care unit. A week later, the probation officer visited him in hospital. She noted that he seemed not to accept his present situation. The probation officer later spoke to a staff nurse who told her that the man was very unwell. She was concerned he did not fully understand his situation and seemed unwilling to listen to advice.

29. Whilst at the hospital, the probation officer spoke to the hospital's senior social worker to update her on the man's physical illness and the conditions of his probation licence.

30. On 29 October, the hospital social worker contacted the probation officer as there was concern that the man insisted on leaving his room and going to the ward day room where patients and their families were present. It was agreed that he would be told he could not leave his own side room. The probation officer was also told that he would be discharged from hospital soon. The hospital social worker said she would try and speed up his assessments. The probaiton officer was concerned by this news as the Approved Premises no longer had a place for him. Later, the probation officer spoke to the man and assured him that he would not be discharged until he was well enough, and that accommodation would be found for him.

31. The man was discharged from hospital on 4 November and returned to the Approved Premises as a room had in fact been found for him there. He was allocated accommodation on the first floor that had en suite facilities. The en suite room allowed him greater privacy for using the toilet and bathing. (The room was usually used by night duty staff.) On 19 November, the probation officer recorded in his probation notes that she was still pursuing more appropriate accommodation for him. The next day, the man was seen by his doctor for a review of his medical condition. He told the doctor he was starting his chemotherapy in a week's time.

32. At 4.30am on 22 November, the man approached a member of the night duty staff to say he was feeling unwell. He asked for a doctor. The staff member noted his physical condition and called an ambulance. On the arrival of the paramedics it was agreed that he should be transferred to hospital. At 4.30pm that day, he was moved to the high dependency unit at another hospital. A member of the hospital staff contacted the Approved Premises for details of his next of kin. Information from the man's personal file gave the name of a solicitor in the area where he had previously resided, but no telephone number. This was passed onto hospital staff.

33. At 10.30am the next day, a staff nurse contacted the Approved Premises for any more information on the man's next of kin. He had developed pneumonia and was very ill which meant that the information was now urgent. A phone number for the solicitors in the area where he previously resided had been found, but when it was tried it went to direct to an answer machine. Further searches on computer systems by the Approved Premises staff found the name of a care worker but no telephone number. Staff then searched the man's room and found an envelope with the care workers contact details. Staff telephoned the care worker and left a message on his answer machine. This was also passed to hospital staff.

34. At 12.35pm, the care worker telephoned the Approved Premises and spoke to a member of staff. The care worker said he had been in contact with the hospital and arranged for a rabbi to visit the man. He also informed the staff member of contact details for the man's brother in law. Later, the care worker again contacted the approved premises and said that a distant relative was on his way to the hospital. He had also spoken to the man's former wife and his sister. At this stage, they did not want direct contact.

35. The care worker made contact with the Approved Premises at 2.40pm to inform staff that the man had died. He asked if his property could be retained at the Approved Premises until religious rites would allow it to be collected. This was agreed and the care worker thanked the approved premises staff for their help.

36. Residents at the approved premises were informed of the man's death the following day by a duty officer. They were offered any support they might need. A funeral service for him took place on 24 November, attended by the probation officer and the Approved Premises manager.

37. It is noted in the clinical review that the man died of bronchopneumonia secondary to his bowel cancer.

ISSUES

The man's placement in the Approved Premises

38. The man wanted to move from private rented accommodation in the area that he was residing to a new area so he could access religious services after being told he would not be welcomed by the Jewish community were he was. He found accommodation in the new area but this was withdrawn by the landlord. He then identified alternative accommodation but, when this accommodation was checked by police, it was deemed unsuitable due to its location near to services accessed by children and families.

39. An approved premises place was then found on what was supposed to be a temporary basis. The man's probation supervision was transferred to the new Probation Area and the probation officer was allocated as his supervising officer. The probation officer kept regular supervision sessions with the man and monitored his movements. She also liaised with the voluntary Jewish organisation. The organisation consistently supported the man and acted as a point of contact between him and the local Jewish community. Volunteers were identified to accompany the man to religious services.

