

INSIDE ISSUES

Winter 2016



Prisoner Ombudsman's Update

The process of placing the office on a statutory footing continues. The legislation (Justice Act ([NI] 2016) received royal assent on 12th May 2016 and supporting regulations are currently being drafted by the Department of Justice.

In November 2016 I gave evidence to the Committee for Health about two reports that we recently published. This is the first time that my office has been invited to brief the Health Committee and it is encouraging that MLAs are taking an interest in prisoners' wellbeing. I also gave evidence to the Committee for Justice about the same reports in October 2016.

A prisoner was recently advised by his legal representative that the NIPS is compelled to accept and implement Prisoner Ombudsman recommendations. This advice was provided as part of a judicial review which he was taking. It was based on *"Re JR 55s Application UKSC22 at (20) per Lord Sumpton considering the NI Commissioner for Complaints."*

However JR55 concerned a recommendation made against an individual, rather than a public body; and the advice failed to quote the relevant judgement in its entirety. It has been confirmed to my office that our recommendations are not legally enforceable per se. The only basis upon which they could be "enforceable" might be where the public body (NIPS) has acted irrationally in rejecting them.

REMEMBER – YOU CAN ESCALATE YOUR COMPLAINT TO US IF YOUR STAGE 2 RESPONSE IS OVERDUE

FREephone 0800 783 6317

Please call and advise that your response is overdue, or leave a message stating your name and the NIPS complaint reference number and we will progress

In addition to regularly visiting each of the prisons here, I meet with other bodies that are concerned with imprisonment. Recent meetings have included the Northern Ireland Assembly Ombudsman, Criminal Justice Inspectorate, International Committee of the Red Cross, South Eastern Health & Social care Trust, British-Irish Intergovernmental Secretariat and the Regulation & Quality Improvement Authority. I also met the Republic of Ireland's Ombudsman as he wanted to learn about our processes for independent investigation of prisoners' complaints - they do not currently have such arrangements.

Staff changes have continued in our office since Summer 2016. New appointees are: Kieron Moore as Director of Operations, Maureen Erne as Senior Investigator for Deaths in Custody, Chris McCafferty and Eamon Rooney as Investigators and Derek Keilty as Complaints Officer.

George Richardson has retired and Clare McVeigh transferred to the core DoJ.

I will retire from the Prisoner Ombudsman post in May 2017 so this is my last edition of Inside Issues. I would like to wish you all well in the future.

Tom McGonigle.

Ordering clothes to Magilligan

Mr A complained about not being able to order clothes to Magilligan from the M&M catalogue.

Magilligan's response suggested he could have a clothes parcel sent in. However he did not have anyone who could send him a clothes parcel; and the Stage 2 response did not indicate any further attempt to deal with his complaint.

We found the NIPS previously operated a system for prisoners to order clothes from the M&M catalogue, but M&M changed their system to on-line catalogues and ordering in October 2015. Maghaberry Prison had reviewed their ordering system in early 2016 as a result of the change and allowed prisoners to access the on-line catalogue and order clothing. However Magilligan had not reviewed its system by Autumn 2016, but said they hoped to do so in early 2017.

We upheld Mr A's complaint on the basis that the M&M catalogue had not been available for a year and a new process should have been implemented sooner, especially for prisoners like him who were unable to receive clothing from visitors. We recommended the NIPS should meet with Mr A to discuss his clothing needs; and if he had urgent requirements that could not wait, then a temporary means of enabling him to order essential items should be put in place.

Missing Property

Mr B complained about missing property - new clothing - which had been handed into Maghaberry reception in December 2015. It had been signed for by Reception staff but subsequently gone missing. Mr B complained at the time and submitted a claim form. However his claim was also lost and the fact that he was later transferred to Magilligan made it more difficult to pursue the matter.

Mr B was then transferred to a prison in England, and contacted my office in August 2016 as he still had not heard anything further about his missing property. We traced the original receipt of goods in Maghaberry and recommended that Mr B should submit a new claim to the NIPS. There were no purchase receipts to verify the clothes' value. **In November 2016 the NIPS offered Mr B an ex-gratia payment** pending production of further receipts or information. The offer is currently with Mr B for consideration.



DID YOU KNOW?

The Bromley Briefing is published by the Prison Reform Trust each year and provides some useful information about prisons throughout the UK, including Northern Ireland. The following facts about imprisonment here are taken from the Autumn 2016 edition:

- On 18 November 2016 the total population of people in custody in Northern Ireland stood at 1,530—55 fewer than the previous year.
- The number of people entering prison continues to fall, with 4,757 receptions during 2015—3% fewer than the year before.
- However, the number of people entering prison for fine default is once again on the rise. Numbers had initially fallen following a Judicial Review, but 456 people went to prison in 2015 for failure to pay a fine - up from 139 in 2014.
- On 18 November 2016 there were 53 women in prison in Northern Ireland.
- Women accounted for 7% of receptions into prison in 2015.
- 9% of the prison population are foreign nationals. Nearly two-thirds (63%) of them are on remand
- The imprisonment rate for Northern Ireland is 80 per 100,000 of the population. England and Wales have a much higher imprisonment rate of 147
- Northern Ireland continues to hold a high proportion of people in prison on remand compared with other countries. It currently holds nearly a quarter (24%) on remand compared with 11% in England and Wales, and 19% in Scotland.

Back Injury

Mr C asked my office to consider a complaint that his back was injured during a full body search. He also stated that he received no help to get up off the floor and dress after the search had been completed.

CCTV footage indicated Mr C offered passive resistance and there was no significant use of force by prison staff. There was no specific point at which he appeared to receive an injury or began to feel pain.

When the search was completed, two nurses completed Injury Report forms. They recorded that he reported lower back pain after the search, was offered pain relief and stated he could get up off the floor. This was corroborated by audio recording.

Mr C was later examined by a nurse, a GP and a physiotherapist for lower back pain. The outcomes included a routine referral to the physiotherapist. However he did not attend subsequent physiotherapy appointments and was therefore discharged.

We did not uphold Mr C's complaint but recommended the NIPS should review their policy in respect of full body searches and consider making provision in that policy for assisting prisoners who are having difficulty in clothing themselves after a full body search has been carried out.



Lost Money

Mr D asked my office to investigate his complaint about a large sum of money which he claimed to have lost while on a working-out scheme. He said he could not account for it and wished to find out who had been with him in his room on a day when he thought the money had gone missing.

He had initially raised the matter as a request to the NIPS. However he did not receive a reply to the request for over two months, and because of this delay he proceeded to lodge a complaint. The NIPS responses pointed out the following factors:

- There was no CCTV footage available because Mr D delayed in lodging his request. At best therefore their investigation depended on the personal recall of staff some seven months after the event;
- He was unable to function at the most basic level on the day in question because he had consumed a quantity of psychoactive substance and collapsed;
- He had been given a lockable safe cash box and had a bank account opened for the express purpose of keeping his money safe.

Mr D acknowledged he had taken drugs and had refused to go to hospital. Police confirmed that he never reported a theft of money, and therefore no PSNI investigation took place.

We did not uphold this complaint. However we recommended the NIPS should respond promptly to prisoners' requests, both in order to address the substance of the matter and also in order to head off unnecessary complaints that may subsequently arise.

DID YOU KNOW?

Some more useful information from the Autumn 2016 edition of The Bromley Briefing:

- Remand accounted for more than half (55%) of all receptions into prison in 2015, with 2,633 receptions in total. 398 people on average were held in prison on remand on any given day.
- The average cost per prisoner place continues to fall: £57,643 per year in 2015–16, down from £73,732 in 2010.
- Receptions to prison increased by 5% in 2015 for women on the year before. Male reception fell by 4%. This was due to growing numbers of women defaulting on fines (from 7 in 2014 to 53 in 2015).
- March 2016 saw the end of the formal prison reform programme in Northern Ireland, with 36 of the 40 recommendations made by the Prison Review Team completed.
- A new 360 cell block is scheduled to open at Maghaberry in early 2019.
- The £150m redevelopment at Magilligan is expected to take nine years to deliver.

Written Warning

Mr E asked us to investigate a complaint as he wanted a warning removed from his record. He said he had received the warning for failing to comply with a request to help clean his house. He set out several reasons why he believed this warning should not have been issued. He stated he had been given a week off work to recuperate as he was coming off a SPAR; and also that, as a remand prisoner he was not obliged to work.