40. The probation officer and the voluntary Jewish organisation tried to find appropriate and suitable accommodation for the man. This was particularly difficult taking into account his offending behaviour patterns, lack of understanding of his licence conditions, and health problems. The probation officer recorded in his probation records that he would often try to make contact with the local Jewish community despite being asked not to do so. He also failed to give information on his motor vehicle and addresses to where he was receiving mail. She wrote him a warning letter as a consequence.

41. The lack of accommodation for physically unwell offenders under supervision is a concern. The clinical reviewer notes in his report of the man's medical care that the Approved Premises did not have the resources to support a terminally ill resident. It was not a suitable place for a patient that required a 'Care of the Dying Pathway'. (The Pathway provides guidelines and plans for the care of a dying person, irrespective of their diagnosis.) The man's condition had deteriorated rapidly with the onset of pneumonia. Up to that point, he had been mobile, mentally active and independent. Had his condition not deteriorated so rapidly, there may have been time to organise planned palliative care for him. The clinical reviewer makes a recommendation in relation to the care of terminally ill residents which I endorse.

The National Offender Management Service should consider involving Social Services and Health Services in a multi-disciplinary approach to residents who are subject to Multi

Agency Public Protection Arrangements and who are terminally ill.

42. The staff at the Approved Premises supported the man and assisted him when he became ill. On his discharge from hospital they arranged for him to have an en suite room for privacy with his personal hygiene. Whilst the approved premises does not have fully trained staff to cater for physically ill residents, they undertook this role and cared for the man to the best of their ability. I commend the probation officer and the staff at the Approved Premises for the help, care and assistance provided for the man. The night duty officer on 22 November acted responsibility in calling an ambulance when he approached him asking to see a doctor. I particularly note the good practice of liaising so closely with the voluntary Jewish organisation. This not only respected his faith, but ensured that the community were given greater protection.

Next of kin details

43. The man was admitted to hospital on 22 November after being unwell at the Approved Premises. Within several hours his condition deteriorated and the hospital contacted the approved premises for details of his next of kin. From his probation records, next of kin details were difficult to find, and no actual confirmed next of kin with full contact details could be identified. It was not until the following day that his relatives could be traced.

44. The man had previously been in hospital and was receiving treatment for a terminal illness. An up to date record of his next of kin details would have been useful before he started his treatment so that this information was available in an emergency.

Manager of the Approved Premises will wish to ensure that all residents have next of kin details regularly updated on their residential files. The Chief Officer of the Probation Area may wish to share that advice with his other approved premises.

Conclusion

46. The man died in hospital from natural causes.

47. My investigation has drawn attention to some good practice on the part of the man's probation officer and the staff of the Approved Premises, and I would be grateful if that finding could be shared with them. It has also reflected the challenge of finding appropriate accommodation for offenders who are judged a risk to the public but who also have serious healthcare problems.

RECOMMENDATIONS

The National Offender Management Service

The National Offender Management Service should consider involving Social Services and Health Services in a multi-disciplinary approach to residents who are subject to Multi Agency Public Protection Arrangements and who are terminally ill.

Noted by the Probation Area – This recommendation is relevant to the National Offender Management Service, Public Protection Unit and the entire Approved Premises estate.

Response from the MAPPA policy unit said - “The MAPPA Guidance sets KPIs for areas to meet, one of which requires areas to measure the attendance of agencies who were invited to meetings and identify those who did not. The area should address locally the issue where agencies fail to attend and this affects the effectiveness of MAPPA information sharing and management. So this issue is already covered by the legislation and existing MAPPA Guidance. It is an issue for the area regarding who was or was not invited the MAPP level 3 meetings and whether those invited did attend?”

The Manager of the Approved Premises

All residents at the Approved Premises should have next of kin details regularly updated on their residential files.

Accepted - Next of kin details are routinely maintained by the Probation Area Approved Premises division following a recommendation in an earlier Prison and Probation Ombudsman’s report. Unfortunately the man had been estranged from his family and had been reluctant to provide details of his next of kin. Whilst this is not unusual for residents of Approved Premises, the need to make all efforts to secure next of kin details in every case is noted and will be persued across the division.”

Good Practice

I commend the probation officer and the staff at the approved premises for the help, care and assistance offered to the man.

Accepted – “A letter commending the practice of both the probation officer and the staff at the Approved Premises has been sent in recognition of the comments made by my investigator.”

I recognise the good practice of liaising with the voluntary Jewish organisation in supporting the man.