The Stage 2 NIPS response stated he should have made any medical reason not to assist with the cleaning task clear to staff.

A copy of the written warning confirmed Mr E had refused to assist the orderlies to clean the house. However it also stated that he refused to return to his cell when instructed, which is "not the behaviour expected of an Enhanced prisoner." Nothing in the SPAR documentation indicated that he should refrain from work.

The written warning was therefore issued for two reasons - refusal to assist with cleaning and refusal to return to cell when instructed. It represented a minor outcome which would only apply for six weeks and would not be referred to in any further disciplinary procedures. This seemed a reasonable response and we did not uphold this complaint.



Mandarin

如果你对使用监狱服务处的内
部投诉程序有任何问题，
请通知监狱人员或拨我们的免费电
话，我们将会很乐意告诉你该如何进行。
经过监狱服务处的调查后，
如果你对结果仍旧不满意，
你可以拨我们的免费电话
0800 783 6317 (08.30-12.00 & 16.00-17.00)
向犯人调查官投诉。
即使你的英语有限，
或完全不会说英语，
你也可以拨免费电话。
你只需说“Mandarin，
普通话”，接著，会要你稍候；
在我们接通翻译之前，
可能会暂时没有声音。
很重要的
是，你不要挂掉电话，一
定要等我们替你接通翻译。一旦
接通所需的翻译后，
他就能帮你
向我们的投诉员提供一
些基本细节。



Polish

Osoby niezadowolone ze
sposobu rozpatrzenia skargi
przez Służbę Więzienną
mogą skierować sprawy do
rzecznika osób
odbywających karę
pozbawienia wolności
(Prisoner Ombudsman). Służbę
do tego bezpłatny numer
telefonu 0800 783 6317.
(08.30-12.00 & 16.00-17.00)

Z tego numeru mogą
korzystać także osoby
niemówiące po angielsku.
Wystarczy powiedzieć
„Polish, polski” i zaczekać
na pożyczanie z tłumaczem.
W słuchawce może nastąpić
cisza, ale słuchawki nie
należy odkładać. Po
pożyczeniu z tłumaczem
osoba zgłaszająca skargę
będzie mogła porozmawiać
z urzędnikiem ds. skarg i
wyjaśnić, na czym ogólnie
polega jej skarga.



Lithuanian

Jei esate nepatenkintas (-a)
tuo, kaip Kalėjimų tarnyba
nagrinėjo jūsų skundą, galite
skundą perduoti Kalėjimų
ombudmeniui, paskambinę
nemokamu telefonu 0800
783 6317. (08.30-12.00 &
16.00-17.00)

Šiuo nemokamu telefono
numeriu galite skambinti net
ir tuomet, jei angliškai
kalbate labai nedaug arba
visai nekalbate. Jums reikės
pasakyti “Lithuanian,
Lietuviškai” ir šiek tiek
palaukti (gali būti, kad kurį
laiką bus tylu), kol mes
bandysime jus sujungti su
vertėju. Yra svarbu nepadėti
ragelio ir laukti, kol jus
sujungs. Kai būsite sujungti,
vertėjas padės mūsų Skundus
nagrinėjantįm pareigūniui
sujungti reikalingą
informaciją apie jus.



Romanian

Dacă nu sunteți satisfăcut cu modul
în care Serviciul Penitenciar v-a
investigat sesizarea, o puteți aduce
în atenția Ombudsman-ului
deținutului apelând numărul nostru
gratuit 0800 783 6317. (08.30-12.00
& 16.00-17.00)

Puteți apela numărul de telefon
gratuit chiar dacă nu vorbiți bine
engleza sau dacă nu o vorbiți deloc.
Trebuie doar să repetați
„Romanian, român” . Va trebui
să așteptați apoi - îi este posibil să
nu auziți nimic - în timp ce noi vom
încerca să obținem legătura cu un
interpret. Este important să nu
închideți telefonul și să așteptați.
Odată ce obținem legătura cu
interpretul, acesta îl va ajuta pe
funcționarul nostru care se ocupă
de sesizări să obțină de la
dumneavoastră anumite informații
de bază.